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U.S. Department of Justice

United States Marshals Service

Office of General Counsel

*CG-3, 15th Floor
Washington, DC 20530-0001*

March 26, 2021

Re: Freedom of Information Act Request No. 2019USMS34030
Subject: Unpublished History of the United States Marshals Service

Dear Requester;

The United States Marshals Service (USMS) is responding to your Freedom of Information Act (FOIA) request for the unpublished histories of the USMS.

Pursuant to your request, the USMS conducted a search for records in the Office of the Historian between February 1, 2021 and February 24, 2021. The search located 164 pages of records responsive to your request; the documents are enclosed herein in their entirety.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. 552(c) (2006 & Supp. IV (2010)). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

If you are not satisfied with the United States Marshals Service (USMS) determination in response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, 441 G Street, NW, 6th Floor, Washington, D.C. 20530, or you may submit an appeal through OIP's FOIA STAR portal by creating an account on the following website: <https://www.justice.gov/oip/submit-and-track-request-or-appeal>. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

You may also contact Charlotte Luckstone or our FOIA Public Liaison at (703) 740-3943 for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland

20740-6001; e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Sincerely,

A handwritten signature in black ink, appearing to read "CL for", written in a cursive style.

Charlotte Luckstone
Associate General Counsel
FOIA/PA Officer
Office of General Counsel

HISTORY OF THE
UNITED STATES MARSHALS SERVICE



Anthony C. Odom

1977

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Chapter 1

INTRODUCTION

Despite the fact that a tremendous history and tradition surround the office of the United States Marshal, it is one of the least known federal agencies of today. The Marshal was the original law enforcement officer in the federal system with civil, criminal, and administrative responsibilities. Initially he had investigative duties which are today the prerogative of specialized agencies such as Postal Inspection, the Secret Service, the Federal Bureau of Investigation, and others. In the territories, the United States Marshals were "the law" and it is probably in connection with lingering legendary accounts about such exciting activities that many people think of the federal Marshal today.¹

The duties and responsibilities of the United States Marshals Service have always been of a variety in nature.² Though the responsibilities have changed over the

¹The Western Political Quarterly, XII (March, 1959).

²Arthur E. Gerringer, A Five Year Report on the United States Marshals Service (National Association of Deputy United States Marshals, 1974), p. 3.

years, the contributions of the Marshals Service to our system of law and order have continued to be of primary significance.³

This study is offered with the hope that the service of the United States Marshals will be better understood by the reader as an important part of the law enforcement field.⁴

STATEMENT OF THE PROBLEM

It comes as a surprise to many to find the United States Marshals Service alive and flourishing in the twentieth century as a modern, professional law enforcement agency. Since President George Washington appointed the original thirteen United States Marshals in 1789, the service has grown to over two thousand in number.⁵ Yet only sketchy records of the United States Marshals Service past are available. Most of what is known of the service fills one drawer of a small filing cabinet in the Office of Public Information in Washington, D.C.⁶ The history of

³Presidential Documents, Title 3, The President, Proclamation 3608, September 24, 1964.

⁴Glenn Shirley, Law West of Fort Smith (New York: Collier Books, 1961), p. 10.

⁵Central Personnel Division (Washington, D.C.: United States Marshals Service, April, 1976).

⁶The Marshal Today (Washington, D.C.: Office of the Director, United States Marshals Service, July, 1974).

the United States Marshals Service is sketchy because no systematic records were kept in the last century.⁷

Therefore, research has been very difficult and has consisted mainly of old ledgers, historical works, and annual reports of United States Attorney Generals.

The present study will examine the history of the United States Marshals Service from 1789 to 1976. It is hoped this study will stimulate further research into the history of the United States Marshals Service.

OBJECTIVES

1. This study will attempt to show the contribution of the United States Marshals Service to the development of the federal judicial system.⁸

2. This study will also attempt to show the importance of the United States Marshals Service in the development of the new territories.

3. This study will show the changes in the United States Marshals Service from 1789 to 1976 with respect to duties and responsibilities, personnel, training, and management.

⁷The Washington Post, September 27, 1964, p. E5.

⁸Presidential Documents, Proclamation 3608, August 20, 1964.

METHODOLOGY

The research design of this study was the review of published literature found in various public and legal libraries as well as the operation manual of the United States Marshals Service.

In the first part of the study, information was developed from annual reports of the attorney generals and historical literature from college libraries and various state historical libraries.

For the major part of the study, information was developed primarily from the United States Marshals Service Manual and departmental directives. Consideration has been given to various newspaper and magazine articles which contained significant information.

DEFINITION OF TERMS

1. United States Marshal: An officer appointed by the President of the United States to serve a term of four years within a specified judicial district of the United States. He has responsibility for the office of the United States Marshals Service within his district and operates within the authority vested in the office by the Judiciary Act of 1789.⁹ He executes all process of the

⁹1 Stat. 73, 87, Section 27, September 24, 1789.

federal courts and any precepts directed to him under the authority of the United States.

2. Deputy United States Marshal: Prior to 1966, this officer was appointed by the United States Marshal of the respective district. However, the officer is currently appointed after competitive civil service examinations. He has the same authority as the United States Marshal in that he executes all orders directed to him under authority of the United States and performs various other duties similar to that of a sheriff.¹⁰

3. Judicial District: A geographical area of land for which the Federal Court operates and executes orders and where the Marshals carry out their assigned duties. The authority of the Marshal is not terminated when he leaves his district of assignment. Because of the content of the Judiciary Act, the power or authority of a Marshal is applicable in any part of the United States while operating as an officer of the Federal Court or under authority of the United States.¹¹

4. Federal Court: An official assembly for the transaction of judicial business with jurisdiction limited to cases based on federal law.¹²

¹⁰United States Code, Title 28, Chapter 37.

¹¹Ibid.

¹²U.S. Const., art. III, sec. 2.

5. Federal Law: Areas designed by the Constitution as being within the authority of the federal government. Within these areas, and only within them, Congress can pass laws that impose criminal responsibility or civil liability on those who violate them.¹³

6. Posse Comitatus: A body of persons summoned by a Marshal or Deputy Marshal to assist in preserving the peace. Seldom used except during emergency situations.¹⁴

LIMITATIONS

1. As previously stated, the amount of published literature on the early history of the United States Marshals Service is of small quantity.¹⁵

2. In relation to the research of historical works, this study was unable to easily separate out interpretation from factual materials. Very little verification can be made except for the duplication of information found in different resources.

3. The present study was limited also to Congressional intent and departmental regulations within the United States Marshals Service.

¹³Ibid.

¹⁴Webster's Seventh New Collegiate Dictionary (Springfield, Mass.: G. & C. Merriam Co., 1967), p. 663.

¹⁵The Marshal Today, July, 1974.

DELIMITATIONS

1. The present study does not contain material from the national archives or Library of Congress.
2. The research of information is based on current literature on the topic of the United States Marshals Service.
3. The literature is further delimited to the areas of (a) Duties and Responsibilities of the United States Marshals Service, (b) Personnel, (c) Training, and (d) Management.
4. Primary attention is given to literature published since 1956. Prior to this date little evaluation was done on a yearly basis within the United States Marshals Service.¹⁶
5. Emphasis is placed on the role of the United States Marshals Service in contemporary law enforcement in lieu of comparison to other law enforcement agencies.

OUTLINE OF REMAINDER OF STUDY

Chapter 2 will discuss briefly the introduction of state and federal law enforcement in the United States and then will detail, as much as possible, the history of the

¹⁶Outline of the Office of United States Marshal
(Washington, D.C.: Office of the Director, United States Marshals Service, October, 1970), p. 20.

United States Marshals Service from introduction into the federal system to the year 1956.

Chapter 3 will discuss the United States Marshals Service from 1956 to 1970. The areas that will be covered are (1) Duties and Responsibilities, (2) Personnel, (3) Training, and (4) Management.

Chapter 4 will discuss the same areas as Chapter 3 but within the time frame of 1970 to 1976.

Chapter 5 will offer a summary of the four areas discussed, with general conclusions and suggestions for further study.

Chapter 2

THE UNITED STATES MARSHALS SERVICE FROM 1789 TO 1956

HISTORICAL DEVELOPMENT OF LAW ENFORCEMENT IN THE UNITED STATES

The history of law enforcement is synonymous with the history of civilization.¹ The first permanent record of any sort concerning law enforcement to which we can refer with any authority is the Codes of Hammurabi, the Babylonian ruler who lived from 1947 B.C. to 1905 B.C. His codes were inscribed on stones of black diorite, found by modern archaeologists, and are still legible.²

Law enforcement in the United States had its origin primarily in England.³ During the later part of the Anglo-Saxon period in the ninth century, King Alfred established what was to be one of the most significant roles in English history. Recognizing the need for stricter adherence to the rules of society by the people,,

¹Thomas F. Adams, Law Enforcement, An Introduction to the Police Role in the Criminal Justice System (Englewood Cliffs, New Jersey: Prentice Hall, 1968), p. 53.

²Ibid., p. 54.

³Bruce Smith, Police Systems in the United States (New York: Harper Brothers, 1940), p. 66.

Alfred established a "tithing system" in each county or "shire." The chief judicial and law enforcement officer in each shire was the "shire-reeve," an appointee of the crown.⁴ He served at the pleasure of the King, and his tenure was dependent upon order within his own jurisdiction as well as profits to the King.⁵ Sometime early in the Norman period (1066-1285) the Comes Stabuli (constable) appeared on the scene.⁶ Constables were hired on a full-time basis to aid the shire-reeve in carrying out his duties, thereby giving some support to the task of law enforcement.⁷

In 1326, Edward II created the office of justice of the peace to replace the shire-reeve and to more efficiently handle the duties of his office.⁸ In time, however, the peace justice assumed the role of chief county magistrate in addition to his police function. By the end of the fourteenth century the constable served the justice by inquiring into criminal offenses, serving

⁴C. H. Karraker, The Seventeenth Century Sheriff (University of North Carolina Press, 1930), pp. 63-68.

⁵Ibid.

⁶Adams, p. 56.

⁷Smith, p. 67.

⁸William Bopp and Donald Schultz, A Short History of American Law Enforcement (Springfield, Illinois: Charles Thomas, 1972), p. 10.

summonses, executing warrants, and taking charge of prisoners.⁹ This essentially set the pattern to the late 1700s.¹⁰

Toward the end of the eighteenth century, law enforcement in England was still a haphazard undertaking. Few minor structural changes had occurred even though crime and violence were growing. In 1882, Sir Robert Peel took office as Home Secretary and attempted to persuade Parliament of the need for a professional police department. His efforts were rebuffed. However, seven years later his Metropolitan Police Bill was passed by Parliament, thus enacting the most significant piece of police legislation in history.¹¹

On September 29, 1829, formal policing began in London as one thousand men in six divisions began patrolling the streets.¹² Although Peelian reform had no immediate effect on the United States, it was to later serve as a model for all police departments desirous of creating a professional police force. Peelian reform marked the birth of modern policing and is still felt in the United States and abroad.¹³

⁹Karraker, pp. 65-68.

¹⁰Ibid.

¹¹Bopp and Schultz, p. 30.

¹²Ibid.

¹³Samuel Dixon and Robert C. Trojanowicz, Criminal Justice and the Community (Englewood Cliffs, New Jersey: Prentice Hall, 1974), p. 26.

STATE AND LOCAL LAW ENFORCEMENT

The story of pushing back the Frontier has been told in thousands of books and plays and, in modern times, in thousands of "Western" films. It was a simple story, varying infinitely in the details of the setting, but with a basic framework clearly visible in every one of the historical, fictional, and celluloid tellings. From the inhabited areas of the eastern states, settlers moved into the interior, where they found themselves alone and obliged to seek collective security in group formation of one kind or another, close or scattered.¹⁴ They made or recognized rules for themselves, and set up some crude form of authority. They found the need for some form of machinery by which observance of the rules could be enforced.¹⁵

In the early stages of development, America was basically a rural society. Not until 1790 were there six cities with a population over eight thousand. Early law enforcement, however, can be traced to 1636, when a night watch was established in Boston at a town meeting.¹⁶ In

¹⁴Charles Reith, The Blind Eye of History (London: Faber and Faber Ltd., 1938), p. 87.

¹⁵Ibid., pp. 87-88.

¹⁶Raymond Fosdick, American Police Systems (New York: The Century Co., 1921), p. 58.

1651, in New York, the "schout" and "rattle watch" were established. A rattle was used to sound an alarm in time of need. The "rattle watch" was paid a sum equivalent to forty-eight cents for a twenty-four-hour period.¹⁷ The night watch in the early part of the eighteenth century became well established in the towns and cities, with the major function being to patrol the streets. In some towns, such as Baltimore and Philadelphia, it had additional duties of caring for street lamps and announcing the hour in a loud voice.¹⁸

In the early 1800s, American society became more dynamic, more complex, increasingly impersonal, and presented an enormous problem for the cities in crime control.¹⁹ The move began in the cities to establish more efficient police forces. In Boston, in 1838, a plan was developed for having day policemen independent of the night watch. In 1844, New York developed a similar plan involving sixteen officers appointed by the mayor.²⁰ The department in New York was the first of this type in the

¹⁷Irving Crump and John W. Newton, Our Police (New York: Dodd and Mead Co., 1935), p. 32.

¹⁸Ibid., pp. 34-37.

¹⁹Bopp and Schultz, p. 59.

²⁰Dixon and Trojanowicz, p. 31.

United States.²¹ Subsequently, police forces under a single head, usually called the "chief," were organized and ushered in a new system of police management and enforcement.²²

Along with the new trend of the city police in the late 1800s and early 1900s came the state police with general police powers exercised throughout the length and breadth of the state. Although the first state police agency dates back to 1835 with the Texas Rangers,²³ concentration on state forces came about in the early 1900s with the need for frontier patrols and the enforcement of unpopular liquor and gambling laws.²⁴ By 1920, two distinct types of state forces had evolved: (1) those which had general law enforcement duties, and (2) those whose primary responsibility was motor vehicle control.²⁵

In the late 1920s, August Vollmer introduced progressive techniques into the field of law enforcement to earn himself the title of "father of modern police administration."²⁶ As a result of his leadership, the first

²¹Adams, p. 61.

²²Dixon and Trojanowicz, p. 32.

²³Smith, p. 147.

²⁴Ibid.

²⁵Bopp and Schultz, p. 80.

²⁶Harry W. More, Jr., The New Era of Public Safety (Springfield, Illinois: Charles Thomas, 1970), p. 17.

police radio was developed in the United States, the patrol force was motorized, a police training program was created, and a modern police records system was established.²⁷ From this, law enforcement began making significant progress with improved salaries, less political influence and modern facilities. Police agencies began to move toward professionalization which, as authors William Bopp and Donald Schultz theorized, has lead them to their position today of respect in the community.²⁸

FEDERAL LAW ENFORCEMENT

Federal law enforcement agencies were created in a rather haphazard fashion in response to the emergence of selected crises rather than as a needed investigative component.²⁹ Federal law enforcement came into existence within the United States in 1789 when Congress created the Office of United States Marshal and the original court system for the United States.³⁰ The Postal Inspection Service was next to be created when in 1801 Postmaster General Benjamin Franklin created the position of special agent.³¹ Through the years various other federal law

²⁷Ibid.

²⁸Bopp and Schultz, p. 115.

²⁹Bopp and Schultz, p. 80.

³⁰1 Stat. 87.

³¹1 Stat. 73, 87.

enforcement agencies were created for the purpose of investigating and enforcing specific laws and to cope with specific problems that extended beyond the jurisdictional boundaries of state and local forces. For example, the Secret Service was created in 1865 to protect the President while the Federal Bureau of Investigation was created in 1903 to handle white collar crime against the government.³²

Most law enforcement agencies of the federal government exercise very wide territorial authority, although their specific functions are limited. Because many of the federal agencies grew very slowly, their relative importance has been modified with the years.³³ Because they vary between very strong enforcement duties and relatively minor inspections and investigations, there is uncertainty as to scope; and because some deal primarily with security matters, others with criminal matters, others with regulatory matters of a quasi-criminal-civil nature, and others with military matters, there is a great diversity of objectives.³⁴ Suggestions for the reorganization of federal law enforcement agencies have been proposed from time to time but without a great deal of success.

³²Bopp and Schultz, p. 81. ³³Adams, p. 89.

³⁴Frank D. Day, Robert R. J. Gallati, and A. C. Germann, Introduction to Law Enforcement (Springfield, Illinois: Charles Thomas, 1962), p. 124.

Through the years Congress has authorized the adoption of new policies to meet new or changed conditions. Even though they were necessary these new policies added to the complexity of the federal law enforcement system. New agencies were created and, in some instances, functions and agencies were transferred from one department to another.³⁵ In recent years there has been a tendency for federal law enforcement agencies to enter more and more into the field of general criminal law administration, which lies entirely within the jurisdiction of the states. However, as Raymond Clift stated in his book, Guide to Modern Police Thinking,

. . . as long as there is strong local self-government in the United States, the federal police, important as they are, will remain few in number and continue to rely on the services of the state and local police.³⁶

ORIGIN OF THE MARSHALS SERVICE IN THE FEDERAL SYSTEM

Both the office of the United States Marshal and the original court system for the United States were created by the Judiciary Act of September 24, 1789.³⁷ The Judiciary Act established a judicial district and the

³⁵Arthur C. Millspaugh, Crime Control by the National Government (Washington, D.C.: The Brookings Institute, 1937), p. 85.

³⁶Raymond E. Clift, Guide to Modern Police Thinking (Cincinnati: W. H. Anderson, 1970), p. 17.

³⁷1 Stat. 87, 1st Cong., 1st Sess., Chap. 20, 1789.

office of marshal for each of the original thirteen states. Hence, on September 26, 1789, President Washington nominated, and the United States Senate confirmed, the original thirteen United States Marshals who represented the respective thirteen states.³⁸

As the United States grew from a mere thirteen states to the present fifty, new judicial districts and offices of marshals were established by acts of Congress and others were abolished so that today there are ninety-four judicial districts and ninety-four United States Marshals, including at least one marshal in each state, the District of Columbia, Guam, Canal Zone, Puerto Rico, and the Virgin Islands.³⁹

In addition to creating the office of United States Marshal, the Judiciary Act contained provisions relative to the operation of the office. Each United States Marshal was given two specific duties: first, to attend the district and circuit courts and also the Supreme Court when sitting in his district; and second, to execute all precepts directed to him under the authority of the United States. He was also empowered to command all necessary

³⁸Senate Executive Journal, Vol. 1 (Washington, D.C.: Government Printing Office), pp. 28-33.

³⁹Outline of the Office of United States Marshals (Washington, D.C.: Office of the Director, United States Marshals Service, May 23, 1972), p. 5.

assistance in the execution of his duties and to appoint one or more deputies, as needed, who were removable from office at the pleasure of either judge of the district or circuit court. Before entering on duty, the marshal was required to give a performance bond in the sum of \$20,000, and both he and his deputies were required to avow in a special oath of office that they would faithfully and honestly execute their duties and uphold the laws of the United States.⁴⁰

Finally, the Judiciary Act provided that, ". . . each of the United States Marshals be appointed in and for each district for the term of four years, and shall be removed from office at pleasure. . . ."⁴¹ Nothing in the Judiciary Act, however, specified who was to exercise the power of appointment or removal. Nevertheless, President Washington appointed the original thirteen United States Marshals, based on the authority of the United States Constitution.⁴² The Act of February 13, 1801, is the earliest which gave statutory recognition to the President's power of appointment or removal, and that recognition has been repeated in subsequent statutes which have created new judicial districts and offices of United States Marshals.⁴³

⁴⁰1 Stat. 87, sec. 27. ⁴¹Ibid.

⁴²U.S. Const., art. II, sec. 2.

⁴³2 Stat. 99.

These thirteen United States Marshals were to become the foundation of the nation's oldest federal law enforcement agency (see Appendix A).

THE UNITED STATES MARSHALS SERVICE
FROM 1789 TO 1956

Congress soon began to impose upon the United States Marshals such a variety of assignments that they became the "handymen" of federal administration.⁴⁴ One of their first assignments was the taking of the census.⁴⁵ Although for the purpose of determining apportionment in the House of Representatives, a simple count of the number of freemen and slaves would have been sufficient, this first census provision was also made for obtaining the number of females and the number of white males both over and under sixteen.⁴⁶ The United States Marshals served as census takers until 1850, when a central directing office was authorized for census investigation.⁴⁷

⁴⁴Albert Langeluttig, The Department of Justice (Baltimore: Johns Hopkins Press, 1927), pp. 82-89.

⁴⁵1 Stat. 101 (March 1, 1790).

⁴⁶Laurence F. Schmeckebier, The Statistical Work of the National Government (Baltimore: Johns Hopkins Press, 1925), p. 43.

⁴⁷Senate Doc. No. 194, 56th Cong., 1st Sess. (1900).

In 1791, the United States Marshals were directed to hire and supervise jails for federal prisoners where states had not agreed to provide service. Even though the jail facilities were old and poorly built,⁴⁸ security was no problem because, as written in the 1926 Annual Report of the United States Attorney General, "there is no federal statute making it a crime to escape from a federal prison or other place of confinement."⁴⁹ Along with supervising jails, Congress in 1791 imposed on the United States Marshals such other duties and responsibilities as executing precepts from French consuls and vice-consuls,⁵⁰ and executing courts-martial by the militia.⁵¹ Later, United States Marshals became responsible for selling lands possessed by the United States in satisfaction of judgments⁵² and directed to execute all precepts and orders issued by the President of the United States.⁵³ Finally, in 1792, the office of the United States Marshal was broadly

⁴⁸Alan Valentine, Vigilante Justice (New York: Reynalt Co., 1956), p. 157.

⁴⁹Annual Report of the Attorney General of the United States (Washington, D.C.: Department of Justice, 1926), p. 5.

⁵⁰1 Stat. 254 (April 14, 1792).

⁵¹1 Stat. 264, sec. 67 (May 2, 1792).

⁵²2 Stat. 61 (May 7, 1800).

⁵³1 Stat. 570 (June 25, 1798).

enlarged when marshals were granted the same common-law powers in executing the laws of the United States as the sheriffs in their respective districts in the states.⁵⁴

For the duties United States Marshals performed, they were rewarded only by their fees, and it was not surprising to find them seeking other employment.⁵⁵ As Leonard White wrote in his book, The Federalists,

In 1792 the United States Marshal of North Carolina took in \$606.47; he was the most active one. In Massachusetts the Marshal earned \$289.00; in Maryland, \$253.72, and in New York he found his services could produce an income of only \$48.63.⁵⁶

Along with humble pay the Marshals were responsible to a number of supervisors. They reported to their respective courts for which they were administrative officers. The Secretary of State issued instructions of a general nature while certain returns were made to the Secretary of Treasury and others to the Secretary of Interior.⁵⁷

In addition to a diversity of duties and superiors, which necessarily resulted in an administrative burden for his office, the early United States Marshal was constantly subjected to the hazards resulting from the lawlessness

⁵⁴1 Stat. 264 (May 2, 1792).

⁵⁵Leonard White, The Federalists (New York: Macmillan Co., 1948), p. 300.

⁵⁶Ibid.

⁵⁷3 Stat. 596, 9 Stat. 395.

that characterized the frontier west and other pioneer communities.⁵⁸ He was the original law enforcement officer in the federal system and he constituted the first line of defense on occasions of domestic disturbance and strife. His duty was to prevent serious breaches of the peace in open and organized form, such as the Whiskey Rebellion in 1794. Here United States Marshal David Lenox, District of Pennsylvania, several of his deputies, a federal judge, United States attorney, and federal troops went to Pittsburgh where they met and subdued a mob of three thousand to restore law and order.. This was the first mass arrest in the history of the nation and the first time federal troops were used by a federal officer.⁵⁹

In time, it came to be established that the Marshals might summon any troops within their respective districts. This meant not only organized armed forces but any citizen over the age of fifteen could be summoned as part of the posse comitatus.⁶⁰ This was exemplified in 1850 when Marshals were given the responsibility to enforce the

⁵⁸Walter P. Webb, The Great Plains (New York: Ginn, 1931), p. 101.

⁵⁹White, p. 400.

⁶⁰Homer Cummings and Carl McFarland, Federal Justice (New York: Macmillan, 1937), p. 544.

Fugitive Slave Act.⁶¹ Here United States Marshals were charged with enforcing the laws against the importation of slaves.⁶² However, on June 18, 1878, Congress passed the Posse Comitatus Act which nullified the use of armed forces of the United States as a posse comitatus.⁶³ The effect of the provision, however, was largely neutralized by a ruling of then Attorney General Devens that sections 5298 and 5300 of the Revised Statutes authorized the military forces, under the direction of the President, to be used to assist a Marshal.⁶⁴ This type of cooperative enforcement was used during the Pullman Railroad Strike of 1894 and is still used today.⁶⁵

With the coming of the 1800s, new and different demands were placed on United States Marshals and their deputies. During this period, the United States Marshals often represented the sole police power in pioneer communities. As Walter Prescott Webb noted in his book The Great Plains,

⁶¹9 Stat. 462, Act of September 18, 1850.

⁶²Cummings and McFarland, p. 182.

⁶³20 Stat. 152.

⁶⁴Report of Attorney General Devens to Secretary of Treasury (Washington, D.C.: Department of Justice), October 10, 1878.

⁶⁵Bennett Rich, The Presidents and Civil Disorder (Washington, D.C.: Brookings Institute, 1941), p. 91.

. . . for practical purposes they were "the law" in communities characterized by lawlessness. The code of the frontier frequently was vengeance on a scalp-for-scalp basis. Large scale feuds in frontier towns, small scale wars on the rangelands, and raids by organized vigilantes were interspersed with frequent robberies and murders.⁶⁶

Under these conditions, it was often difficult to obtain Marshals and deputies because the job was fraught with danger. Walter Prescott Webb, in his book The Great Plains, glamourized the position when he said: "The Marshal as a peace officer, led a life that was full of novelty, spiced with danger, and flavored with adventure."⁶⁷ However, Attorney General Miller put it more categorically when he said: "In certain localities, no occupation is so dangerous as a faithful performance of duty by United States Marshals."⁶⁸ As a result of these conditions, the colorful and explosive careers of the famous roster of frontier peace officers such as Wyatt Earp, Bat Masterson, Wild Bill Hickok, Bill Tilghman, Jack Stilwell, William Anderson, and many others have developed into a wealth of legend.⁶⁹

⁶⁶Webb, p. 500.

⁶⁷Ibid., p. 101.

⁶⁸Annual Report of the Attorney General of the United States (Washington, D.C.: Department of Justice, 1889), p. 15.

⁶⁹Erna Ferguson, Our Southwest (New York: Knopf, 1940), p. 105.

As the 1880s progressed, United States Marshals became involved with the making of an empire west of the Mississippi. The establishment of law and order was essential if settlers and commerce were to prosper.⁷⁰ Although the duties of the Marshals had remained much the same since 1789, the conditions of the west brought about a variety of complications. The red tape for the service of court orders, though tolerable east of the Mississippi, was utterly impracticable on the frontier.⁷¹ The facilities for communication were confined to a very small area of the country and of those in existence most were meager and primitive. Few Marshals were supplied with courts to handle federal prisoners and of those provided more than half were without money to operate.⁷²

During the 1800s it was not uncommon to see a town comprised of a sheriff, constable, town marshal, and United States Marshal.⁷³ The United States Marshal had the primary duty of handling the federal courts and the untamed territories. However, since district courts were few in number and the fees small, the United States Marshal and his deputies oftentimes acted as the town's sheriff or

⁷⁰Cummings and McFarland, p. 250.

⁷¹Ibid., p. 251. ⁷²Ibid.

⁷³Carl W. Breihan, Great Lawmen of the West (London: John Long Ltd., 1963), p. 10.

city marshal.⁷⁴ This added to the confusion of the duties of the United States Marshal with concentration sometimes being placed more on local law enforcement rather than federal law enforcement responsibilities. Wyatt Earp, for example, wore the hat of city marshal, deputy sheriff, and Deputy United States Marshal.⁷⁵ When he was involved in the historical showdown with the Clanton gang on the evening of October 25, 1881, he, along with Doc Holiday and Earp's brothers Virgil and Morgan, were Deputy United States Marshals serving as city marshals.⁷⁶ This type of dual authority soon brought about conflict with the passionate prejudices of whole communities.⁷⁷ The public felt some of the notorious Marshals were more cold blooded feuding killers than peace officers.⁷⁸ Frank Watters, in his book The Colorado, said Wyatt Warp was "little more than a tin-horn outlaw operating under the protection of a tin badge until he was run out of Arizona."⁷⁹ However, Carl Breihan, author of Great Lawmen of the West, said: "Earp would not shoot a man if he could handle the situation

⁷⁴Ibid.

⁷⁵Gard, p. 245; Breihan, pp. 18-25.

⁷⁶Gard, p. 246. ⁷⁷Webb, p. 101.

⁷⁸Frank Watters, The Colorado (New York: Rinehart, 1946), p. 225.

⁷⁹Ibid.

otherwise."⁸⁰ As the population increased, the detection of both offenses and offenders became increasingly difficult.⁸¹ The nations capitol began to receive reports that lawlessness was going unchecked.⁸²

With the coming of statehood, Marshals and their deputies began concentrating more on federal law within the lawless territories and administrative duties within settled cities, towns, and communities.⁸³ To support the growth of statehood, Congress in 1870 established the Department of Justice with the Attorney General as director. Within this department and under the control of the Attorney General came the United States Marshals.⁸⁴ With this centralization of Marshals, maintaining respect within and for the federal court in the settled territories greatly increased. This was demonstrated when United States Marshals and their deputies enforced the Enforcement Act which gave Negroes the right to vote.⁸⁵ However, the

⁸⁰Breihan, p. 18.

⁸¹Cummings and McFarland, p. 369.

⁸²Ibid., p. 368. ⁸³Ibid., p. 369.

⁸⁴16 Stat. 162 (June 22, 1870).

⁸⁵16 Stat. 140 (May 31, 1870).

unsettled Indian territories remained a problem.⁸⁶ With appalling frequency, United States Marshals and their deputies met violence and death. As United States Attorney General Miller wrote in 1890, "The number of deputy marshals killed in the Indian Territory averages twenty a year."⁸⁷

Within the Indian Territory, United States Marshals and their deputies were expected to spare no effort to detect and apprehend law violators. Little consideration was given to the fact that a deputy marshal received no more for the arrest of a criminal at his beck or call than he did for the worst desperado whom he had to follow for months and who could only be captured after a hard fight.⁸⁸ Attorney General Richard Olney wrote the following:

. . . These conditions make the Indian territory the most favorable spot within the borders of the United States for the collection of refugees from justice, and figuratively a most productive garden for the propagation, growth, and commission of crimes, though it is undoubtedly true that the largest number of

⁸⁶ Annual Report of the Attorney General of the United States (Washington, D.C.: Department of Justice, 1890), pp. 13-14; Annual Report of the Attorney General of the United States (Washington, D.C.: Department of Justice, 1893), pp. 20-21.

⁸⁷ Ibid.

⁸⁸ Annual Report of the Attorney General of the United States (Washington, D.C.: Department of Justice, 1894), pp. 20-22.

criminals come from the refugee intruder class. And if this class could be entirely removed and put out of the Indian territory it would be as orderly and peaceful as any section of the country.

In view of these facts, we can most readily understand and appreciate the necessity for a most vigorous and untiring prosecution of criminals by the court and its prosecuting officers, and that to secure prompt, persevering, and efficient pursuit, and to avert the criminals the services of reliable, efficient, trustworthy, intelligent, and brave men are indispensable, and that to secure such services the pay therefor must be equivalent, it must be adequate, it must be immediate, . . . and there must be some pay provided when there is an honest effort but a failure to arrest. . . .⁸⁹

The late 1800s brought a continuation of changes for United States Marshals and the operation of their districts. The act of January 10, 1871, which placed the penitentiaries under the control of United States Marshals,⁹⁰ was replaced by the act of January 24, 1873, which placed the penitentiaries under the control of the states.⁹¹ At the end of 1873, Attorney General George Williams wrote Congress requesting there be a law prohibiting United States Marshals from selecting the people who were to serve as jurors in courts.⁹² The request was quickly passed because of complaints of abuses under the system. Organized disorders continued to be a major part of the Marshals

⁸⁹Ibid.

⁹⁰16 Stat. 398.

⁹¹17 Stat. 418.

⁹²Annual Report of the Attorney General of the United States (Washington, D.C.: Department of Justice, 1873), p. 17.

responsibility as they were in the early 1800s. In 1876, United States Marshals were given the responsibility to protect voter registration and elections. This developed from the riots which occurred during the election of 1876 for President, Vice President, and House of Representatives.⁹³ In a period of eight days during July, 1877, no fewer than nine governors called upon President Hayes to assist in maintaining peace in industrial disputes.⁹⁴ Local and state authorities were helpless in stemming the impulsive outbursts from the rapid spread of the railroad strikes. With the mail being delayed by the strike, President Hayes ordered United States Marshals and their deputies to serve on the strikers writs of attachment to stop striking. Service was completed and ultimately the great riots of 1877 were solved.⁹⁵ Again, in 1894, widespread disorders absorbed the nation. In a period of two months so many deputies were required to maintain the peace in fourteen states and two territories where disturbances occurred that Attorney General Olney was compelled to ask for a deficiency appropriation of \$125,000.⁹⁶

⁹³Luther Huston, The Department of Justice (New York: Fredrick Praeger, 1967), p. 74.

⁹⁴Rich, p. 72.

⁹⁵Ibid., pp. 72-86.

⁹⁶Annual Report of the Attorney General of the United States (Washington, D.C.: Department of Justice, 1894), p. 30.

By 1896, critics recommended that Marshals and their deputies be placed on fixed salaries with fees to go to the public treasury.⁹⁷ Such proposals met strong opposition from those who felt that regular pay would merely promote inefficiency and inequity of compensation in the field. Reform finally won the day and the old fee system allowing deputies to retain portions of their earnings underwent thorough modification.⁹⁸ Under the act of May 28, 1896, the salary of the field and office deputies increased to \$100 per month plus expenses, not exceeding four dollars a day, and actual necessary traveling expenses.⁹⁹ Also, the salary of United States Marshals was regulated by Congress, amount depending on the district, and reviewed once every four years.¹⁰⁰ Soon to follow came efforts to economize with deputies obtaining vouchers for lunch, filing reports of fare reductions on railroads while transporting prisoners, and statements concerning delays in transit.¹⁰¹

⁹⁷Frank P. Prassel, The Western Peace Officer (Norman, Oklahoma: University of Oklahoma Press, 1972), p. 225.

⁹⁸29 Stat. 182.

⁹⁹Annual Report of the Attorney General of the United States (Washington, D.C.: Department of Justice, 1896), p. 6.

¹⁰⁰29 Stat. 183.

¹⁰¹Instructions to U.S. Marshals, Attorneys, Clerks and Commissioners (Washington, D.C.: Department of Justice, January 1, 1899), pp. 20-25.

With the birth of bureaucracy and most of the nation settled, United States Marshals and their deputies spent most of their working time issuing and serving subpoenas, returning trial venires, conducting sales of property, locating witnesses, and executing innumerable writs and warrants.¹⁰² However, the Oklahoma and Indian Territories were just becoming settled. The Oklahoma Territory had proved to be perhaps the most challenging appointment for federal Marshals.¹⁰³ Many times deputy marshals ventured far afield from their district federal courts. The officers usually moved in small groups and often traveled for several weeks and covered hundreds of miles. Jails were scarce so prisoners were transported many days in wagons equipped with only special rings mounted in the sideboards.¹⁰⁴ Lem F. Blevins, an early settler at Cherokee Town, said:

I have seen them come through on their way to Fort Smith, Arkansas, with forty or fifty prisoners. Some of the prisoners would be wounded and they would haul them in wagons and drive the ones that were able to walk in front of the wagons like cattle.¹⁰⁵

¹⁰²Prassel, p. 225.

¹⁰³Evett D. Nix, Oklahombres (E.D. Nix, 1929), pp. 71-73.

¹⁰⁴Prassel, p. 232.

¹⁰⁵Indian-Pioneer History, Vol. XV (Oklahoma Historical Society Archives), p. 349.

Deputy marshals enforced many unpopular laws reaching into the home. In addition to preventing gaming and dispensation of contraband alcohol they conducted investigations of sexual impropriety, including charges of adultery and fornication. The federal government even forbade the cutting of timber in much of the territory.¹⁰⁶ This created a nearly intolerable housing situation and did nothing to better the image of the deputies. However, not all deputies were thought of so negatively. As Frank Prassel wrote in his book The Western Peace Officer,

A trio of deputies made a particularly lasting imprint in Oklahoma territorial history. Bill Tilghman, Chris Madsen, and Heck Thomas constituted Oklahoma's "Three Guardsmen" as the nineteenth century drew to a close.¹⁰⁷

In 1907, the federal role in Oklahoma law enforcement came to a close. The Oklahoma Territory and Indian Territory became the state of Oklahoma ending the long rule of United States officers and terminating the most colorful era of Deputy United States Marshals. The old function of the Marshals came to an end throughout the West and moved into new and more specialized fields as those in other parts of the nation.¹⁰⁸

By the 1920s United States Marshals had grown to eighty-five in number to cover fifty states, Puerto Rico,

¹⁰⁶Prassel, p. 235.

¹⁰⁷Ibid., p. 231.

¹⁰⁸Breihan, p. 190.

and Alaska.¹⁰⁹ With the growth of the Department of Justice, attention was taken away from investigation almost completely and placed on administrative duties. With exception to the few warrants handed down by the courts, the Marshals and their deputies did very little enforcement as they did in the 1800s. The Marshals at this time were executive officers of the federal courts as well as local disbursing officers of the courts and the Department of Justice.¹¹⁰ Since funds placed in the hands of the Attorney General were disbursed in every corner of the world, it became convenient to use the Marshals as disbursing officers of the Department of Justice.¹¹¹ Here the Marshals paid salaries of the federal judges, salaries and expenses of district attorneys and their assistants, clerks, messengers, jurors, witness fees, and the rent of and care for the quarters for the courts.¹¹² By the end of 1926 there were eighty-eight United States Marshals and eight hundred eighty-five salaried deputies employed in the

¹⁰⁹Annual Report of the Attorney General of the United States (Washington, D.C.: Department of Justice, 1926), p. 317.

¹¹⁰Instructions to U.S. Marshals, Attorneys, Clerks and Commissioners (Washington, D.C.: Department of Justice, October 1, 1929), p. 184.

¹¹¹Instructions to U.S. Marshals, Attorneys, Clerks and Commissioners (Washington, D.C.: Department of Justice, 1925), p. 204.

¹¹²40 Stat. 1182 (February 26, 1919).

United States. Deputies were receiving an average salary of \$1,666.68 per year while that of Marshals averaged \$5,000.¹¹³

With the 1930s came little expansion for United States Marshals and their deputies. The number of United States Marshals grew to ninety while regular deputy marshals rose but slightly in number.¹¹⁴ Few operating procedures changed as well. Even though Marshals and their deputies advanced to ten cents per mile for serving process and grew slightly in salary the basic duties remained the same.¹¹⁵ The United States Marshals and their deputies were not a department or bureau with the Department of Justice, so what expansion occurred was a growth of the older duties they were given in 1789.¹¹⁶

During the 1940s and 1950s the United States became involved in war and few changes were made in the duties and responsibilities of the Marshals Service. This trend was to last until the middle of the 1950s when the Marshals and

¹¹³House Hearings on Department of Justice Appropriation Bill, 1927, pp. 242-244.

¹¹⁴Carroll H. Woody, The Growth of the Federal Government (New York: McGraw-Hill, 1934), p. 87.

¹¹⁵Annual Report of the Attorney General of the United States (Washington, D.C.: Department of Justice, 1937), p. 25.

¹¹⁶Woody, p. 82.

deputies became organized as a department within the Department of Justice.

Chapter 3

THE UNITED STATES MARSHALS SERVICE FROM 1956 TO 1970

DUTIES AND RESPONSIBILITIES

Court Security

On November 23, 1956, Attorney General Brownell established the Executive Office for the United States Marshals as part of the Office of Deputy Attorney General.¹ The establishment of an executive office for the United States Marshals Service was a necessary step to begin centralizing the Service in supervision, activities, and statutory changes. Even though the duties and responsibilities given United States Marshals in 1956 were basically the same as those in 1789, excessive social changes brought about increased activity with more demanding responsibilities.²

As it was stated in the Judiciary Act of 1789, the United States Marshal or his deputy is required to be present in federal court as a preserver of the peace within

¹Outline of the Office of United States Marshals
(Washington, D.C.: Office of the Director, United States Marshals Service, September 15, 1960), p. 21.

²Ibid.

the courtroom, and to execute duties within the courtroom as the judge may direct.³ An interesting instance emerging from a deputy protecting a judge, and one which made history, was the fatal shooting of an individual by a deputy specially directed to protect a judge. The deputy was charged with murder but the case was dismissed, setting a precedent in that a deputy may use whatever means necessary to protect the life of a federal judge.⁴

Up into the early 1900s, deputy marshals were seen quite frequently as bailiffs for federal judges. This was due in large part because federal judges often traveled to other districts where there was no established federal court and did not employ private bailiffs. By the 1950s, the Department of Justice had grown to where each judicial district was handled by at least one federal judge. With this, each judge appointed his private bailiff who usually worked with the judge until one or the other retired. Presently, bailiffs are employed by the United States Court System on a salary basis. With deputy marshals no longer required to act as bailiffs, more attention was placed on other aspects of security.⁵

³1 Stat. 87, sec. 27.

⁴In Re Neagle, 135 U.S. 1.

⁵James Cramer, The World's Police (London: Cassell and Co., 1964), p. 411.

During the 1950s and 1960s, responsibility of the United States Marshals Service with the federal judicial process continued to grow. From 1956 to 1970, the Marshals Service increased security to buildings housing United States District Courts and to judges both on and off the bench. In addition, the Service continued to grow with the ever increasing demand for jury protection, planning and supervision of courtroom security, judicial chambers, and prisoner holding cells.⁶ This was exemplified when Attorney General John Mitchell wrote in his 1970 Annual Report, ". . . 258,390 man-hours were devoted to maintaining order and security in the Federal courts. Protection of sequestered juries required 34,848 man-hours."⁷

Service of Process

The service of process continued to be a major responsibility of the United States Marshals Service during the 1950s and 1960s. During this time, the service of process became more complicated than those services being made during the preceding years. With the increase of the federal judiciary, services became more sophisticated and

⁶United States Marshals Manual (Washington, D.C.: Department of Justice, United States Marshals Service), Chap. 700, sec. 720.10.

⁷Annual Report of the Attorney General of the United States (Washington, D.C.: Department of Justice, 1970), p. 27.

oftentimes included the seizure of goods and chattels, storage of seized articles, sale of property, publication of notices, and even the actual operation of businesses under court order.⁸ Although the Marshals Service has been involved in various types of service since 1789, the general public was becoming more aware of the judicial process, requiring the deputy to be more knowledgeable of the law.⁹

It was not unusual for a deputy marshal to spend numerous hours using various investigative techniques to ascertain a person's location.¹⁰ Once the person was found, the job was only half over. Different types of process require different types of service. While a subpoena requires personal service on the named individual,¹¹ the service of a summons can be made on the named individual or any person of suitable age living in the named individual's place of abode.¹² These and other

⁸Outline of the Office of United States Marshals, September 15, 1960, p. 18.

⁹Arthur E. Gerringer, A Five Year Report on the United States Marshals Service (National Association of Deputy United States Marshals, 1974), p. 14.

¹⁰Ibid.

¹¹Rule 45, Criminal and Civil Procedures.

¹²Rule 4, Criminal and Civil Procedures.

variations in the service of process forced the deputy marshals to be aware of state and federal laws because mistakes in the service of process could jeopardize pending cases or bring about additional law suits.¹³

By 1970, the number of Deputy United States Marshals had grown to only 976 nationwide.¹⁴ However, with the continuing growth of the federal judiciary, the workload within the Marshals Service greatly increased. By 1970, deputy marshals were serving over 800,000 criminal and civil processes per year, as well as seizing over 400,000 pieces of property.¹⁵ With this, the Marshals Service created a Process Intelligence Division within the Office of the Director to lend information and assistance to difficult cases. Later, the Process Division assisted in setting up guidelines for more efficiency in the handling of process.¹⁶ With these steps toward centralizing the service of process, the Marshals Service was able to increase its support of the federal judiciary.¹⁷

¹³Gerringer, p. 14.

¹⁴Central Personnel Division (Washington, D.C.: United States Marshals Service, April, 1976).

¹⁵Annual Report of the Attorney General of the United States, 1970, pp. 28-29.

¹⁶Gerringer, p. 14.

¹⁷United States Marshals Manual, Chap. 500.

Transporting Prisoners

The Attorney General of the United States is charged with the care and custody of persons arrested for federal crimes as well as those convicted of federal crimes.¹⁸ He operates through the United States Marshals Service which has the responsibility for the custody and transportation of all federal prisoners, whether the subject voluntarily turns himself in, is arrested by another agency, or is apprehended by United States Marshal personnel.¹⁹ During the course of the prisoner's trial, the deputy marshal handles the prisoner between jail and courtroom, and if the prisoner is given a term of confinement, the Marshals Service removes him to the designated institution for service of the sentence.²⁰

The transportation of prisoners is accomplished by vans, buses, automobiles, and commercial aircraft.²¹ Until the early 1970s, deputy marshals were using privately owned vehicles for transporting prisoners at a cost to the government of twelve cents per mile. Presently, all transportation mediums are supplied by the Service and are equipped with the latest in radio equipment. Depending

¹⁸18 U.S.C. 4082.

¹⁹18 U.S.C. 4086.

²⁰Ibid.

²¹United States Marshals Manual, sec. 633.01.

on the mode of transportation used, deputies can move numerous prisoners in the span of a few days. Until the 1950s, the movement of prisoners was scheduled by each individual Marshal within his district. With the constant rise in the number of prisoners being moved, this method proved to be costly and inefficient.²² In June of 1956, the Marshals Service set up a prisoner control center for the southeastern states to more centralize the movement of prisoners in that part of the country.²³ This method of centralizing prisoner movement proved to be effective, so in April, 1967, the Prisoner Coordination (PC) section of the United States Marshals Service was formed.²⁴ As stated in The Marshal Today,

. . . the Marshals Service established a systematic procedure to effect the orderly and economic movement of Federal prisoners throughout the court and prison systems.²⁵

Through the use of PC, the Marshals Service has grown to transporting over 50,000 prisoners annually to various institutions nationwide.²⁶

²²United States Marshals Bulletin (Washington, D.C.: Department of Justice, United States Marshals Service, April 1, 1957), #14.

²³Ibid.

²⁴The Marshal Today (Washington, D.C.: Office of the Director, United States Marshals Service, September, 1975), V. 44, p. 3.

²⁵Ibid.

²⁶Ibid.

Fugitive Apprehension

As the enforcement arm of the United States District Courts, the United States Marshals Service has the primary responsibility for the proper execution of federal warrants and the apprehension of all federal violators.²⁷ Since 1789, United States Marshals and their deputies have had statutory authority to carry firearms and to make arrests without a warrant for any offense against the laws of the United States committed in their presence, or for any felony cognizable under the laws of the United States, if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony.²⁸ For years the United States Marshals Service was the only federal law enforcement agency responsible for the apprehension of federal violators.²⁹ Then in the 1920s, with the coming of statehood, many state and local law enforcement agencies came into existence, as well as various federal law enforcement agencies. This brought about a decline of investigative activities within the Marshals Service which lasted until the mid-1900s. However, the Marshals Service maintained responsibility for particular offenses. Although many federal statutes were being handled by other federal agencies, the Marshals Service was responsible for

²⁷Title 28, sec. 569 and 570.

²⁸18 U.S.C. 3053. ²⁹1 Stat. 87, sec. 27.

executing warrants issued under the general heading "Obstructing Judiciary, Congress, Legislature, or a Commission." Offenses falling into these categories were failure to appear, probation violation, parole violation, contempt of Congress, perjury, and others.³⁰

During the 1950s and 1960s, the growth of the Department of Justice brought about complications for the Marshals Service in fugitive apprehension. The number of cases being handled in the District Courts had increased substantially, requiring the Marshals Service to spend more time in court, serving court orders, and transporting prisoners. Many Marshals, in their respective districts, were forced to set aside fugitive investigations for months until District Court cases dropped. When there was time to work investigation, other factors hampered quick apprehension. At this time the Marshals Service was without a central teletype communication system by which fugitive investigation could be handled nationwide. This caused a substantial amount of time to pass from one district to another when gathering information.³¹

However, these limitations did not prohibit the Marshals Service as a whole from making a strong contribution to the lawful and swift execution of many federal warrants. As written in the 1967 Annual Report of the Attorney General, "the Service is apprehending over 16,000

³⁰Title 28, sec. 569.

³¹Gerringer, p. 16.

fugitives a year to keep pace with the ever increasing responsibility of the federal judiciary."³² By 1969, the Service had installed teletype communication systems in many districts and set up preliminary procedures for fugitive apprehension. Finally, in the 1970s, the Marshals Service modernized investigative techniques to become a major contributor in the apprehension of wanted fugitives.³³ (See Chapter 4.)

Civil Disturbances

During the 1950s and 1960s, deputy marshals were dispatched to various parts of the country where potential difficulty was anticipated in carrying out federal court orders.³⁴ In some instances, no emergency developed, and the deputy marshals were withdrawn. However, on numerous occasions, problems in civil rights created increasing demands for the services of deputy marshals.³⁵

In September, 1962, plans and arrangements were made to effect the registration of James Meredith as a student at the University of Mississippi pursuant to an order of

³²Annual Report of the Attorney General of the United States, 1967, p. 11.

³³Gerringer, p. 16.

³⁴Annual Report of the Attorney General of the United States, 1961, p. 23.

³⁵Annual Report of the Attorney General of the United States, 1965, p. 14.

the United States Court of Appeals for the Fifth Circuit. Several unsuccessful attempts, without resort to a show of strength, were made to effect his registration, whereupon deputy marshals, accompanied by Border Patrolmen and Bureau of Prisons personnel, moved onto the campus. After quelling a riot with the assistance of the United States Army, Mr. Meredith's registration was effected. Thereafter, a guard detail was established to assure his safety.³⁶ Civil rights activities continued throughout the 1960s, with deputy marshals insuring the safety of Negro students entering public schools throughout the South.³⁷

Along with civil rights protection, the Marshals Service was involved in various other protection activities during the 1960s. Some of these activities were mentioned by Attorney General Katzenbach in his 1965 Annual Report:

. . . deputy marshals maintained order during hearings conducted by the Subversive Activities Control Board, the United States Commission on Civil Rights, and the House Committee on Un-American Activities in Portland, Oregon; Jackson, Mississippi; and Chicago, Illinois, respectively.³⁸

³⁶Cramer, p. 410.

³⁷Richard Harris, Justice (New York: Dutton and Co., 1970), p. 185.

³⁸Annual Report of the Attorney General of the United States, 1965, p. 14.

Again in 1967 and 1969, deputy marshals were present at Anti-Vietnam demonstrations conducting intelligence surveillances for the Department of Justice.³⁹

With the 1960s coming to a close, greater demands were being placed on the United States Marshals Service. Duties and responsibilities became more sophisticated and required more specialization. This specialization soon became an integral part of the Marshals Service during the 1970s.

PERSONNEL

During the 1950s, the recruitment of personnel in the United States Marshals Service was the same as the format established in 1789. Each new deputy marshal was interviewed and hired, with approval of the Executive Office, by the United States Marshal in the district where the opening existed. Although deputy marshals were employed as Civil Service employees, no requirements were written on qualifications to be met.⁴⁰ Each Marshal, within his district, hired the applicants he personally felt were qualified and suited the needs of his particular

³⁹Luther A. Huston, The Department of Justice (New York: Frederick Praeger, 1967), pp. 67-68; Annual Report of the Attorney General of the United States, 1970, p. 27.

⁴⁰Gerringer, p. 21.

office.⁴¹ This method of hiring satisfied the need of manpower within the Service, but was soon insufficient for the changing social structure of the sixties.

By 1962, duties and responsibilities in the Marshals Service were becoming more sophisticated. With this, the recruiting standards for the Marshals Service were changed.⁴² As well as hiring more experienced armed forces personnel, resources were turned toward recruitment on college campuses. As pointed out in the United States Marshals Bulletin for May 1, 1962, training programs were geared "so recruits could be employed at graduation time . . . , and appointed on a regularly planned basis."⁴³ However, because of a heavy workload and budgetary matters, the Marshals Service was unable to maintain the program and recruitment remained a problem.⁴⁴

In 1967, the Executive Office of the United States Marshals Service worked with the Administrative Division and the Civil Service Commission in developing new deputy marshal qualifications and examining procedures to alleviate the shortage of manpower within the service and

⁴¹Ibid.

⁴²United States Marshals Bulletin, May 1, 1962, #16.

⁴³Ibid.

⁴⁴Annual Report of the Attorney General of the United States, 1963, p. 10.

develop position classification standards for deputy marshal positions with a view to upgrading those positions.⁴⁵ These procedures were carried through into the 1970s where, with the development of an Office of Director within the Service, deputy marshal positions were upgraded, and a national recruiting program was instituted to bring about centralization in recruiting on a national level.⁴⁶

TRAINING

In July of 1958, Public Law 85-507 authorized federal agencies to expend funds for training purposes.⁴⁷ This brought about the first training session within the United States Marshals Service in August of the same year. The training session was planned and coordinated with the aid of the Bureau of Prisons and the United States Marshals Office in Washington, D.C. Subjects covered in the first training school included: conduct and public relations, how to handle various types of civil and criminal process, relationship of the deputy to other court officers, first

⁴⁵Annual Report of the Attorney General of the United States, 1967, p. 10.

⁴⁶United States Marshals Manual, chap. 200, sec. 210.01.

⁴⁷United States Marshals Bulletin, October 1, 1958, #27.

aid, defensive tactics, care and use of firearms, fingerprinting procedures, searching prisoners, identifying contraband items, mechanics of restraining equipment, and effects of narcotics.⁴⁸

In 1963, the Executive Office of the United States Marshals Service was coordinating all classes for deputy marshals. With this change in total supervision over the two-week training sessions, additional subjects were added to better train the deputy for the changing 1960s.⁴⁹ These subjects included security techniques, riot control procedures, and the use of various types of sophisticated equipment. With these additional subjects, the deputy marshals were made aware of their new and demanding duties and responsibilities, and the manner in which such duties should be performed.⁵⁰

In July, 1963, another "first" in the history of the Marshals Service was achieved when training classes were conducted exclusively for chief deputy marshals. As pointed out in the 1964 Annual Report of the Attorney General,

The primary objectives of these classes are to attain better management and uniformity of procedures,

⁴⁸Ibid.

⁴⁹United States Marshals Bulletin, December 1, 1963, #4.

⁵⁰Ibid.

develop skills, and methods to employ inter-office training.⁵¹

By the 1970s, chief deputy marshal training classes were being held on a regular basis and used as a major training medium to match the changing needs of the Service.⁵²

From 1963 to 1967, training for deputy marshals fluctuated from one to two weeks in length and consisted of the curriculum described above. In April and May of 1967, the Executive Office of the United States Marshals Service formulated plans to begin new and more advanced training classes for deputy marshals.⁵³ Class curriculum changed to not only including all phases of the deputies' official duties, but also search and seizure, security of persons, report writing, and the development of information.⁵⁴

By 1970, the Marshals Service expanded basic training classes to four weeks in length and included all subject areas necessary to combat the increasing responsibilities of the Service. In addition, various advanced

⁵¹Annual Report of the Attorney General of the United States, 1964, p. 11.

⁵²Annual Report of the Attorney General of the United States, 1970, p. 27.

⁵³Annual Report of the Attorney General of the United States, 1967, p. 10.

⁵⁴Ibid.

training classes were given on such topics as surveillance, detection of security hazards, and the use of sophisticated electronic devices. As mentioned in the Annual Report of the Attorney General for 1970,

During this year the Service has focused its attention on increased training, improved readiness posture, the development of internal procedures to enhance total efficiency and more responsive support to the Federal judiciary.⁵⁶

MANAGEMENT

The creation of an Executive Office for the United States Marshals Service in 1956 was the first major step toward centralizing management within the Service. Although various measures were taken before 1956 to bring each of the districts within a like framework, no substantial progress was made.⁵⁷ However, beginning in 1956, an Executive Development Program was initiated into the Service to improve management and administration at the district level, and to foster a closer relationship between the districts and headquarters.⁵⁸ The Executive Office

⁵⁵Annual Report of the Attorney General of the United States, 1970, p. 27.

⁵⁶Ibid.

⁵⁷United States Marshals Service Newsletter (Washington, D.C.: Office of the Director, United States Marshals Service, September, 1972), V. 25, p. 15.

⁵⁸Annual Report of the Attorney General of the United States, 1963, p. 10.

rendered assistance, direction, and supervision to the United States Marshals in each of the judicial districts, and coordinated interdistrict activities. Attorney General Katzenbach described this assistance in his 1964 Annual Report, when he said:

Instructions, directives, and data relating to the operation of the Marshals Service are issued as memoranda to all United States Marshals, or are published in the United States Marshals Bulletin. New or amended regulations and policies are also furnished by means of new or replacement sheets for the United States Marshals Manual, the official handbook of the service.⁵⁹

In 1964, conferences for all United States Marshals were instituted to add to the Executive Development Program. Here, United States Marshals would meet in Washington, D.C., on a yearly basis to discuss individual problems and Service objectives.⁶⁰ Through these one-on-one contacts with the Executive Office, United States Marshals became more familiar with the Service on a national basis and coordinated their district efforts to reach Service-wide centralization.⁶¹

For the rest of the 1960s, the Marshals Service continued to grow toward a more centralized leadership.

⁵⁹Annual Report of the Attorney General of the United States, 1964, p. 10.

⁶⁰Annual Report of the Attorney General of the United States, 1965, p. 13.

⁶¹Ibid.

Although less than complete central control was obtained, the Service was well on the way toward accepting the more advanced programs to be introduced with the upcoming decade.

Chapter 4

THE UNITED STATES MARSHALS SERVICE FROM 1970 TO 1976

DUTIES AND RESPONSIBILITIES

Anti-Air Piracy Program

With the 1970s came duties and responsibilities for the United States Marshals that had never been in existence before within the Service. The duties and responsibilities discussed in Chapter 3 continued to flourish, but since society was going through intensive changes, the Marshals Service was required to involve itself in more meticulous assignments.

The first of these assignments was labeled as the Anti-Air Piracy Program. The involvement of the Marshals Service began in 1970 and continued into 1974, with a work force of 234 deputies, covering forty-one major airports throughout the nation.¹ The primary objective of the Anti-Air Piracy Program was to prevent diversion of aircraft and to apprehend persons attempting to divert aircraft.² The second objective of the program, as stated

¹United States Marshals Service Newsletter
(Washington, D.C.: Office of the Director, United States Marshals Service, December, 1971), V. 16, p. 2.

²Title 49, U.S.C. 1472(i).

in section 740.01 of the United States Marshals Manual, was "the apprehension of known fugitives and persons using commercial air carriers as a transportation medium while engaging in criminal activity."³ These two important objectives were handled by deputies through the use of electronic equipment and the Psychological Behavioral Profile, a classified system used to point out unusual circumstances of an individual boarding the aircraft.

On many occasions an individual act of heroism on the part of a deputy United States Marshal prevented or terminated an act of air piracy. An example of this heroism was given in the 1972 Annual Report of the Attorney General:

On September 24, 1971, at Detroit Metropolitan Airport, a Deputy U.S. Marshal physically overpowered an apparent extremist brandishing an automatic pistol and carrying a satchel containing dynamite. The extremist reportedly had a ransom note demanding the release from custody of two Black Militants, together with safe passage to Algeria, in exchange for the lives of the airline passengers.⁴

During these four years, the Marshals Service prevented at least twenty-nine hijacking attempts and made over 4,400 arrests which included 730 for concealed weapons and another 1,600 for violations of state and federal

³United States Marshals Manual (Washington, D.C.: Department of Justice, United States Marshals Service), chap. 7, sec. 740.01.

⁴Annual Report of the Attorney General of the United States (Washington, D.C.: Department of Justice, 1972), pp. 21-22.

disorders, the use of riot equipment, irritant gases, specially designed communications equipment, anti-sniper tactics, special weaponry, and other facets of unusual law enforcement.⁸

Today, the 150-man group is located throughout the nation and can respond with full and self-supporting communications, medical, and tactical equipment anywhere in the United States within six hours.⁹ The Special Operations Group has provided a highly trained and responsive force for use by the Attorney General of the United States in missions where local capabilities are limited and the use of military resources is unwarranted.

As in the Whiskey Rebellion of 1793, the Marshals Service continued to play a major role in civil disturbances.¹⁰ Wounded Knee, South Dakota, was the scene of a seventy-one day seige by members of the American Indian Movement in early 1973. To date, this has been the longest civil disturbance in the history of our nation.¹¹ The Marshals Service joined with other law enforcement

⁸Gerringer, p. 19.

⁹Annual Report of the Attorney General of the United States, 1973, p. 19.

¹⁰Ibid.

¹¹Ibid.

agencies and contained the violent situation.¹² Again, while present at sensitive trials in the Virgin Islands, labor unrest in West Virginia, the eviction of squatters in Pennsylvania, and recently the removal of Vietnamese from the island of Guam, the Special Operations Group provided the Attorney General with the assistance required.¹³ As written in the 1973 Annual Report of the Attorney General,

Extensive planning and research, together with selection of highly trained and qualified instructors, has enabled the United States Marshals Service to assemble an elite group of dedicated professionals to form a skilled task force to meet every requirement in the effective handling of unlawful assemblies.¹⁴

Fugitive Apprehension

The Marshals Service during the 1970s became increasingly involved in fugitive apprehension. By 1972, the Service had modernized teletype communications to include access to the National Crime Information Center, Interpol, the State Department, and Immigration.¹⁵ These systems allowed quick dissemination of all necessary

¹²Attorney General's Report on Federal Law Enforcement and Criminal Justice Assistance Activities (Washington, D.C.: Department of Justice, 1975), p. 164.

¹³Ibid.

¹⁴Annual Report of the Attorney General of the United States, 1973, p. 19.

¹⁵Gerringer, p. 16.

information on fugitives to all levels of law enforcement.

In June of 1973, there were more than 23,000 unexecuted federal warrants in the hands of the United States Marshals Service.¹⁶ To eliminate this backlog of outstanding warrants, the Marshals Service initiated a pilot program to send a task force of volunteer deputies into a specific city, for the sole purpose of fugitive apprehension. The task force was a success with twenty-six apprehensions in Minneapolis, forty-five in Baltimore, and fifty-six in Los Angeles.¹⁷ The task force concept continued into 1974, when approximately thirty deputies were sent into Washington, D.C., for four weeks to locate and arrest a segment of the more than 2,000 outstanding wanted fugitives. Again the task force was successful with seventy-eight suspects being arrested.¹⁸

With the success of the task force in the preceding two years, the Marshals Service in 1975 established the Fugitive Felon Program. Guidelines were established to centralize warrant investigation on a national level.¹⁹

¹⁶The Marshal Today (Washington, D.C.: Office of the Director, United States Marshals Service, January, 1974), p. 8.

¹⁷Ibid.

¹⁸Los Angeles Times, May 31, 1974, p. 1-B.

¹⁹United States Marshall Memorandum (Washington, D.C.: United States Marshal Service, February 21, 1975).

Under this concept of operation, each United States Marshal, within his district, designated a Warrant Coordinator to see that all warrants were executed in a timely, systematic, and efficient manner.²⁰ By the end of 1975, the Fugitive Felon Program was fully operational, and each district United States Marshals Office was making a significant impact in reducing the at-large criminal population.

Court Security

Security continued to be a major function and responsibility of the Marshals Service through the 1970s. The United States Marshals Service is responsible for maintaining the integrity of the federal judicial process by insuring the security of buildings housing the United States District Courts, as well as the personal safety of the federal judges holding court. This includes protection of judges, both on and off the bench, who have been the targets of specific threats.²¹ In order to meet the growing demands for improved security at sensitive trials, and to effectively nullify threats against members of the judiciary, the Marshals Service has completed physical security installations in fifty-one federal courthouses and initiated the installation of physical security systems

²⁰Ibid.

²¹Judiciary Act of 1789; see also *In Re Neagle*, 135 U.S. 1.

in thirty-seven other federal court buildings.²² As pointed out in the 1972 Annual Report of the Attorney General, "mobile security systems have been procured and located geographically to permit installation in any courthouse in the United States within three hours."²³

Witness Security

The Organized Crime Control Act of 1970 gives the Attorney General of the United States the statutory authority for the protection and maintenance of sensitive government witnesses engaged in testifying against organized crime.²⁴ The United States Marshals Service is charged with this responsibility which usually encompasses the period of time between the witnesses' first appearances before the grand jury and the culmination of the trial.²⁵ For the protection of prisoner witnesses, the "safehouse" concept has been utilized by the Marshals Service to assure safety and security.²⁶ Here, witnesses are housed in residential type dwellings which have been converted to prison type

²²Annual Report of the Attorney General of the United States, 1973, p. 17.

²³Annual Report of the Attorney General of the United States, 1972, p. 20.

²⁴Public Law 91-452, Title V, sec. 501.

²⁵Annual Report of the Attorney General of the United States, 1974, p. 18.

²⁶Ibid.

facilities, complete with the latest anti-intrusion devices.²⁷

These "safehouses," which are guarded around the clock by deputy marshals, provide better protection while keeping the prisoners more readily available for weeks and months of questioning by federal investigators, and for courtroom appearances as government witnesses.²⁸ The importance of security was pointed out in the 1972 Annual Report of the Attorney General which said:

The underworld is most anxious to destroy the protective shield that the Witness Security Unit has raised against them, as evidenced by a plot in 1972 to blow up the New York safehouse.²⁹

Even though the Marshals Service maintains a low profile, it is difficult to keep secret the exact locations of the "safehouses" after a witness has been released from the Witness Security Program, thereby necessitating constant movement of prisoner witnesses.³⁰

To ensure the continued success of the program and the safety of the witness once he or she has left the program, the Marshals Service often provides various pieces

²⁷Annual Report of the Attorney General of the United States, 1972, p. 20.

²⁸Los Angeles Times, May 31, 1974, p. 1-B.

²⁹Annual Report of the Attorney General of the United States, 1972, p. 20.

³⁰The Washington Post, May 13, 1974, p. A3.

of documentation. As Arthur Gerringe wrote in his Five Year Report on the United States Marshals Service, "this gives the witness a new identity and the ability to start a new life far removed from the threat of gangland reprisals."³¹

Since the program began in 1970, the Marshals Service has protected over 1,500 sensitive witnesses.³² Some of the most notable being Vincent Teresa, nationally known underworld figure; Joseph Luparelli, who witnessed the gangland execution of "Crazy Joe" Gallo; John Dean; E. Howard Hunt; and Annette Gilly, a pivotal witness in the Yablonski murder case.³³ According to the 1972 Annual Report of the Attorney General,

By guaranteeing the safety of witnesses against the menace of organized crime, the United States Marshals Service is making a significant contribution to the Government's war on crime.³⁴

Pilot Security Programs

The coming of the 1970s also brought about the Marshals Service involvement in various pilot security programs. The Marshals Service is presently helping the

³¹Gerringe, p. 9.

³²Ibid.

³³Attorney General's Report on Federal Law Enforcement and Criminal Justice Assistance Activities, p. 164.

³⁴Annual Report of the Attorney General of the United States, 1972, p. 20.

Defense Department obtain local and state police patrol of National Guard Armories to reduce arms theft. Here, the Marshals Service has helped in guarding more than 1,200 armories around the nation.³⁵ Also, the Marshals Service is currently providing convoy security assistance in a pilot program for the United States Air Force in the movement of missiles in the North-Central United States. The presence of Marshal Service personnel with such convoys facilitates the investigation of suspicious individuals or situations possibly connected to terrorist activities.³⁶ Lastly, the Marshals Service is currently involved in a pilot program on bank security. Since the implementation of the Bank Protection Act of 1968,³⁷ it has been difficult to evaluate the effectiveness of the regulation because of a lack of documented information.³⁸ Due to this deficiency, and the concern over the increasing number of crimes against financial institutions, the Assistant United States Attorney General requested the Marshals Service develop and implement a pilot program to conduct documented surveys of

³⁵Attorney General's Report on Federal Law Enforcement and Criminal Justice Assistance Activities, p. 164.

³⁶The Marshal Today, July, 1976, p. 21.

³⁷12 U.S.C. 1881 et. seq.

³⁸American Bankers Association Bulletin, September 16, 1975.

bank security programs.³⁹ To date, over 287 large and small banks have been surveyed, with recommendations being supplied to the Assistant Attorney General for further action.⁴⁰

All of these programs, either those that have been historically performed by the United States Marshals, or these new functions that lend themselves to the unique abilities of the Service, indicate the versatility of an organization created in 1789, that has grown to meet the changing needs of the federal judiciary and the United States Attorney General.⁴¹

PERSONNEL

The United States Marshals Service grew from 976 deputy United States Marshals in 1970 to 1,701 deputies in 1976.⁴² This increase in personnel began in 1971, with an accelerated recruitment program to recruit Viet Nam War Veterans under the 1967 Veterans Readjustment Act.⁴³ This

³⁹The Marshal Today, July, 1974, p. 20.

⁴⁰American Bankers Association Bulletin.

⁴¹Attorney General's Report on Federal Law Enforcement and Criminal Justice Assistance Activities, p. 165.

⁴²Central Personnel Division (Washington, D.C.: United States Marshals Service, April, 1976).

⁴³United States Marshal Newsletter, V. 16, p. 8.

was followed in 1973 by the United States Marshals Service National Recruiting Program to centralize recruiting efforts and bring good young talent into the Service. As well as eliminating favoritism in hiring, the National Recruiting Program centralized the requirements for a balance of minorities throughout the Service.⁴⁴ Presently, the workforce of deputy United States Marshals contains 347 minorities and 39 women.⁴⁵ Although women have been a part of the Marshals Service since 1919, it was not until 1974 that they were given the same training and responsibilities as their male counterparts.⁴⁶ As written in the July, 1974, issue of The Marshal Today,

. . . the National Recruiting Program is a reality that will play a significant role in the pursuit of professionalism that is the goal of the Marshals Service.⁴⁷

Due to the unaccustomness of the United States Marshals Service with national recruiting, little information has been printed to date. However, due to the

⁴⁴U.S. Marshals Service Department Release, September, 1975.

⁴⁵Department of Justice Employment Fact Book (Washington, D.C.: Office of Management and Finance, Department of Justice, 1975), p. 26.

⁴⁶United States Marshals, Department of Justice News Release (Washington, D.C.: Department of Justice, September 23, 1974).

⁴⁷The Marshal Today, July, 1974, p. 15.

success of the recruiting program within the last two years, there is every indication it will continue.

TRAINING

The training objective of the United States Marshals Service is to provide personnel with high standards of education in order to produce professionally oriented law enforcement officers at all levels and to ensure a progressive program of career development.⁴⁸ From 1970 to late 1973, training for deputy United States Marshals consisted of the basic four-week school that was described in Chapter 3. However, with the initiation of national recruiting in late 1973, major changes were made in the training programs for deputy United States Marshals. Instead of attending the four-week school, recruits began attending the Consolidated Federal Law Enforcement Training Center (CFLETC) at Washington, D.C. Here deputies spent thirteen weeks studying human relations, criminalistics, communicative skills, search and seizure, constitutional law, federal court systems and procedures, firearms training, and other subjects.⁴⁹ Training of this type

⁴⁸Annual Report of the Attorney General of the United States, 1972, p. 22.

⁴⁹Consolidated Federal Law Enforcement Training Center Curriculum (Washington, D.C.: Department of Justice, March, 1974).

continued at CFLETC until 1976, when the training school moved to the Federal Law Enforcement Training Center (FLETC) at Brunswick, Georgia.⁵⁰ Here deputies no longer completed a thirteen-week Police School, but instead an intensive eight-week Criminal Investigator School followed by a three-week basic training program on the United States Marshals Service.⁵¹ Emphasis on this type of training was pointed out in the July, 1976, issue of The Marshal Today:

The eight week Criminal Investigator School, along with the Marshals three-week basic training package, provides the most relevant and comprehensive training new selected deputies have ever received. . . . The Criminal Investigator School more closely relates to the duties of deputy marshals, covering such topics as personal security, protection of dignitaries, and the federal judicial process . . . and indepth instruction on the duties, responsibilities, and administrative procedures of the United States Marshals Service.⁵²

Deputies who successfully complete basic training are prepared to perform the full range of duties without further specialized training.

Once a deputy is in the field, there are numerous refresher training classes as well as specialized training classes he may attend. Some of these are court security, management techniques, and major policy changes within the United States Marshals Service.⁵³ Each of these is

⁵⁰The Marshal Today, July, 1976, p. 8.

⁵¹Ibid.

⁵²Ibid.

⁵³Ibid., p. 14.

designed to produce a technically competent professional in the law enforcement field.⁵⁴

MANAGEMENT

As pointed out earlier in this study, the United States Marshals Service has been under the management control of many departments. In 1870, with the establishment of the Department of Justice, the Marshals Service was placed under the control of the United States Attorney General.⁵⁵ (See Appendix B.) In 1970 the Executive Office of the United States Marshals Service became the Office of the Director, and a coordinated effort to centralize the management of the Service was made.⁵⁶ In 1971 the revised United States Marshals Manual was issued to all personnel to establish operational guidelines.⁵⁷ Management inspection teams were formed, and efforts were begun to accomplish the Service goals of uniformity, efficiency, effectiveness, and professionalism.⁵⁸ However, since there were ninety-four different districts with separate management objectives,

⁵⁴Annual Report of the Attorney General of the United States, 1974, p. 21.

⁵⁵16 Stat. 162 (June 22, 1870).

⁵⁶United States Marshal Newsletter, September, 1972, p. 15.

⁵⁷Ibid.

⁵⁸Ibid.

only loose central leadership was obtainable by the Office of the Director. (See Appendix C.)

In 1974 the Marshals Service set up a system of management-by-objectives (MBO) to centralize the utilization of resources and management within the Service.⁵⁹ This established a more efficient system of communication between the Office of the Director and each of the ninety-four United States Marshals in the fifty states. Each of the United States Marshals would set his own objectives for his district of which he would be held accountable by the Office of the Director. In 1975, with MBO in operation, the United States Marshals Service added regionalization for more efficient management.⁶⁰ Here, more manageable spans of control and points of contact in higher headquarters were provided. The Marshals Service was divided up into five regions with each being supervised by a regional director and assistant regional director. They assist the Director of the Marshals Service in discharging his duties and provide direction over all operations and administrative functions of the district offices within their region.⁶¹ Concurrent to regionalization, the Marshals

⁵⁹The Marshal Today, July, 1974, p. 19.

⁶⁰United States Marshals Manual, sec. 117.01.

⁶¹Ibid., sec. 117.02.

Service went through a reorganization of the headquarters staff offices. Various positions were abolished and more responsibilities were assumed by the regional directors.⁶² (See Appendix D.)

Through these changes in organizational structure, the Marshals Service has developed and maintained a management system which has eliminated unnecessary work, produced efficiency and effectiveness, and developed uniformity to bring each of the ninety-four judicial districts together as one unified Service.

⁶²Ibid.

Chapter 5

SUMMARY, CONCLUSIONS, AND RECOMMENDATIONS

SUMMARY

With the initiation of federal law in 1789,¹ President George Washington was required to appoint an enforcement body for the support of federal statutes in the original thirteen colonies. Since the duties of this enforcement body were to be much the same as those of colonial enforcement, it seemed appropriate to follow the term "marshal."² Hence the term United States Marshal was formed, the original thirteen United States Marshals were appointed, and the United States Marshals Service began.³

With the beginning of the office, United States Marshals were given two specific duties: (1) attend district and circuit courts when sitting in their district, and (2) execute all lawful orders directed to him by the above courts under authority of the United States.⁴ By the

¹1 Stat. 87, 1st Cong., 1st sess., chap. 20, 1789.

²Homer Cummings and Carl McFarland, Federal Justice (New York: Macmillan, 1937), p. 17.

³Senate Executive Journal, vol. 1, pp. 28-33.

⁴1 Stat. 87.

1800s United States Marshals and their deputies were involved in almost every kind of law enforcement activity. They became the sole police power in many pioneer communities⁵ and brought about the colorful legend of frontier marshals that is talked about today.⁶ As statehood developed in the South, and later west of the Mississippi, United States Marshals and their deputies were forced to concentrate on the increasing complications of new federal statutes.⁷ This concentration continued throughout the 1800s, with Marshals many times enforcing unpopular laws, quelling domestic disturbances, and apprehending wanted fugitives.⁸

By the early 1900s, United States Marshals had grown to over eighty in number to cover fifty states, Puerto Rico, and Alaska.⁹ They were no longer known as lawmen of the west, but instead as administrative officers of the

⁵Walter Prescott Webb, The Great Plains (New York: Ginn, 1931), p. 500.

⁶Erna Ferguson, Our Southwest (New York: Knopf, 1940), p. 105.

⁷Cummings and McFarland, p. 369.

⁸Frank P. Prassel, The Western Peace Officer (Norman, Oklahoma: University of Oklahoma Press, 1972), p. 235.

⁹Annual Report of the Attorney General of the United States, 1926, p. 317.

federal courts.¹⁰ With exception to the few warrants handed down by the courts, the Marshals and their deputies did very little enforcement as they did in the 1800s. Most of their working time was taken up by serving court orders, paying fees to various judicial officers, and maintaining care of the federal courts.¹¹ This tedium of administrative duties continued for Marshals and their deputies until 1956, when Attorney General Brownell established the Executive Office for the United States Marshals as part of the Office of Deputy Attorney General.¹² With this step toward centralizing the Service in supervision, United States Marshals and their deputies were able to expand in their duties and responsibilities to match the social changes of the time.¹³

During the 1950s and 1960s, the Marshals Service not only expanded their administrative duties, but also became involved in sophisticated assignments as jury and witness protection, civil rights demonstrations, and

¹⁰William Bopp and Donald Schultz, A Short History of American Law Enforcement (Springfield, Illinois: Charles Thomas, 1972), p. 30.

¹¹40 Stat. 1182 (February 26, 1919).

¹²Outline of the Office of United States Marshals (Washington, D.C.: Office of the Director, United States Marshals Service, 1960), p. 21.

¹³*Ibid.*

fugitive apprehension. Also during this time, the Marshals Service developed new standards for recruiting personnel, established basic and advanced training classes, and improved management toward bringing each of the ninety-four districts within a like framework.

During the 1970s, the Marshals Service expanded even more to meet the changing requirements of the judiciary and the Attorney General.¹⁴ Not only was the Marshals Service involved in the security of federal courts and the judiciary, but also in airport security to prevent hijackings, the effective handling of unlawful assemblies and civil disturbances, protection of government witnesses against organized crime, protective movement of United States Air Force missiles in the north-central United States, and surveys of bank security programs to curtail criminal activity against financial institutions. In addition to these various security assignments, the Marshals Service became increasingly involved in fugitive apprehension. By the end of 1975, a Fugitive Felon Program was established to centralize warrant investigation on a national level.

Also during the 1970s, the Marshals Service developed more sophistication in personnel, training, and management. In 1973 a National Recruiting Program was

¹⁴United States Marshals, Department of Justice News Release (Washington, D.C.: Department of Justice, September 23, 1974).

established to bring in good young talent and to centralize the requirements for a balance of minorities throughout the Service.¹⁵ With this, the Marshals Service expanded training programs to include an eight-week Criminal Investigator School, a three-week basic training program on the United States Marshals Service, and numerous refresher training classes for increased specialization. In 1970 the Executive Office of the United States Marshals Service became the Office of the Director, and a coordinated effort to centralize the management of the Service was made.¹⁶ In 1974 a system of management by objectives was set up to supply better communications between the Office of the Director and each of the ninety-four United States Marshals in the fifty states. In 1975 the United States Marshals Service added regionalization for even more efficient management.

By the close of 1975, the Marshals Service had expanded more in every area of operation than any other major unit of the Department of Justice.¹⁷ As Attorney

¹⁵U.S. Marshals Service Department Release, September, 1975.

¹⁶United States Marshals Service Newsletter (Washington, D.C.: Office of the Director, United States Marshals Service, September, 1972), p. 15.

¹⁷Address by Edward Levi, Attorney General of the United States, before U.S. Marshals Conference, Tucson, Arizona, Department of Justice Release, November 19, 1975.

General Edward Levi said in his speech to the United States Marshals Conference in 1975, the United States Marshals Service has grown to be

. . . an indispensable part of the Department of Justice, representing the universal lawman and proving worthy of an extraordinary history by living a most versatile and lively present.¹⁸

CONCLUSIONS

Since 1789 the Marshals Service has been involved in almost every type of law enforcement activity imaginable within the Department of Justice. Even though many of the responsibilities are now handled by various other law enforcement agencies, the Marshals Service continues to play an important part in the support of federal law enforcement. However, because of the low profile the Service has maintained throughout history, little is known as to just what the United States Marshals Service has done.

During the 1800s United States Marshals and their deputies were virtually the only type of law enforcement in existence within the "territories." Not only were they required to enforce each new federal law that came into existence, but many times local law enforcement as well.¹⁹ Although Marshals and their deputies could summon support in the form of a posse comitatus during emergency situations,

¹⁸ Ibid.

¹⁹ Webb, p. 500.

they usually enforced the law with little support. In addition to poor facilities and few jails, the Marshals were only paid for the work they completed and received nothing for their numerous efforts. This, in addition to answering to various superiors of different departments in Washington, D.C., caused many Marshals to look for other employment.

In 1870 the Department of Justice was formed and each of the United States Marshals was placed under the control of the Office of Attorney General.²⁰ This brought about increased support for the United States Marshals in their plight to maintain law and order in the remaining unsettled territories. By the early 1900s, statehood was in existence throughout most of the United States and had brought about the establishment of city, town, and state law enforcement. Marshals were no longer required to venture into the "territories" in search of wanted fugitives, so their attention was placed on administrative duties within the Department of Justice. The Marshals became the "handymen" of the federal administration. The Department of Justice was growing by leaps and bounds, and many times there was no system established to handle the increasing workload. When this occurred, the Marshals were called on for support. This was the case when Marshals and their

²⁰16 Stat. 162 (June 22, 1870).

deputies paid the salaries of federal judges, salaries and expenses of district attorneys and their assistants, and the rent of and care for the courts.²¹

By 1926 the number of United States Marshals and Deputy Marshals had grown to 88 and 885, respectively.²² Although this number was large in relation to the original thirteen, it was small in comparison to the duties the Marshals performed nationwide. The continuing growth of the nation brought about increasing demands from the Department of Justice. Although there were various other federal law enforcement agencies in existence, many federal statutes were being written in need of an enforcement body. Since the Marshals Service was established to support the federal judiciary, it was given the task of supporting these statutes. In addition to its numerous administrative duties, and without proper training or centralized management, the Marshals Service accepted each new responsibility and continued to support the federal judiciary and the Office of Attorney General.

In 1956 the Executive Office of the United States Marshals Service was formed and the first step toward centralizing each district United States Marshals Office was

²¹40 Stat. 1182 (February 26, 1919).

²²House Hearings on Department of Justice Appropriation Bill, 1927, pp. 242-244.

made.²³ Management objectives were established and formal training sessions for deputy Marshals were begun. While these changes increased the professionalism of the Service, they also brought about additional duties and responsibilities requiring more sophistication. Security of the judiciary grew from protecting judges and the courts to also protecting juries, witnesses, and various dignitaries. Prisoner transportation became so complicated that a Prisoner Coordination Section was established within the Marshals Service to increase safety and efficiency.²⁴ Through the 1950s and 1960s, the Marshals Service continued to expand toward the goal of becoming one unified professional Service

In 1970 the Executive Office of the United States Marshals Service became the Office of the Director, and the Service was well on its way to becoming one unified Service.²⁵ Through various management techniques, additional training, and better recruitment, the Service increased in professionalism to meet the continuing changes of the federal judiciary. This professionalism soon met

²³Outline of the Office of United States Marshals,
p. 21.

²⁴The Marshal Today (Washington, D.C.: Office of the Director, United States Marshals Service, September, 1975), p. 3.

²⁵United States Marshals Service Newsletter,
September, 1972, p. 15.

the public eye when the Marshals Service was assigned the task of screening passenger boarding at small and large airports throughout the nation. During the four years of participation in the Anti-Air Piracy Program, the Marshals Service consistently maintained the safety of the public and curtailed the occurrences of airplane hijackings. Also in 1970, the Marshals Service was assigned the task of protecting the lives of witnesses who were testifying against organized crime. Again, the Marshals Service handled this responsibility in an efficient, safe, and professional manner. To date, over 1,500 witnesses have been effectively protected by the Service to make a substantial dent in the structure of organized crime.²⁶

The Marshals Service began as a vital part of the federal judiciary because there was no other form of federal law enforcement at the time. For years the Service existed without proper management, training, or finances, yet continued to meet the needs of the federal judiciary. Later, the Service began to develop into a professional organization to meet the increased demands with more efficiency. Finally, today, 187 years later, the Marshals Service operates professionally as an independent agency within the Department of Justice and is placed in line with

²⁶ Arthur E. Gerringer, A Five Year Report on the United States Marshals Service (National Association of Deputy United States Marshals, 1974), p. 9.

all other federal law enforcement agencies of the United States.

RECOMMENDATIONS FOR FURTHER STUDY

The research of this study was limited in many areas because of the author's geographic location. Additional valuable research might be done if one were to search the national archives and Library of Congress for historical findings. By visiting these, and possibly other institutions in Washington, D.C., it would probably be possible to add to this study in the areas of duties and responsibilities, personnel, training, and management. Also, from researching these institutions, the reader may be able to obtain information on topics not contained in this study.

Another area of interest, as an extension of this study, might be the role of the United States Marshals Service in the Indian and Oklahoma Territories. Although United States Marshals and their deputies were involved in bringing about law and order in many parts of the country, the Indian and Oklahoma Territories proved to be the most exciting and dangerous. Information on this type of study is available in many libraries, museums, and various historical institutions. Many of the references containing information on nineteenth century United States Marshals are also contained in this study.

An additional possible approach might be an extension of this study by comparing the United States Marshals Service to other law enforcement agencies. This study was done to look at the history of the United States Marshals Service from its beginning in 1789 to 1976. With this study completed, it would be interesting to see the comparison of the growth of the United States Marshals Service to the growth of some other federal law enforcement agencies. The topics discussed in this comparison study could be the same as those contained in this study.

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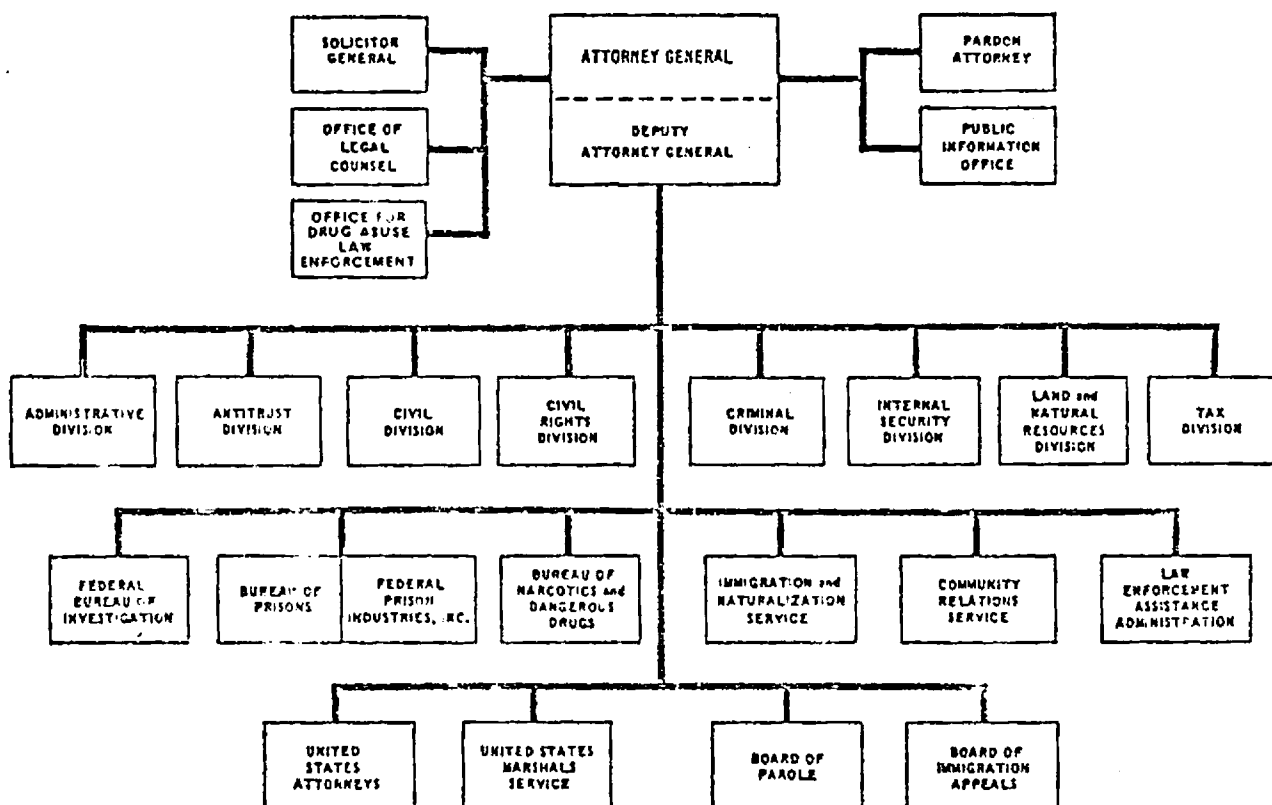
United States Statutes, Vols. 1, 2, 3, 9, 16, 20, 29, 40.

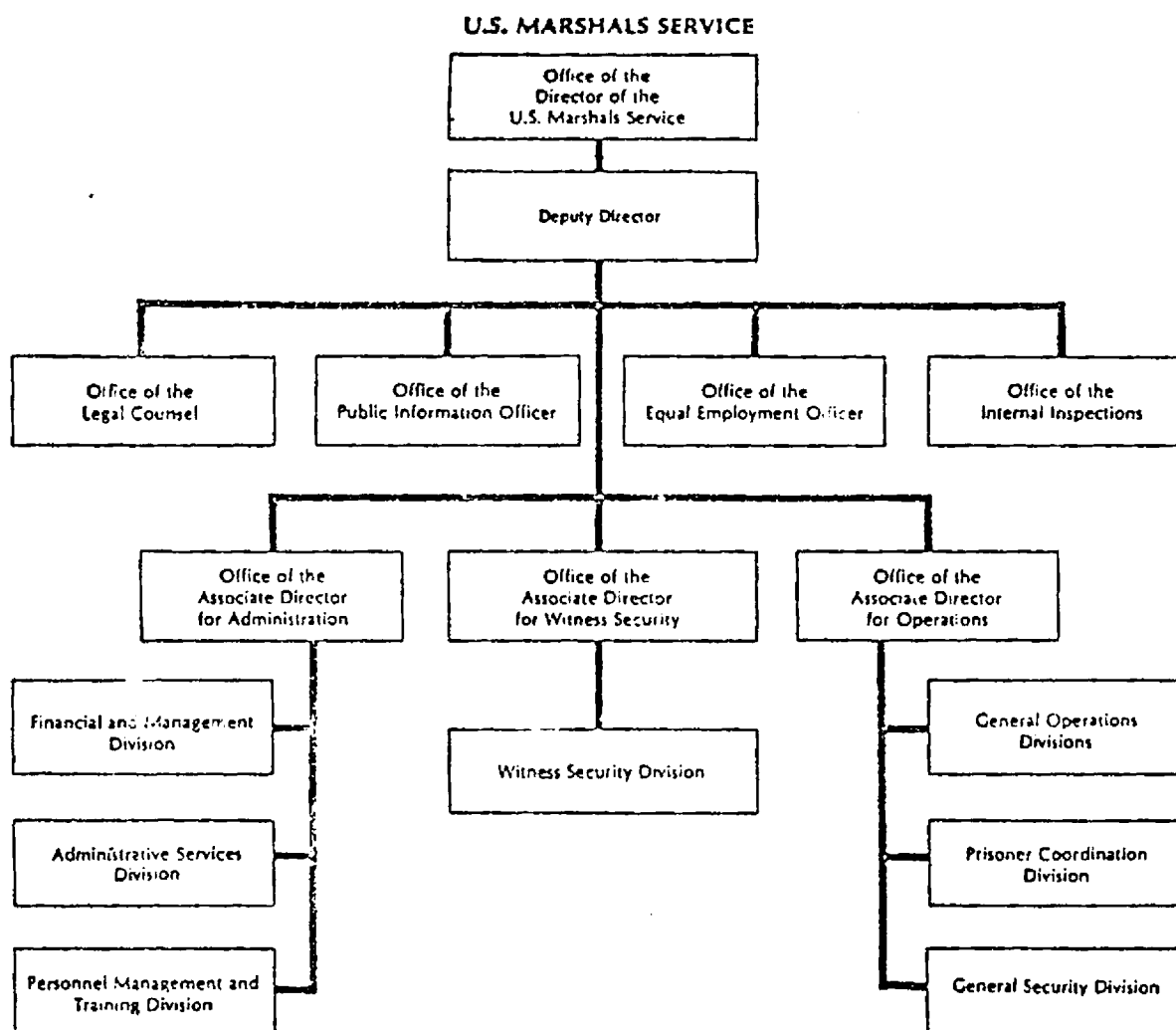
THE ORIGINAL THIRTEEN UNITED STATES MARSHALS
AND THEIR RESPECTIVE DISTRICTS

Listed in Alphabetical Order

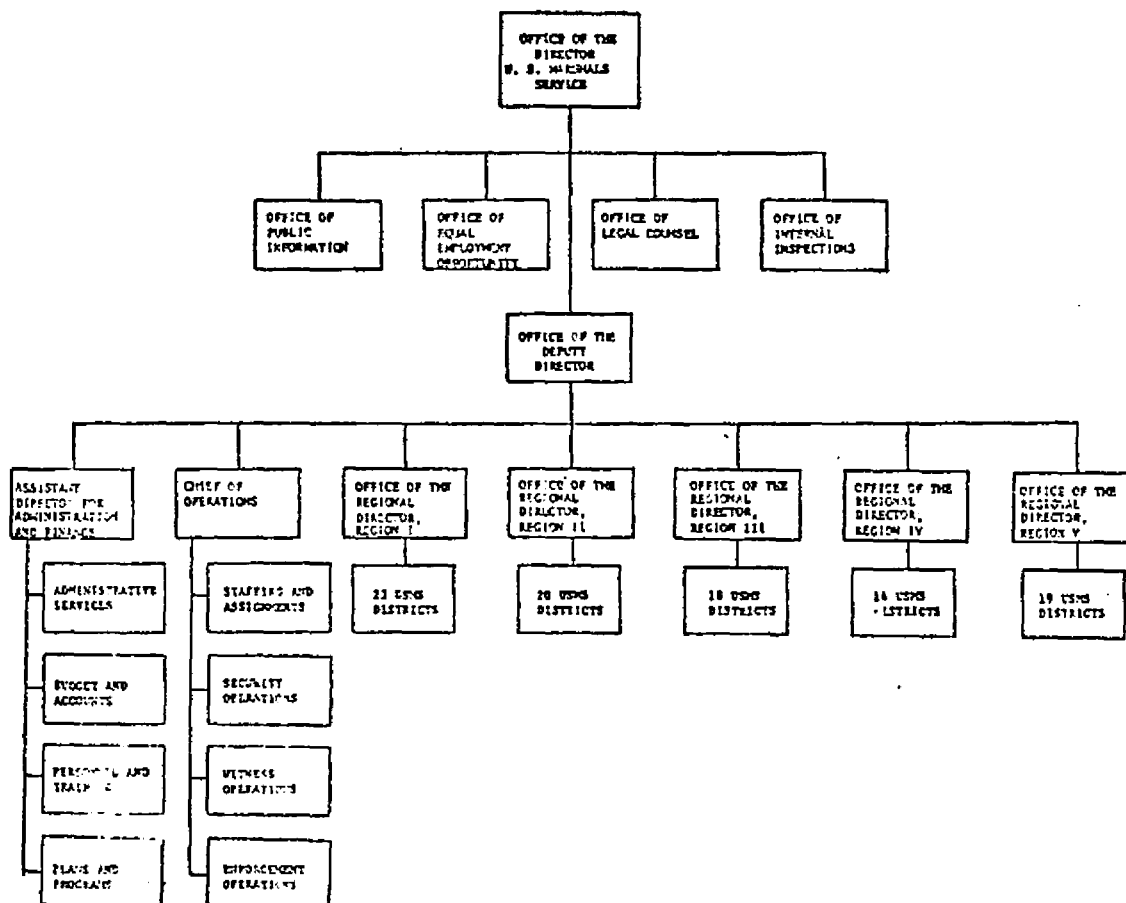
<u>U.S. Marshal</u>	<u>District</u>
1. Clement Biddle	Pennsylvania
2. Philip Bradley	Connecticut
3. Edward Carrington	Virginia
4. Henry Dearbourne	Maine
5. Robert Forsyth	Georgia
6. Isaac Huger	South Carolina
7. Jonathan Jackson	Massachusetts
8. Thomas Lowry	New Jersey
9. Samuel McDowell, Jr.	Kentucky
10. Allan McLean	Delaware
11. John Parker	New Hampshire
12. Nathaniel Ramsay	Maryland
13. William S. Smith	New York

Department of Justice





ORGANIZATION OF THE UNITED STATES MARSHALS SERVICE



memorandum

DATE: September 25, 1984

102
REPLY TO: Anthony C. Odom, Chief
ATTN OF: District of Oregon

SUBJECT:

TO: Gary Mead
Assistant Director for Administration

—
Marshal Bagley informed me you were interested in obtaining
a copy of my thesis on the history of the Marshals Service.

Please find attached copy with my compliments.

THE UNITED STATES MARSHALS OFFICE IN WYOMING SINCE 1868: A HISTORY

Prepared for:

Historian's Office
United States Marshals Service
Washington, D.C.

By: Lawrence A. Cardoso
Department of History
University of Wyoming
Laramie, Wyoming 82071

September, 1988

Introduction:

United States Marshal Delaine Roberts got a quick lesson in the demands of his office soon after receiving his post in early 1981. An optometrist from Casper, Wyoming, along with other members of a posse comitatus had confronted agents of the Internal Revenue Service when they attempted to seize property owed in lieu of payment of income taxes. Warrants were issued and quickly served for arrests of four members of this tax-protest group. The fifth, the eye doctor, holed up in an isolated cabin in the Big Horn Mountains. Judge Clarence Brimmer urged Roberts to make a quick arrest in the case in order to clear up

the matter and remove any possibility of danger to federal judicial officers in Cheyenne. Roberts, along with a party of his deputies and IRS agents, scouted out the cabin site and saw that a fierce gun battle might ensue if they tried a frontal assault. Keeping that option in mind as a last resort only, Roberts simulated a helicopter crash near the cabin. By burning gasoline and tires just after the erratically flying machine dropped out of sight over a hill, it appeared as if a disaster had occurred. When the doctor's companion went to investigate he promptly found himself in custody. After dark the fugitive, heavily armed and in search of his friend, was also arrested by the lawmen as he tried to find out what had happened. Charged with resisting arrest and assaulting federal officials, the two men were tried, convicted, and sent to prison.¹

This very modern incident gives several examples of ancient functions of the marshal's office. Protection of the court, enforcement of applicable federal laws through court direction, and close cooperation with other law enforcement agencies are the most obvious. Now housed in the imposing red sandstone O'Mahoney Federal Center in Cheyenne, the modern Marshal is aided in these traditional functions by state-of-the-art electronic equipment and technology limited only by the imaginations of personnel in the office. The old and the new have thus combined to create a smoothly functioning law enforcement unit designed to serve federal courts in Wyoming.

It was not always so. The marshal's office got off to a shaky start. Bickering over political patronage, worsened by federal ignorance of local conditions, resulted in a sorry state of affairs for

began to take form around the time of the Norman conquest of England in 1066 A.D. As the new nation state began to exercise central control over its people, there arose a need for officials to ensure that the king's will would be carried out. We thus see the development along with the marshal of sheriffs, local police, and justices of the peace. Originally a horse groom or stableman to a local warlord on the continent, marshals were commonly part of noblemen's households and served as law enforcement officials in many jurisdictions under the control of a local lord. At the level of the central government, marshals took care of gifts and taxes rendered to the king and were often responsible for wages paid to royal troops. Additional early functions included advisory duties and military assistance to the monarch when requested.

By the late 1200s other functions directly related to the modern marshal appeared. Marshals, usually assisted by several deputies, were high officers of the king's court and responsible for the custody of property and prisoners controlled by the king. The latter function was frequently carried out through the wardenship of the Marshalsea prison. One marshal oversaw the management of the royal household; another assured the security of judges as they rode on their circuits. So valued was the office in 1130 during the reign of Henry I that William Marshal, son of Joh Fitzgilbert, claimed by right of inheritance his father's position at the royal court. The office was off to a prestigious and influential beginning because of its close association with the power of government to manage the nation and affect the lives of its inhabitants.³

Colonial period:

Not surprisingly, American colonists in the seventeenth century brought the marshal's office with them as part of their English cultural heritage. On the local level we find men holding the titles of marshal of the colony, marshal general, and provost marshal. These officeholders, usually elected or appointed for a fixed term of office, had general peacekeeping duties and were obligated to assist colonial courts in the smooth functioning of the criminal justice system. They accompanied circuit judges on their ridings, served criminal and civil writs, drew up bail bonds, took custody of prisoners, maintained jury lists, and executed court judgments. The broad and vaguely defined nature of these duties was spotlighted by Thomas Lechford, an early Boston, Massachusetts, attorney, who described the "Marshall" in 1642 as "a Sheriffe or Bailiffe, and his Deputy is the Goaler and executioner."⁴ Toward the end of the colonial period many of these scattered marshals' offices gave way to the office of sheriff at the local and county level. The post seemed destined to be associated with strong central government, with broad and general interests, not the more provincial concerns at lesser levels.

Indeed, the marshal's office became stronger at the same time its jurisdiction narrowed. English monarchs created a system of vice-admiralty courts beginning in 1697 to deal with merchant and trade law of salt-water commerce. These royal courts were an effort to deal with contentious American colonists who resisted the king's efforts to regulate and tax trade. Vice-admiralty jurisdiction was wide-ranging and relatively free of English precedents and traditions which since Magna Carta had sought to protect individual rights. These courts had attached to them marshals with broadly, and at times vaguely, defined duties, allowing judges wide latitude in carrying out royal policies in the colonies. By basing marshals' powers on both common law precedent as sheriffs and earlier wide-ranging colonial duties, these lawmen were able to act as general troubleshooters for their courts. Marshals executed court judgments, served criminal and civil writs, drew up jury lists, seized and auctioned off property, and so forth. This growing strength of the office must be considered the direct antecedent of the new nation's statutory creation in 1789.⁵

The new nation and its marshals:

The Judiciary Act of 1789 thus drew on several interrelated traditions when it created the office of federal marshal as part of the

newly organized court system of the national government. Congress mandated that a marshal be attached to each of the judicial districts. The power of the new officer resembled closely the broad sweep of jurisdiction during the days of the vice-admiralty courts. Given broad investigative powers to determine possible violations of federal law, marshals were also to collect decennial federal census data, supervise jails, execute courts-martial, and assume responsibility for the appraisal and disposition of property taken in court judgment. These "handymen" of federal power were also granted custody of goods and chattel seized by revenue officers. Other early statutes made marshals the fiscal agents of federal courts.

Congress in 1792 further enlarged the scope of the office when it wrapped marshals in the traditional common law powers of local sheriffs. The reasons for this legislation are unclear. Perhaps legislators heeded dire warnings about the dangerous centralization of power, and sought to assuage these fears by more openly drawing on established, familiar practices and procedures. It was also possible that Congress was trying to expand the sphere of the marshalcy in anticipation of another domestic disturbance such as Shay's Rebellion in western Massachusetts in 1786. There were few law-enforcement powers prohibited to marshals with this law.⁶

With these powers, actual and implied, marshals accompanied Americans moving west. The Northwest Ordinance of 1787, the basic legal mechanism for setting up new territories, mandated that a federal marshal and attorney be appointed in each new territory's district court. These courts were typically responsible for a wide array of

cases which arose from any human society. Thus, marshals might be expected to deal with matters such as perjury, assault, illegal fencing of public lands, interference with the mail, family disputes, and the illicit sale of liquor and arms to Indians. The point being that with a broad mandate from Congress, the marshal's office extended its authority as America's citizens moved toward the West. Marshals were primarily law enforcement officials, often being the sole police power over a vast expanse of territory encompassing hundreds of thousands of square miles. Deputies were appointed and let go as needed. They could supplement their small stipend by working for other public and private agencies, since the fees collected from their office rarely provided a living wage. Congress formalized this system of fees in 1853 when it imposed a uniform fee schedule for all marshals and their deputies.

Marshals also carried out by statute functions of certain executive departments of the federal government. The Secretary of State could issue instructions of a general nature to federal employees in the territories. The Secretaries of the Treasury and Interior could call on marshals to police the government's functions in realms of fiscal matters. This began to change in 1861 when marshals were placed under the sole supervision of the Attorney General. In 1870 the Department of Justice was created, and marshals lost some of their duties to other executive agencies and began to focus more on issues of law enforcement.

From the outset, appointment to the job was a matter of political patronage. Income realizable from fees was tiny compared to what the

federal attorney or revenue collector could earn. Little thought was given to law enforcement experience; political affiliation and constancy seemed to be most important. Many who held the office did so only in return for a source of small income which could tide them over until a more lucrative sinecure came along. As President Thomas Jefferson wrote in 1801 when he sought nominations for a marshal to serve in the western district of Virginia, "let them be respectable and unexceptionable, and especially let them be Republicans. The only shield for our Republican citizens against the federalism of the courts is to have attorneys and marshals Republicans."⁷

By the time the territory of Wyoming was set up in July, 1868, then, the marshal's office had almost eighty years of experience in our westward expansion. Marshals were primarily political appointees, although here and there that as the only test of office was beginning to change. Our lawmen were an important, and at times the only, source of police power in a given area until large numbers of civilians came to settle. It was within this general background that Wyoming found this federal agency within its borders.

Wyoming: the early period:

Marshals were active in what is now Wyoming even before the

beginning of the territorial period in July, 1868. In the Bridger Valley, Marshal Dotson acted as the arm of Salt Lake City's federal courts in the 1850s. Earlier marshals had doubtlessly worked in the area in connection with civilian migration along the Oregon and Bozeman Trails, but none of these activities has come to light. It was the construction of the Union Pacific Railroad along the southern Wyoming corridor in the period from 1867 to 1869 which gave rise to the earliest incidents of routine activities by marshals and their deputies. Noting a "state of society bordering on anarchy" in these "Hell on Wheels" towns at the end of the Union Pacific track, Governor Faulk of the Dakota Territory, then encompassing Wyoming, asked these lawmen to do what they could to bring law and order. When James Chisholm stayed in Cheyenne in March, 1868, he roomed with the Dakota Marshal, noting the federal official was an "object of dislike" because he refused to hand his prisoners over to vigilante mobs. Deputy Marshal Gaff received "threats and intimidations" from local citizens when he insisted on seeing that three men charged with larceny received a fair trial. As federal agents in an isolated and tumultuous frontier environment, marshals had to go about heavily armed in order to carry out their duties and to ensure their own personal safety.⁸

When President Andrew Johnson signed the Organic Act establishing the Territory of Wyoming on July 10, 1868, this earliest, somewhat chaotic, phase of marshals' activities ended. Section 10 of the Organic Act, following long-established practice under the Northwest Ordinance of 1787, set up territorial government with complementary federal machinery. The territory had three federal justices appointed

by the President and confirmed by the United States Senate for a term of four years. The justices sat individually as district judges in county seats in their circuits in the territory; meeting together, they comprised the Wyoming Supreme Court. In both of these capacities, judges could hear cases which arose either from national or territorial law. In return for their services, these men received a salary of \$3,000 per year.

Working with the justices was a United States Attorney and Marshal who were charged with carrying out "all processes issuing from the said courts when exercising their jurisdiction as Circuit and District courts of the United States." Marshals were further instructed to adopt the same fee schedule as their counterparts in the Dakota territory. Beyond this income, the salary attached to the office was stipulated at \$200.00 a year.⁹

An uncertain beginning:

Thomas Jefferson's litmus test of political affiliation as a requirement for the marshal's office continued in force for most of the officeholders in the territory of Wyoming. Indeed, biographies of the first five lawmen show that political loyalty may have been the only requirement for appointment. Church Howe, who served from 1869 to

1872, was a native of Massachusetts, a Republican and veteran of the Civil War, having achieved the military position of Provost Marshal for Northern Maryland by 1865. After leaving Wyoming Howe served for many years in the Nebraska legislature and the American consular corps. Gilbert Adams, in office for only a short time in 1875, came to Cheyenne directly from appointive service in the Post Office in Washington, D.C. W. F. Sweesy, Marshal from 1875 to 1878, was given the Marshal's office because of his stalwart work in the federal Land Office in Omaha, Nebraska. Sweesy's successor, Gustav Schnitgar, had been a Customs Collector before coming to Wyoming. Appointed to a second term as Marshal in 1882, Republican Schnitgar was removed from office in 1884 by Democrat President Grover Cleveland who then appointed Democrat Thomas J. Carr to the post.¹⁰

Major Frank Wolcott who served as the second Marshal from 1872 to 1875 stands in a distinct class as evidence of the power of politics in understanding this office. A native of Kentucky, Wolcott came west as Receiver of the United States Land Office in Cheyenne. Not content with this political plum, he immediately flew into local Republican politics, siding with the Campbell Ring, led by the territory's first governor, John A. Campbell. This faction, as was true of their opponents in the Howe Ring, led by the first marshal, was infamous for its unauthorized and highly irregular uses and misuses of political offices.¹¹ Wolcott, known as the "Jack of Spades" because of his earlier career as a prize-fighter, was described by his fellow Republicans as "obnoxious and hateful," "insolent and dishonest." His private life showed court convictions for disturbing the peace, assault

and battery at a Christmas party, and using indecent language in public; additional allegations included land monopoly and sadism. Because of his transgressions, proven and otherwise, Wolcott was forced from his Receiver's job at the Land Office in Cheyenne. President Grant then appointed him as the Marshal for Wyoming! Presumably, Thomas Jefferson did not have in mind people such as Wolcott when he sought candidates for the office who would protect the liberties of the public.¹²

Given this highly politicized atmosphere in which early marshals operated, it is not surprising that they spent much of their time carrying out political maneuvers. As mentioned above, early territorial politics saw the quick development of two factions, or Rings, which sought to control the territory. Church Howe, characterized by a contemporary as "the most indefatigable intriguer" that person had ever known, founded the Howe Ring. He purchased newspapers to advance his election to Congress as Wyoming's non-voting Delegate. Promising largescale investments if elected, Howe quickly attracted the support of the editor of the Cheyenne Leader, as well as the territory's Secretary. Howe encouraged the blatant intrusion of the Union Pacific Railroad into local politics in furtherance of his goals.

Apparently unhappy with Howe's machinations and unwillingness to give more effort to his office, Governor Campbell gathered his allies to stop Howe. Supported by the editor of Laramie's Daily Sentinel, United States Attorney Joseph M. Carey, and federal land officials in Cheyenne, including Wolcott, Campbell began feuding with Howe's

supporters. Charges and countercharges about personal and professional lapses flew so fast and furious that it is now impossible to determine the veracity of these allegations. There was so much smoke that there had to be fire. For the territory, off to a weak economic start and slow population growth, the effect was quite clear: this local stalemate invited outside intervention.¹³

The Marshal's office became the lightning rod for attempts to provoke action by President Grant from Washington. Normally described as a man who lacked a clear patronage policy and failed to see the blatant self-interest of others, Grant was more of a pawn in the far-off territory's political wars. In April, 1872, Howe traveled east on what was an apparently authorized and perfectly normal part of a federal employee's pattern. Sensing their chance to strike at the leader of the opposition, Campbell wrote to the Attorney General that Howe had abandoned his office and taken an unauthorized leave. Further, in case the Attorney General had no notice of past indiscretions, Howe was said to be guilty of misuse of federal funds, possibly even fleeing to avoid prosecution. Grant, presumably advised so by his Attorney General, immediately removed Howe from office without asking for his side of the story. Howe, who had already been fired by Grant earlier for unspecified political misdeeds in 1871 but re-appointed when the President failed to locate a successor, was now thoroughly disgusted and decided to remain in Nebraska. He had had enough of Wyoming politics.¹⁴

Grant then proceeded to continue playing his brand of Wyoming politics. He first appointed Robert H. Gilroy of Indiana as Howe's

replacement. In Cheyenne accompanied by his brother (whom he had already appointed as his deputy), Gilroy quickly concluded that Wyoming's marshalcy showed little promise of political and financial profit. Gilroy and his brother turned around and left for the east in search of their future. Apparently at a loss as to what should be done next, Grant appointed Wolcott, recently fired as the federal Receiver and a strong partisan of the Campbell Ring. This latest turn in the kaleidoscopic nature of the Marshal's position did nothing to calm the turbulent waters of the Howe-Campbell feud.

It was left to Governor John Thayer (1875 to 1878) to bring about a general relaxation of tensions. Thayer moved quickly in the summer of 1875, apparently with the approval of the chameleon-like Grant, by removing Wolcott from his latest federal job. Thayer hoped that in this way the two factions would have one less forum for their bickering. Thayer's choice for Wolcott's successor, Gilbert Adams, proved, however, to be "dishonest and clumsy," not a man to bring peace to the situation. Grant in another flip-flop then reappointed Wolcott. Finally, taking advantage of Grant's lameduck status, Thayer in early 1876 moved decisively when he removed Wolcott as well as United States Attorney Carey from their posts. The appointment of W. F. Sweesy, fresh from Republican circles in Omaha and disinterested in local factions, finally signaled the end of the most blatant and damaging political side of the marshal's position. Most appointees after Sweesy would show more interest in performing their jobs well and not simply using their federal positions as steppingstones to other things.¹⁵

The office begins to take shape:

This is not to say, of course, that marshals spent all their time playing politics. They had three major areas of concern for the smooth functioning of their office during the territorial period. First and foremost, they devoted their time and energy to oversee and guarantee the smooth functioning of the federal judicial system. This area of responsibility included the day-to-day administration of their office staff and deputies, as well as carrying out the service of process, and transfer of prisoners necessitated by decisions of the court system. Whether one looks at this area in the late twentieth century or more than 100 years ago, these ordinary and routine duties of our peace officers have changed remarkably little over the course of time. For these reasons, this subject will be dealt with in one unit later in the study. Here, only those facets of this area which were unique to the territorial period will be discussed.

Marshals also spent some of their time in general peacekeeping activities, our second area of concern here. The myth of the young, lone and lonely hero aside, lawlessness did exist, and within certain jurisdictional confines marshals played a role. There was not much of this exercise of marshals' general common law powers either before or after 1890. What incidents did occur before 1890 stand out as

exceptions and not the rule, but they do inform us of important aspects of these lawmen. Nowhere will this be more clearly seen than in the so-called Johnson County War of 1892.

Marshals also spent enormous amounts of their time administering the federal penitentiary in Laramie. A thankless task at best, this institution was a federal installation until 1890 when it was turned over to the newly established state of Wyoming. This proved to be a major headache, partly for overarching political reasons and hopes of turning a profit from this lucrative source of federal money.

Money problems inherent in the federal judicial system since 1789 consistently handicapped marshals in their duties. Congress's attitude toward funding the West's justice system has been correctly characterized as, on the whole, miserly, ignorant, and more apt to harass court personnel over minor expenses than to find out what was needed by the system in the northern Rocky Mountain region. One in-depth study of the subject concludes that courts and their employees operated within a "farcical structure" because of lack of money and large doses of harassment from various Attorneys General in Washington.¹⁶ Marshals and their deputies received chronically insufficient pay. This frequently meant that deputies were appointed for political reasons pure and simple. In turn, deputies were expected to earn what they could through collection of fees for their services. This system put a premium on fomenting prosecutions in federal courts in order to enhance salaries. Attorney General Benjamin Harris Brewster estimated in 1883 that this system had gotten so out of hand

that the federal government spent \$10.00 in general court costs for every \$1.00 marshals and their deputies collected in fees. In a clear recognition of the hardships this system posed in Wyoming, Harris urged in 1885 that Congress at least double the fees allowed in Wyoming. Not until 1896 did Congress finally see the light when it set small salaries for marshals and their subordinates.¹⁷

There is no hard evidence on income prior to the salary scale set up in 1896. Moreover, income based on fees varied widely from year to year. Fragmentary evidence from 1878 indicates how paltry remuneration could be. In May, 1878, in a case of larceny Marshal Sweesy earned \$7.60 while a similar case in the same month generated \$2.10 for a deputy who served a bench warrant. Later in that same year Marshal Schnitgar earned \$18.70 for his services in a civil case. If we accept Attorney General Miller's 10 to 1 ratio of total government costs to fees collected, we have a rough indication of total income in the office. In 1878, the federal government spent a total of \$13,900 to pay court expenses in Wyoming. That figure would mean that the Marshal and three or four deputies who worked in the office during that year had an income from fees of approximately \$1,400. This income, in a system which paid federal judges a salary of \$3,000.00 per year, compares unfavorably to that paid even local law enforcement officers. In 1864, for example, the sheriff of San Francisco, California, earned \$8,000.00 a year, his deputies \$1,800.00.¹⁸ Little wonder, then, that when we add to the poor pay structure expected political machinations, the quality of the men who served in the office was not always high.

The job attracted many deputies with especially vicious

temperaments. Since most of the men who held this office were commissioned on an ad hoc basis for a specific assignment, there is little in the historical record to document the patterns of their employment, but we do know that some of them by their actions and reputations lent a sinister cast to the marshalcy in Wyoming. Representing the frontier's rough-and-tumble period in the early days of settlement, men such as Nathaniel Kimball Boswell blazed paths of law-keeping which have come down to us as part of the lore of early Wyoming. Boswell was appointed by an early Governor as sheriff of the entire territory. His long travels over vast distances, often pitting Boswell alone against murderous fugitives, led to no quarter when the lawman met his quarry.

Boswell's reputation also rested on his active, public participation in early vigilante lynchings in Cheyenne. Appointed a Special Deputy by Marshal Howe, Boswell quickly apprehended someone who shot out public street lights. Boswell was later commissioned to chase and capture a fugitive. He returned from the chase with the man's decapitated head, "good and satisfactory" evidence in the words of Boswell's biographer, of his success. Notoriety also attached to another Special Deputy, Frank Canton. A former county sheriff and stock inspector for the Wyoming Stock Growers Association, Canton was a cold-blooded killer of those he suspected of rustling his employers' livestock.¹⁹ There was often little time for the niceties and protections of due process when justice was in the hands of these two men and others like them.

In spite of these limitations, our lawmen carried out a wide

variety of duties. Much attention was devoted to the press of routine law enforcement duties, discussed above. Unique to this early period were efforts to establish the structure of an established society. Church Howe, for example, spent \$1500 to pay the salaries and expenses of sixteen assistants to take Wyoming's first census in November, 1869. Howe was also called to South Pass City in the same year to prevent local Democrats from denying the right to vote to blacks. Later in 1886 Marshal Carr was asked by Governor Warren to give his professional advice on ways to set up territorial court and jail facilities in scattered local communities.²⁰

Actual law enforcement in the field, although limited in scope, did play a role. Carr kept a close eye on the Cheyenne scene after the infamous Rock Springs Massacre of Chinese workers in September, 1885, in order to prevent similar outrages in the capital city. The next year Carr and Warren worked closely with local sheriffs when a strike by Union Pacific employees seemed imminent. The Marshal and his Deputies gave their "best attention" to preventing possible threats to law and order and transit of federal mail. An earlier disruption of the mail occurred in 1877 when a band of robbers relieved a stagecoach of its strongbox and cargo. There is no record of what success Marshal Sweesy had in this case.²¹

Duties relating to the federal penitentiary in Laramie were a major headache. When the facility began operating in October, 1872, the territory saw the start of what was doubtlessly our lawmen's most frustrating, arduous, and time-consuming task. Few doubted the need for a facility to hold those convicted of violating federal and

territorial laws. Even Marshal Howe and his arch political enemy Governor Campbell joined forces in urging federal funding for the institution. The alternatives of sending prisoners eastward to other locations or renting jail space from county governments were not attractive, principally because of cost and inadequate security.

The administrative structure guaranteed problems from the beginning. Each marshal appointed a warden, often, as one would expect, based on politics more than anything else. It fell to the marshal, however, to remain responsible for making purchases needed for the prison and entering into contracts for the utilization of inmates' labor. As was true in the rest of the justice system, funding was chronically inadequate and we see marshals and wardens steadily-- and unsuccessfully--complaining about the situation to the Attorney General in Washington. In turn, harrassments of the two men in charge in Laramie, usually through the offices of a Special Agent sent out by the Department of Justice, made it difficult if not impossible to carry out much of the routine detail necessary to any operation. Marshal Sweesy told Special Agent Forney that his own ignorance and lack of direction from Washington on just how to run a prison all but ensured failure. While lamenting this, Forney concluded that "padding" of expense accounts also frustrated efficiency.²²

The commonest way to make up for lack of funds was to lease out convict labor to private businesses. To give but a few examples here, marshals drew up contracts which obligated their charges to cut ice from the Laramie River for the use of the Union Pacific Railroad to preserve perishable food shipments; convicts were also leased to cut

firewood, clear brush, and work in a nearby brickyard.²³

This system, designed to make up for Washington's miserly funding, led to many endemic new problems. Convicts escaped and marshals and their deputies spent weeks pursuing fugitives in the hills surrounding Laramie. In late 1874, for example, Wolcott spent two weeks fruitlessly searching for escapees who had been leased to work in the brickyard of a local building contractor. Wily prisoners easily outfoxed ill-trained guards and wardens at the penitentiary itself, much to the embarrassment of officials and the thundering disapproval of their superiors in the Attorney General's office. In what must stand out as the most jaded link in this chain of ineptitude, Marshal Gustave Schnitgar--who in a highly questionable practice served concurrently as warden--gave his prisoners freedom to go into town on Saturday nights for relaxation. The resulting number of escapees and fear on the part of townspeople were instrumental in leading to his removal from office in 1884.²⁴

The Johnson County War of 1892:

The Johnson County War in the summer of 1892 marks an important watershed in the evolution of the Marshal's office in Wyoming. One very courageous marshal, Joseph P. Rankin, who served in office from

1890 to 1894, finally removed the day-to-day functioning of his post once and forever from the control of local politicians and economic interests. Rankin's courage in this duel is even more remarkable when one considers that his opponents were formerly his staunch allies. Rankin's independence saw him declare against Senator Francis E. Warren, Senator Joseph M. Carey, both leaders of the local Republican party and probably the richest men in the territory, along with a host of livestockmen, prominent newspaper editors, the Acting Governor of Wyoming, and many of his fellow lawmen. Cognizant of the danger to himself, his deputies, and the integrity of his job, Rankin took what he thought to be the proper course to protect his interests. Higher authorities ultimately supported Rankin's decision. If there are heroes in this story, surely Marshal Rankin must be at the top of the list. It was he who won the independence of his office and charted its course into a future of professionalism.

The narrative of the events in the Johnson County War needs only brief recitation here. Big cattlemen had been frustrated for years as they sought to protect their interests. Small cattlemen and some homesteaders had been filtering into Wyoming for decades, intent on making new lives for themselves. Those already here had control of millions of acres of grasslands and, more importantly, most of the watercourses in the area. Frustrated, the newcomers either tried to cope as best they could or rustle cattle from the established ranchers to gain their own foothold. Many of the rustlers were arrested, but as often as not juries refused to convict them because of lack of evidence or out of sympathy with the defendants' aims. Legislation such as the

Maverick Law of 1884 which gave control of unbranded cattle to established ranchers sought to lock small spread owners out of the livestock industry, but did little to resolve the strife. Things came to a boil in April, 1892, when a loose coalition of small cattlemen announced they would ignore the Maverick Law and round up stray cattle in the Johnson County area.

Silence shrouds the historical record when we look at the response of the Wyoming Stock Growers Association (WSGA) to this grassroots campaign. Indisputably, on April 5, 1892, a train carrying 25 gunmen (5 of them former federal marshals and their deputies from Texas) arrived in Cheyenne where it joined a similar force of armed men. The commander of this combined "invasion" was none other than Frank Wolcott, Wyoming's Marshal from 1873 to 1875, and now a big cattleman in the Casper area. His second in command was Frank Canton, an occasional Deputy Marshal from Johnson County, and a prominent and cold-blooded murderer of suspected cattle thieves and others who had run afoul of propertied interests. A second Deputy, L. H. Parker from Sheridan, served under Canton on the expedition. The presence of two of Rankin's Deputies in the Invader Force, the participation of five similar law enforcement officers from Texas, and the obvious backing of the enterprise by many locally influential politicians, all lent official color--or at least its appearance--to the attempt. At this point in early April, and much to Rankin's later regret, the Marshal plainly knew about the Invaders' plans and supported them. His open permission for Canton and Parker to participate can be read in no other way; there is certainly nothing in the record to show Rankin's

opposition. Rankin saw eye-to-eye with the Invaders and their employers who wanted to rid Wyoming of upstart small cattlemen, root and branch.²⁵ To protect private property at any cost, the detrained force of Invaders moved toward Johnson County.

Accompanied by two newspaper reporters--what was there to hide?--and assured of the full support of the state's influential leaders, the Invaders went north with a "Dead list of seventy men." This list of intended murder victims included the Johnson County Sheriff, Red Angus, and Commissioners, the mayor of Buffalo, assorted businessmen and officials thought not to be in full support of the big cattlemen's point of view, and a few other men who might have been rustlers. In addition to those on the select list, Wolcott, Canton, Parker, and the others carried quantities of dynamite intended for use on selected buildings in Buffalo. Near Casper on the morning of April 6 near what is now the town of Kaycee, the Invaders engaged in a furious gun battle and finally murdered two men from the List of 70, Nick Ray and Nate Champion.

This delay was a fatal strategic mistake. By using up an entire day for their first two murders, the Invaders' opponents were given time to raise a hue and cry. More than 200 men led by Sheriff Angus moved out from Buffalo, and met the Invaders at the TA ranch a few miles from town on April 11. Acting Governor Amos Barber along with Senators Warren and Carey then beseeched President Harrison to send in army troops from nearby Fort McKinney to suppress "an insurrection...against the government of the...state." Saved by the timely arrival of the cavalry, the Invaders were quickly spirited from

the scene to Laramie. Two eyewitnesses to the Ray-Champion murders were put on a train to Omaha, Nebraska, where they were promptly arrested on federal charges, then released on their own recognizance, never to be heard from again. This seeming coverup by the Omaha Marshal lent additional credence to popular thought in the Buffalo area which held that Rankin had actually deputized all of the Invaders as part of a conspiracy to then say that the murdered victims were killed trying to escape from the lawmen. In Buffalo a few weeks later, Rankin noted the "insulting language" used by townspeople to his face.²⁶

No other members of the invading group were brought to justice. Many individuals were allowed to escape from custody. In August, under the pretext that Johnson County refused to pay for the prisoners' room and board, the remaining detainees were freed. Nothing had been settled in the competition over resources. Bloodshed continued on Wyoming's grasslands, and the large cattlemen had to plot another, less public, strategy in order to maintain their rigid control of the industry.²⁷

Rankin was supposed to play a key role in obtaining for the big cattlemen what the Invaders could not. Encouraged by Warren, Rankin was to deputize as many reliable men as he could. Pliable federal officials in Cheyenne would then issue arrest warrants for those individuals who had caused property damage during the Invasion and prevented Rankin from serving earlier warrants in the Johnson County area. The hope was that the attempted arrests in Johnson County would provoke another bloody battle. If Rankin and his deputies prevailed, they would either kill or scare off, directly or indirectly, many of

the small cattlemen in the area. If this tactic failed for any reason, President Harrison would be asked to declare martial law, thereby serving the same end. In reviewing these plans later as part of his investigation of charges against Rankin, Examiner Frank B. Crossthwaite harshly criticized federal officials in Wyoming, including Rankin, for their actions related to the Invasion. His findings allow us to reconstruct events along the following lines.²⁸

The plan went into action in early May, several weeks after the Invaders' defeat. Accompanied by his Chief Deputy and former Marshal Carr, Rankin left for Buffalo on May 7 to serve injunctions forbidding the small ranchers from engaging in another intended roundup of unbranded cattle. The sham of these entire proceedings was evident to all, since federal injunctions were being issued in citation of state laws. The pliant federal court in Cheyenne, presided over by another of Warren's longtime political allies, did what it could to defend the interests of the WSGA's members. Rankin and his men were fully expected to go to the front lines of the conflict and put the large cattlemen's plans in motion.

Rankin had previously appointed three Deputies in Cheyenne who were to ride north toward Buffalo, apparently seeking information on the whereabouts of the people named in the injunction. The deputies were then to join Rankin and Carr in order to serve the papers. It is important to note here the backgrounds of these deputies. All were well known in the area as staunch supports of the large cattlemen. George Wellman, for example, was foreman at the Hoe ranch. Many small ranchers were apparently concerned, since they suspected the worst,

given what they thought had happened in early April. Was the Marshal's office about to launch another campaign against them? Was this a pretext to call in federal troops again? Against this highly charged backdrop, unknown gunmen assassinated Deputy Wellman on May 10 outside of Buffalo. No one was ever convicted of this crime. It remains a mystery to this day.

Events moved quickly after Rankin returned to Cheyenne on May 19. He unsuccessfully tried to deputize several men who would then go to Buffalo to serve the injunctions and continue investigating Wellman's murder. Given the rough terrain and the generally antagonistic welcome promised for any federal official in the area, Rankin could do little to satisfy the growing pressure from Warren and his supporters to proceed with the plan. No one tried to cast doubts on Rankin's personal courage, and part of the courage was an appreciation of what was possible and what was not under the circumstances.²⁹

Warren became more shrill in his demands. Helena Huntington Smith has argued in her exhaustive study of the Invasion that the Senator was more than willing to make Rankin a sacrificial lamb so as to provoke military intervention. True or not, Warren did press Attorney General Miller to order Rankin northward, whatever the prospects of his success. In a strongly written order dated July 1, Miller ordered Rankin to go to Johnson County to make arrests and serve court writs. Until and if that effort failed, Miller explained, matters would remain at a stalemate. Rankin understandably did not follow the letter of this direct command from Washington. By September Warren demanded that Rankin be forced to resign. In a barrage of charges, the Senator and

his supporters in the state said that the Marshal lacked courage, force, and fitness for the work he was being paid to do. It was also alleged that Rankin was derelict in his duty and should be removed from his post because of his failure to carry out proper orders.³⁰ Rankin fought back and asked for a formal investigation of his conduct.

Rankin won and Warren lost this titanic political battle of wits. Quickly sizing up the grave damage to the reputation of his office, Rankin saw that popular opinion held him, his deputies, and officers of the federal court in Cheyenne, as willing tools of local elites captained by Warren. Rankin believed that his legitimate duties would be frustrated in the future if something were not done to correct the situation. He had already encountered total frustration in finding Wellman's murderers and convincing men he trusted to be deputized so as to help the Marshal in this effort. This might be a mere taste of worse to come unless decisive action were taken.

Rankin frankly confessed to Crossthwaite and the Attorney General his mistakes. By accepting the interpretation of the large cattlemen on conditions in Johnson County, he had deprived himself of the whole picture. He should have consulted more fully with Wyoming's United States Attorney on the legality of what he should do and kept his ear closer to the ground to appreciate the viewpoint of small ranchers. Whatever the "might-have-beens" of his actions, Marshal Rankin acknowledged to the Attorney General that "right was not all the time with the large cattlemen, and at no time was it with this invading party."³¹

Examiner Crossthwaite, after extensive and apparently relentless

on-the-spot investigations, agreed with Rankin's assessments. Having failed to accomplish their objectives through the agency of the murderous Invaders, owners of large spreads had tried to do under color of law what they could not do in flagrant violation of the law. Federal officials in the state had played fast and loose with their rightful jurisdiction in order to assist these powerful economic interests. United States Attorney for Wyoming Benjamin F. Fowler was not fully consulted, Crossthwaite concluded, because he was well known to have too much respect for the principles of probable cause and jurisdiction to use the federal court to issue warrants on what was, in all likelihood, a state matter. Marshal Rankin relied too heavily on the counsel of Warren and his allies and failed to exercise his own "personal judgment or discretion" to a sufficient degree. "A point was stretched to bring this matter within Federal jurisdiction with a view to accomplishing thereby what had been attempted by the unlawful invasion." And Marshal Rankin, among others, should have been more alert to what was going on in the matter.

Despite the Marshal's lapses, Crossthwaite found much in Rankin's subsequent conduct to exonerate him. Warren's shrill objections aside, Rankin was commended for not following Attorney General Miller's written orders of July 1 to proceed to Johnson County to make arrests. In light of the antagonistic popular feelings, death threats, Wellman's murder, and inability to deputize a sufficient force of men, it would have been foolish, if not suicidal, to proceed northward. Even Rankin's worst political enemies (and he had plenty of them by late 1892) generally admitted to his qualities of bravery, courage, and

leadership. Propelling factors in Rankin's conduct were self-preservation, common sense, and the desire to protect the integrity of his office. Whatever lapses in judgment there were fell within the latitude the Attorney General was bound to grant his marshals so they could carry out their day-to-day work efficiently. There was, in sum, no justifiable reason to remove Marshal Rankin from his post.³²

The events of 1892 were important for Rankin and those who followed him. The office was no longer to be a readily available tool for only one segment of Wyoming's population. Appointment may have been influenced by politics, but service in office elevated a marshal above petty political concerns to a plane where the integrity of the office and the wider concerns of Wyomingites were of paramount importance. It is to Rankin's credit that he put his office on this path. For all practical purposes, he was instrumental in setting up the office as we know it in this century.

Into the twentieth century:

Other turn-of-the-century events hard on the heels of the Johnson County War further transformed the Marshal's office. New federal agencies were created to enforce specific areas of national law and public policy which had formerly been part of the marshal's

jurisdiction. The Federal Bureau of Investigation, for example, began in 1908 to look for possible violations of federal laws, thereby taking over a large part of what marshals had done since 1789. Postal Inspection, the Secret Service, the Alcohol Tax Unit of the Treasury Department, and others, expanded as the role of our national government increased and touched the lives of more and more of its citizens. Marshals, of course, continued to work with these units, but found their earlier "jack-of-all-trades" law enforcement duties limited to a more modest, and manageable, size. This narrowed jurisdiction, when coupled with the new professional quality of marshals and the lessening of political interference, greatly strengthened the Marshal's Office in Wyoming in this century.³³

Personnel, politics, and procedures:

The importance of growing professionalism cannot be overstated as we try to understand the evolution of our subject. We have already seen the brave--and victorious--stance of Marshal Rankin in forging the precedent for the political independence of his office. It is also well to remember here the start of regular salaries for marshals and deputies in 1896. This long-overdue but by no means lavishly funded reform was yet another element which tended to enhance competence. In

fact, this trend had begun earlier during the late territorial period with the term of Marshal Thomas Jefferson Carr, in office from 1885 to 1890. His biography highlights the sharp departure from the earlier appointments of political hacks.

Born in Pennsylvania in 1842, Carr worked as a school teacher and accountant as a young man. He first came west in 1864 in an unsuccessful search for fortune in Colorado's gold fields. In Wyoming shortly after the construction of the Union Pacific, Carr worked at assorted jobs and in 1870 persuaded Laramie County voters to elect him as their Sheriff. Carr had finally found his profession. His career in law enforcement closely paralleled the popular view of the Old West generated by Hollywood. Singlehandedly in 1871, for example, Carr disarmed and arrested Charlie Stanley and members of his gang on Cheyenne's infamous Ferguson Street. Murderous stage robbers and dastardly thieves also lived in fear of the ever-vigilant Carr.

When he did not hold elective office Carr worked as Assistant Superintendent of Dave Cook's famous Rocky Mountain Detective Agency. This private firm was well known for its work in tracing missing persons and recovering stolen property. Carr's specialty was the red-handed apprehension of horse thieves. He also earned a widespread reputation for tracking down and turning over to authorities bank robbers, prison escapees, and murderers.

Carr's appointment as Marshal by his fellow Democrat and President Grover Cleveland in 1885 saw the same courage and effectiveness in the federal post. Marshal Carr was well known for his prompt and effective execution of official duties. When Carr's successor, Marshal Rankin,

asked Carr to continue as Chief Deputy Wyomingites saw a sure mark of the high esteem Carr had earned for himself. The fact that Carr often accompanied Rankin on sensitive missions (especially during the Johnson County War in 1892) indicated the trust Rankin had in him. Carr was doubtlessly instrumental in encouraging Rankin to defend the integrity of his office when the Marshal's fellow Republicans wanted him to follow their own course of action.³⁴

Rankin himself brought varied and valuable skills to the office. An early gold prospector in Colorado and South Dakota, Rankin located in Rawlins in 1872 where he engaged in the feed, livery, and freighting business. Elected Sheriff of Carbon County in the late 1870s, Rankin made his mark in the public mind when he apprehended Big Nose George Parrott; leader of a gang which derailed and robbed the monthly pay car of the Union Pacific Railroad near the town of Encampment. Arrested in Miles City, Montana, Big Nose George was successfully returned to Rawlins by Sheriff Rankin.³⁵

Frank A. Hadsell, Marshal from 1898 to 1907, gives further evidence of the changing nature of the men who held this federal position. A native of Massachusetts, Hadsell settled in Rawlins in the 1870s and soon earned a tidy fortune because of his extensive sheep raising activities in south central Wyoming. His economic future secured, Hadsell served several terms in the territorial legislature, and in 1898 he was appointed Marshal on the strong recommendation of his fellow Massachusetts native Senator Francis E. Warren. A staunch Republican and previously elected Sheriff of Carbon County, Hadsell was a strong law-and-order man who had little sympathy with wrongdoers

who were on the wrong side of the law.³⁶

Other short biographies indicate the continuity of this trend. Hugh L. Patton (Marshal from 1912 to 1914 and from 1921 to 1930) had served as elected Marshal of Casper, Wyoming, and Sheriff of Natrona County prior to his initial appointment to federal office. Democrat Albert A. Sanders served as Wyoming's Marshal from 1933 to 1949. Previously, Sanders had been town Marshal of Baggs, Sheriff of Carbon County, Laramie County Undersheriff, and Cheyenne's Chief of Police. Noah Riley, longtime Republican appointee under President Eisenhower from 1953 to 1961, had served in several elective law enforcement agencies in Park County. Initially from Kentucky, Riley's efforts to apprehend Earl Durand, called the "Tarzan of the Tetons," a bank robber and prison escapee, established his reputation as a courageous and able lawman.³⁷

John Terrill, Jr., Marshal from 1961 to 1968, was a Wyoming native who had served three terms as Carbon County's elected Sheriff. Prior to election, he worked as a deputy sheriff, a Wyoming Highway Patrolman, a Rawlins city policeman, and Special Agent for the Union Pacific. Family tradition played an important role in this case. John Terrill, Sr., was a Carbon County Deputy Sheriff for many years, while John's brother William was nominated as United States Marshal for Colorado!

On-going proof of the importance of professional experience may be found in the appointment of Lynn Henson as Terrill's replacement on an interim basis from 1968 to 1969. Noteworthy here is that Henson had worked 17 years as a Deputy Marshal prior to his Senate confirmation as

Marshal. This tradition of internal, albeit temporary, promotion highlights the emphasis on competence and job experience. Henson's successor, Republican Charles Wilcox, in turn represented the continuation of this twentieth century trend. Not only was Wilcox a long time veteran of law enforcement in Goshen County and with the Wyoming Highway Patrol, but he had also served as a Deputy United States Marshal for 13 years. The age of the true professional had arrived.³⁸

The current United States Marshal for Wyoming, Delaine Roberts, is an exceptional example of the high standards set for those who have held the office in this century. First sworn into office in January, 1981, and reappointed to a second four-year term in 1986, Roberts is no stranger to law enforcement. He attended Brigham Young University after graduating from high school in his home town of Afton, Wyoming. After service in the United States Army during the Korean conflict, he studied social work at the University of Utah. He worked for a time at a juvenile detention center in Salt Lake City, and went on to join the Wyoming Highway Patrol, a job he would keep from 1960 to 1974. Following what we now know as one of the traditional steppingstones to the marshal's job, he then ran for, and was elected to, the post of Sheriff of Lincoln County, a position he kept until appointment to the federal post.

Marshal Roberts' performance in office has been exceptional. He received his service's Outstanding Fitness Award in 1986. This recognition was based on his ability to run one and one-half miles, do pushups and situps, and perform other feats of physical flexibility;

his receipt of the Distinguished Expert Award for shooting recognized his perfect scoring in pistol competition. An Outstanding Performance Reward for superior job performance showed the Marshal Service's appreciation of Roberts' overall excellence in the operation of his office. Included in this category were court security, witness protection, assets and seizures of property, transportation of prisoners, and fugitive investigations.³⁹

These many examples of sterling professionalism in law enforcement should not make us lose sight of important exceptions to the more general developments. These exceptions must at least be mentioned here to give a balanced perspective to the modern Marshal's office. Louis G. Davis, for example, was a Republican appointee who served as Marshal from 1907 to 1912. A party stalwart and evidently a close friend of Senator Francis E. Warren, Davis' qualifications for office did not include employment in enforcing laws. In fact, as will be explained below, this appointment may well have been made in order to slap the face of Marshal Hadsell, Davis' predecessor. Davis had long and ardently lobbied to get Warren's support for the appointment, and Warren felt obligated to reward Davis. In what must have been a plea for Hadsell to recognize the realities of the politics of the situation, Warren told the outgoing Hadsell that there were simply "too many pegs for the holes" available.

Democratic appointee Daniel F. Hudson (1914-1918) showed the same path to appointment. A native of Salt Lake City, Hudson engaged in assorted livestock and banking activities for most of his life. Always a "stalwart Democrat" in the words of Ichabod S. Bartelett, Hudson was

a Fremont County Commissioner and state game warden before taking on the position as President Woodrow Wilson's Marshal in Wyoming.

Whatever the exact circumstances surrounding the appointments of Davis and Hudson, raw political machinations as the the way to land the Marshal's job seem to be a thing of the past.⁴⁰

The background and job competency of Deputies, as one would expect, also rose in this century, if for no ther reason than the heightened caliberof recent Marshals. We know much about one Deputy in particular, Joe LeFors, whose career was closely linked with that of Marshal Frank A. Hadsell (1898-1907). Prior to his arrival in Wyoming, LeFors helped track down and arrest a gang of train robbers who had killed his brother, a Deputy United States Marshal in Oklahoma. LeFors came to Buffalo, Wyoming, from his native Texas working as a cowboy on a cattle drive. He decided to stay on in the town of Newcastle, where he worked for a time as a Livestock Inspector for the state of Montana keeping watch for stolen stock driven across the state line. Through this job, LeFors became acquainted with many law enforcement officials in the state.

Hadsell, then serving as Sheriff of Carbon County, was one of LeFors' contacts. Shortly after assuming the Marshal's office, Hadsell asked the private investigator from Newcastle to join him in Cheyenne as a Deputy. LeFors jumped at the chance. As he remembered his decision years later, the "job was no new work for me as I had had experience in that line in the Indian territory [Oklahoma] and I considered it easy in comparison to the work as a livestock inspector." LeFors could continue to earn extra money by following the then-common

practice of hiring out to private firms who needed security for their payroll shipments. LeFors may also have earned extra money by helping Hadsell manage his sheep operation near Rawlins when the Marshal had to be out of the state on official business. LeFors' duties as a Deputy under Hadsell were so varied that they defy categorization. In his autobiography, Wyoming Peace Officer, one finds tasks such as chasing arsonists and mail train robbers, taking prisoners to dentists for medical attention, investigating counterfeiters, and so on. There is no question that LeFors worked long and hard to earn the salary paid him by the federal government.⁴¹

Today's Deputies have been civil service appointees since the early 1960s. Their duties can be just as varied or routine as anything others had to carry out earlier in the century. What has changed is the erratic and uncertain process of appointment. Now nine in number in Marshal Roberts' office, Deputies are hired through competitive examination administered by the Federal Office of Personnel Management. Both men and women are encouraged to apply; the service also takes pride in its affirmative action policies designed to attract members of minority groups. The current beginning salary of \$14,390 per year with advancement to \$17,824 after six months of probation is not generally seen as lucrative. New Deputies also undergo 13 weeks of training at the Federal Law Enforcement Training Center in Georgia. The days of hit-and-miss hiring principles and on-the-job training that were common in the days of Hadsell and LeFors are a thing of the past. Growing professionalism has brought with it regularized, bureaucratic routine.⁴²

This does not imply that appointment to the Marshal's position in Wyoming has no political dimension. Despite a very real, dramatic, and identifiable bettering of professional competence and background for the job, marshals are still appointed based on political considerations. In the normal course of events, a nominee is a member of our President's political party. When Hugh Patton died in office, for example, Republican President Herbert Hoover followed the suggestions of Republican Senator Robert Carey, Federal District Judge T. Blake Kennedy, and P. J. Sullivan, National Committeeman for Wyoming, and selected R. John Allen for the post. Similarly, Democratic Senator Gale McGee, in conformity with long acknowledged tradition, successfully urged the interim appointment of Democrat Lynn Henson as Wyoming's Marshal until the Nixon administration could fill the post with a Republican.

Marshal Delaine Roberts has freely shared information on his appointment. Long in the back of his mind as a good possibility for his career, this federal appointment helped Roberts to "get political." When the Marshal's office fell vacant in late 1980, the state's senior Republican Senator Malcom Wallop faced a "flood of applicants" who sought his favor. Wallop appointed a committee to screen applicants. The Federal Bureau of Investigation conducted a full background check of likely nominees, and Roberts was subsequently recommended to President Reagan for the position. The Senate Judiciary Committee and the full Senate approved the appointment without Roberts having to testify at any committee hearings. His selection for a second term in 1986 was confirmed even more rapidly. Politics had played a role in

the selection and confirmation process, but had not in any way imperiled the integrity or effectiveness of the Marshal's office. A law enforcement officer, with many years of experience, had assumed a similar post at the federal level.⁴³

Marshal Hadsell's career gives us an in-depth, unique view on the role of modern politics. Hadsell lobbied hard to get the job after John McDermott finished his term in 1898. Recognizing Senator Warren as the lynchpin for this patronage appointment, Sheriff Hadsell of Carbon County had state and federal elected and appointed officials send endorsements and petitions to the Senator. In a typical plea, David Craig, a state judge and former Rawlins prosecutor, told Warren and President McKinley that Hadsell deserved the job because he was "courageous and fearless" as a law enforcement man, a "staunch Republican" and "hard worker" for the party in Wyoming. Later in 1902 Marshal Hadsell's supporters launched an identical campaign for a second term in office.

After Senate confirmation in July, 1898, the political side of the job was never far away from the Marshal's attention. Deputies had to be selected from the ranks of workers in the Republican vineyard. J. R. Van Orsdel, Chairman of the Wyoming Republican State Committee, citing the income and prestige Hadsell was enjoying from the "benefits of federal patronage," dunned the Marshal for contributions ranging from \$500 to \$750 for the party's political war chest. Hadsell, perhaps with some pique, labeled these contributions his "assessments." In turn, Hadsell's opinion was frequently solicited on possible appointees for other political posts.⁴⁴

Deputy Marshal Joe LeFors indicated the political warp and woof of the job in his autobiography. Hadsell "played politics three hundred and sixty-five days in the year." But it is important to record here what politics did not affect. LeFors played an important role in apprehending the notorious Tom Horn who had hired out to protect the interests of several large cattlemen by running off some local sheepherders. Horn wound up killing in cold blood a young boy whose only crime was to be in the wrong place at the wrong time as Horn, in a murderous mood lay in wait. LeFors, not acting in his capacity as a Deputy Marshal, freely supplied Horn with whiskey in what was supposed to be an interview for a job. Liberally lubricated, Horn confessed to LeFors his role in the murder of the young boy. This confession, recorded by a stenographer in an adjoining room, was used in state court to send Horn to his just desserts in 1903 at the end of the hangman's noose. Despite intense displeasure with LeFors and Hadsell for the Deputy's role in the the Horn case, Warren and his cattlemen allies let the situation run its course. The days of blatant political interference were gone.⁴⁵

When Hadsell began his campaign for a third term as Marshal in 1907, he had come to believe the good things said about him in solicited letters. So impressed was he with his allies' words, that Hadsell thought he was ready to join Warren as a colleague in the United States Senate. Since appointment at that time was the prerogative of the state legislature, the Marshal solicited Warren's influence for this next step in his career. Warren remained cool to the prospect of Hadsell joining him in Washington. Undaunted by this

rebuff, Hadsell began lobbying for a third term as Marshal. By early 1907, for reasons never fully documented, most of Wyoming's Republicans backed Louis G. Davis as Hadsell's successor. Warren curtly dismissed Hadsell's prospects by sending him a newspaper clipping entitled "A New Deal for Wyoming." This news item, a synopsis of a speech Warren had delivered, said that eight years was long enough "for a man to hold on to the government's pocket book." Besides, favors were owed to Davis, and he had to be repaid. Hadsell saw the light and left federal office. Not one to abandon politics and perhaps hoping still to get to the United States Senate, Hadsell went on to serve in the state legislature, and when he died in 1927 he was serving as the warden of the state penitentiary in Rawlins.⁴⁶

Functions of the office: the court:

Whether today or a century or more ago, the principal function of the Marshal's office is to provide for the smooth functioning and security of Wyoming Federal District Courts and Judges. In the latter part of the twentieth century this means offices and personnel in Cheyenne and Casper for judges Ewing Kerr, Clarence Brimmer, and Alan Johnson. Additionally, Marshal Roberts is responsible for the Tenth

Circuit Court of Appeals presided over by Judge Barrett.

Duties in this area are as varied as could be expected. The armed guards and electronic metal-detector equipment which screen those entering the court area of the O'Mahoney Federal Center attest to only the most obvious means. Marshal Roberts has also gone to the Big Horn Mountains to pursue those who might endanger the courts and judges he is charged with protecting. Another dramatic instance of this sort saw Roberts and his Deputies carry out a long term, intensive operation in the middle of the city of Cheyenne. A local businessman had refused to cooperate with federal court officials in an investigation of possible income tax code violations. A contempt citation from the court failed to elicit its desired end, and Roberts was ordered to arrest the man. The situation was fraught with danger because of its volatility. In the midst of a residential area, the businessman lived in what was a fortress. Armed with more than thirty devices, including explosives and firearms, the fugitive guarded himself with closed-circuit television and the assistance of a female acquaintance who provided him with intelligence as she circled the area in a vehicle. Not wanting to precipitate a holocaust, Roberts and men began a long period of surveillance and study. The fugitive refused to budge from his house when a woman working with the Marshal feigned problems with her truck. The pattern of the fugitive's female friend continued to be closely monitored to see if she might provide an opportunity to get inside the residence. Tension ran even higher when President Reagan visited Cheyenne, and agents from the Department of the Treasury's Alcohol, Tobacco, and Firearms Division joined in the surveillance just in case.

Patience paid off in the end. One night when the businessman's female visitor left his house she discovered a flat tire on her vehicle. The fugitive, showing he was a gentleman in at least some respects, went to help her and was promptly arrested by Roberts and his men. The Marshal's strategy was sound and paid off in the end. There was no physical violence or damage to persons or property in the area. So astutely did Roberts handle the situation that he has lectured several times on this case at the Wyoming Law Enforcement Academy at Douglas and the Law Enforcement Training Center in Georgia.

Routine and not-so-routine intelligence still involves the Marshal with other federal and local agencies. Quick, concerted action against such groups as the Aryan Nation and Posse Comitatus in the northern Rockies are two recent examples. Roberts attributes quick, decisive action on the part of interested police officials in suppressing these groups.⁴⁷

Marshal Rankin's ledgers from a century ago show the more mundane side of this responsibility. Rankin rented rooms in 1890 in the Capitol Building in Cheyenne for court facilities. In addition to the rent of \$400 a year, Rankin saw to the purchase of furniture for the court room and judge's office. Shelving for law books brought these expenses to a total of \$1,000. Once installed, the court looked to the Marshal for its stationery, janitorial services, accounting of income and expenses, and other assorted needs.

Serving as a court officer also involved enormous amounts of time and attention. In the late 1980s the Marshal dealt with almost 600 civil and criminal cases. Clothed by statute and common law with

sheriff's powers, the execution of all lawful writs, processes and orders are the responsibility of the Marshal and his Deputies. A typical week (November 2-8, 1890) from Marshal Rankin's daybook and journal indicates the wide array of seemingly unchangeable duties in this regard.

On Sunday, November 2, Rankin left for Evanston to serve a subpoena to a rancher to testify before a Grand Jury in Cheyenne. On Monday the 3rd, District Court opened in Cheyenne, Judge Riner presiding. Rankin had already appointed one Deputy and two Bailiffs to serve the court; other Deputies were on their way to sites in Cheyenne, Rawlins, and Rock Springs to locate possible jurors for the court. Still in Evanston on the opening day, Rankin had to deputize a rancher from the local area to help serve the subpoena; he also provided lodging for four witnesses heading for Cheyenne from northern Wyoming.

On Tuesday, November 4, Rankin was back in Cheyenne with the Evanston rancher in tow, and spent much of the day recording office income and disbursements. He noted the receipt of a draft from the United States Treasury in the amount of \$7,000, and entered in his ledger expenses in the same amount. These expenses included his costs in finding the rancher in southwest Wyoming, juror and witness fees, prisoner lodging, and miscellaneous items. In the midst of his bookkeeping, the Marshal received from Judge Riner a bench warrant to arrest a party who was engaged in the illicit liquor trade. A Deputy reported no success in locating an individual wanted for jury service. The next day, Wednesday, Rankin received another bench warrant, this

one for a counterfeiter. He also authorized expenses for several Deputies and a petite jury, wrote to a Deputy in Dixon, Wyoming, to inquire about the status of an earlier subpoena, and sent some documents to an official of the city of Rawlins for his signature.

Thursday and Friday were relatively quiet. Rankin spent time each day preparing the paperwork for the transfer of a prisoner from the state penitentiary in Laramie to Cheyenne for trial. He received yet another bench warrant, this one ordering the arrest of a defendant charged with embezzlement. He wrote to the Attorney General in search of more funds to buy additional furniture for Judge Riner, who requested immediate action on this matter. The work week ended on Saturday, November 8, with Rankin spending most of his time filling out forms summoning more petite jurymen and informing the Attorney General of his funds at hand in the office.⁴⁸

Functions of the office: outside the courtroom:

Marshal's general peace-keeping functions have put them in the field on many occasions. We have already seen two spectacular examples from the 1980s when Marshal Roberts and his staff captured two fugitives from justice. It is important to note that these episodes are but the latest in a long line of similar incidents. Acting under

court orders, Wyoming's Marshals and Deputies have long served the law far away from their offices in Cheyenne. Many examples provide ample evidence of this part of the job.

In 1894 Jacob Coxey organized large numbers of unemployed people who were to converge on the national's capital to pressure Congress into funding a public works program designed to carry the Coxeyites through tough economic times. In Oregon, Sil Scheffler rallied a large contingent of men out of work and proceeded eastward. Also referred to as the Commonwealth Army, this group stole a Union Pacific train and set off through Idaho and Wyoming, planning to join the main body of unemployed in Kansas. All along their line of travel local citizens lined the tracks to cheer the Coxeyites on and provide them with food. At the very least, Wyomingites hoped passage through their state should go quickly and smoothly. Many also agreed with the travelers that Congress should play a more active role in the management of the economy.

Marshal Joseph Rankin did not enjoy the luxury of hoping that this problem would disappear on its own. Since the Union Pacific was at that time in receivership because of bankruptcy proceedings, federal courts ordered a quick halt to the misappropriation of property under their care. Rankin was ordered to deal with the Scheffler group. Accompanied by many specially sworn Deputies and a contingent of troops from Fort David Russell near Cheyenne, the Marshal went to Green River, Wyoming, where he arrested 149 men. These events, coming hard on the heels of Rankin's involvement in the Johnson County War, led many townspeople to suspect the motivation behind his actions. Perhaps this

was another case of the rich and powerful using federal lawmen to suppress the legitimate aspirations of working people. Rawlin's residents refused to sell supplies to the Marshal's party; Cheyenne's inhabitants, numbering in the hundreds, fed the Coxeyites as best they could. Despite these examples of grassroots uneasiness with federal policy, later Commonwealers traveled east through Colorado, finding Wyoming's forces of law and order too tough an opponent to challenge.⁴⁹

The robbery of cash and United States mail from a train at Wilcox, Wyoming, west of Laramie, likewise drew an intense response from Marshal Hadsell in June, 1899. Hadsell immediately posted a reward of \$12,000 for information leading to the arrest and conviction of the culprits, and gathered a posse of 50 riders to find them. The story of this fruitless chase reads like a modern good-guys and bad-guys movie, but in this case the bad guys won. Accompanied by the ubiquitous Joe LeFors, Secret Service agents, a Union Pacific detective, and Marshal Glen Miller of Utah, Hadsell led his group for several weeks from near the Laramie area to Casper, Buffalo, Lander, and then into the Big Horn Mountains where the trail was finally lost. Despite the best efforts of the search party, the strong impetus of the large cash reward, and the bandits having murdered Sheriff Hazen of Converse County during the search, this band of fugitives was never apprehended.⁵⁰

Times of declared war have made intense demands on Marshals. At the beginning of World War I federal law enforcement officials, as in all other states, distributed a pamphlet announcing the reasoning behind President Woodrow Wilson's proclamation of war against Germany and her allies. This literature was designed primarily to inform the

foreign-born in the state of official national policy. This was especially so for immigrants who had been born either in Germany or the lands of her allies. Wyomingites were caught up in a wave of nativism which looked suspiciously at the presence of millions of immigrants in the United States, and the Marshal was one of the focal points of fighting this supposed internal danger. At the same time, the Attorney General reminded Marshals to arrest and detain all enemy aliens found with weapons, explosives, and antiaircraft or telegraphic equipment. In addition, all aliens living close to military installations were to be closely observed in case of trouble.⁵¹

This near-hysterical period of anti-foreign feelings intensified after the end of the war in 1918. Many, if not most, immigrants were thought to be Bolsheviks intent on destroying the United States during this "Red Scare." Attorney General A. Mitchell Palmer, a loud leader of the movement, ordered Marshals and Federal Bureau of Investigation agents to do all in their power to break labor strikes and maintain industrial peace in the land. In this way, it was believed by these national leaders, Bolshevik agents could not get the upper hand in the labor unrest which swept the country for several years following the war's end. Marshal Patton appointed Special Deputies and positioned them in likely trouble spots along the rail lines operated by the Union Pacific, Chicago & Northwestern, and the Chicago, Burlington, and Quincy railroads. These Special Deputies served from August to October, 1922, a period of intense labor unrest among the state's rail workers, and kept special vigilance that anti-strike court injunctions were followed to the letter by unionized workers. Patton reported to

the Attorney General only four violations of court injunctions because of the quick work of his men.⁵²

America's period of Prohibition in the 1920s and 1930s brought much sensationalism to the actions of Marshals and their Deputies in Wyoming. This long and unsuccessful attempt at social engineering led to an impossible situation for law enforcement authorities, especially on the local level, because of widespread public scorn and cynicism. This frequently led to situations where local bootleggers made money hand-over-fist, and found it easy to bribe local police and politicians to look the other way. At best, Marshals were able to disrupt liquor supplies for a short time only when they carried out spectacular raids under court orders; at the worst, enormous profits and bribes were never appreciably altered owing to general public opposition to the enforcement of Prohibition laws.

Marshal Hugh Patton organized the most spectacular series of anti-liquor raids in southwest Wyoming in late 1921. Accompanied by a force of 40 Deputies, the Marshal and his men detrained at Rock Springs and fanned out through the city and to nearby Green River and Superior. Their targets were cafes, coffee houses, restaurants, and private homes believed to be speakeasies. More than 50 individuals were arrested and thousands of gallons of illicit spirits seized. At the time of the raid, this action was said to be one of the largest of its kind in the western United States. Later raids in other cities by Patton and his successors closed many more speakeasies, arrested dozens of additional lawbreakers, and seized plenty of moonshine.⁵³

Corruption of local officials because of large profits made by

bootleggers was an even more insidious effect of Prohibition. Local chiefs of police at times refused to cooperate with federal authorities, leading to sudden, unannounced raids such as that of Marshal Patton in Rock Springs. Assisted by the Federal Bureau of Investigation on several occasions, Marshals in the 1920s and 1930s arrested many local elected and appointed officials on charges of conspiracy to violate the Volstead Act. As late as 1933, on the eve of the end of Prohibition, Marshal Sanders participated in the arrests and indictments of 40 officials from the city of Casper and Natrona County. As frustrating as these efforts might have been, they surely kept Marshals and their Deputies busy for a long period of time.⁵⁴

Of course, most activities outside of the courtroom never reached the news media or attracted much public attention. These routine activities have taken up most of the time of Marshals and their Deputies; the incidents described above, it must be said, represent breaks with normal patterns. One has only to review Rankin's daybook, LeFors' autobiography, or talk to office personnel to appreciate the innumerable small tasks which comprise large parts of the job. Marshals must administer the National Assets Forfeiture Act, for example. The illegal proceeds from crime and property used in the commission of crime, especially drugs in most recent years, account for large amounts of property which must be auctioned off or destroyed. In one arrest in Wyoming, Marshal Roberts seized more than \$100,000 in illicit drugs. The Organized Crime Act of 1970 charges Marshals with protection of witnesses and, at times, the establishment of new identities for those who have cooperated with the government at risk

to their lives and the lives of their families. Add to these duties other routine tasks such as the transportation of prisoners, attendance at on-going workshops to keep up on the latest developments in law and policy, working with other police agencies, and the many other duties still incidental to a sheriff's common law powers, and one gets a more complete picture of Marshals, Deputies, and their support staff, and what they do on a day-to-day basis.

The Missile Security Program, one of only five in this country out of 94 Marshals' districts, adds a distinct flavor—and additional responsibility—to the duties of Roberts and his men. Any time Strategic Air Command personnel at Warren Air Force Base move a missile in the tri-cornered area of Colorado, Nebraska, and Wyoming, two Deputy Marshals serve as escorts for America's nuclear might. The military has no jurisdiction beyond the boundaries of its bases. Local or even state police authorities, because of the large numbers of agencies and jurisdictions involved, cannot provide a quick, uniform service as could one, unified agency. This has fallen to the Marshal's office. The two Deputies coordinate the traffic patterns and personnel needed from assorted other authorities. Local and state officials thus play their role as it is orchestrated by personnel from Roberts' office.⁵⁵

Conclusions:

"America's Star," a videotaped presentation of the history of the United States Marshals Service lent to the author by Delaine Roberts, has much to say that is relevant to this study. Narrated by James Arness, television's Marshal Dillon in Gunsmoke for many years, this electronic story notes the popular image of federal marshals. John Wayne plays Rooster Cogburn shooting down plenty of bad guys. The song "High Noon," another symbol of the Gunsmoke image, makes its frequent appearance. The surprise comes well into the tape when Arness tells his viewers that the frontiers of today are also important and far too often overlooked by members of the public. Two examples are cited. Marshals were instrumental in verifying the remains of Dr. Josef Mengele, the Nazi mass-murderer at Auschwitz, in Brazil; and they also regularly participate in "sting" operations designed to draw fugitives from the law out into the open through a variety of inducements which promise something for nothing. These examples are part of what Frederick S. Calhoun, Historian, United States Marshals Service, has called the "comeback" of the marshals during the last several decades. The Department of Justice has rediscovered the strength of the office, a strength going back to its non-specific origins more than ten centuries ago. This was recognized in a bureaucratic sense in 1969 when the current United States Marshals Service was founded. Still under the Attorney General, Marshals now fit into a cohesive, national law enforcement organization, at the cost of some of the autonomy they previously enjoyed in their respective districts. Wyoming's Marshals fit this pattern neatly in the most recent period.⁵⁶

It is well to remember, however, the earlier uniqueness of the Marshal in Wyoming. The new territory created in 1868 was a ripe plum to be picked in the eyes of its first federal officials, something to be used as a springboard for personal and political advancement. Given the low ethical standards of post-Civil War American political life, it was not surprising that Marshals here fit right in with the dismal practices of the day. Church Howe and Frank Wolcott come to mind immediately. Picked for the Marshal's job because of the proper political credentials, each devoted much energy to using or misusing the office to help themselves and their allies. Wolcott's revolving-door appointments as Marshal and other federal posts served as a crystal-clear example of politics as farce in the territory. Politics also permeated official duties such as administration of the penitentiary in Laramie. Congress' inadequate funding notwithstanding, one doubts very much that more lavish resources would have increased the effectiveness of what Marshals did here. The first two decades were truly the nadir of the office in Wyoming.

Things began to change decidedly for the better in the 1880s. Professional competence instead of political allegiance found its way to the office with Thomas Jefferson Carr in the late 1880s. Marshal Rankin then proceeded to separate the daily functioning of his office from political pressures. While politics has continued to play a role in this patronage appointment, that role ends upon appointment. Rankin put much on the line in order to establish that precedent, and his successors have, for the most part as far as the record indicates, maintained that tradition.

This professional competence has allowed law enforcement to proceed efficiently and quickly in Wyoming, as we have seen, while at the same time allowing Marshals and Deputies the resources to perform their primary obligation, protection of the court. As the Marshals Service enters its third century of existence, it has a rich, varied history to look back on in the territory and state of Wyoming. We may also look forward with confidence to the smooth functioning of the office here during its third century.

FOOTNOTES

¹ Interview with Marshal Delaine Roberts, Cheyenne, Wyoming, August 18, 1987.

² Richard Prassel, The Western Peace Officer: A Legacy of Law and Order (Norman: University of Oklahoma Press, 1972), p. 253.

³ Calendar of Patent Rolls Preserved in the Public Record Office. Edward III. A.D. 1327-1377. (16 vols.; London: Public Record Office, 1893), III, pp. 19, 426, 574; see also entries in the Oxford English Dictionary under "marshal" and "marshalsea." The rise of central governments and the need for law enforcement may be found in Prassel, Western Peace Officer, pp. 26-27; Judith A. Green, The Government of England Under Henry I (Cambridge: Cambridge University Press, 1986), pp. 43, 248-249.

⁴ Quoted in Edwin Powers, Crime and Punishment in Early Massachusetts, 1620-1692: A Documentary History (Boston: Beacon Press, 1966), p. 622, footnote, 53. For a brief overview of the colonial period, see Homer Cummings and Carl McFarland, Federal Justice: Chapters in the History of Justice and the Federal Executive (New York: The Macmillan Company, 1937), p. 17.

⁵ Carl Ubbelohde, The Vice-Admiralty Courts and the American Revolution (Chapel Hill: University of North Carolina Press, 1960), pp. 10-11;

Charles M. Andrews, The Colonial Period of American History (4 vols.; New Haven: Yale University Press, 1938), IV, pp. 222-271.

⁶See Rita W. Cooley, "The Office of United States Marshal," Western Political Quarterly, 12, (March, 1959), pp. 124-125, for this early statutory history.

⁷Jefferson is quoted in Cooley, "Office of the United States Marshal," p. 126. Larry D. Ball, The United States Marshals of New Mexico and Arizona Territories, 1846-1912 (Albuquerque: University of New Mexico Press, 1978), pp. 4-16, and Prassel, Western Peace Officer, pp. 19-20, both give excellent overviews of the marshal's office and American westward expansion.

⁸W. N. Davis, Jr., "Western Justice: The Court at Fort Bridger, Utah Territory," Utah Historical Quarterly, 23 (April, 1955), p. 103. South Pass, 1868: James Chisholm's Journal of the Wyoming Gold Rush. ed. Lola Homsher (Lincoln: University of Nebraska Press, 1960), p. 31, and Cheyenne Daily Leader, January 11 and 13, 1868, document the early rough-and-tumble of Wyoming's first cities.

⁹Ichabod S. Bartlett, History of Wyoming (3 vols.; Chicago: S.J. Clarke Publishing Company, 1918), I, pp. 169, 171; Rebecca Wunder Thomson, "History of Wyoming Territorial Supreme Court Justices," Annals of Wyoming, 53 (Fall, 1981), pp. 22-43.

¹⁰Marshals' Biographical Files, U.S. Marshal's Office, Cheyenne, for Marshals Howe, Adams, Sweesy, and Schnitgar. Hereafter referred to as MBFC.

¹¹Lewis L. Gould, Wyoming: A Political History, 1868-1896 (New Haven: Yale University Press, 1968), pp. 36-37.

¹²*Ibid.*, pp. 36-39; anonymous pamphlet, dated September, 1886, "Maj. Frank Wolcott, Alias the Jack of Spades," pp. 2,5,12, in Wolcott biographical file, American Heritage Center, University of Wyoming, Laramie; hereafter cited as AHC. T.A. Larson, History of Wyoming (2nd ed.; Lincoln: University of Nebraska Press, 1978), p. 124.

¹³Gould, Wyoming: A Political History, pp. 31, 43.

¹⁴Howe file, MBFC; Gould, Wyoming: A Political History, pp. 24-25, 34-35.

¹⁵Adams and Sweesy files, MBFC; Larson, History of Wyoming, pp. 123-124; Gould, Wyoming: A Political History, pp. 51-52.

¹⁶John D. F. Guice, The Rocky Mountain Bench: The Territorial Supreme Courts of Colorado, Montana, and Wyoming, 1861-1890 (New Haven: Yale University Press, 1972), pp. 44-45.

¹⁷ Annual Report of the Attorney General of the United States for the Year 1883, pp. 22-23; Annual Report of the Attorney General...1891, pp. xxvi-xxvii; Annual Report of the Attorney General...1885, p. 11; Prassel, Western Peace Officer, p. 225.

¹⁸ Sweesy and Schnitger daybooks and journals, Marshal's Office, Cheyenne; Annual Report of the Attorney General...1878, pp. 34-35; Prassel, Western Peace Officer, p. 114.

¹⁹ Mary Lou Pence, Boswell: The Story of a Frontier Lawman (Cheyenne: Pioneer Printing & Stationery Co., 1978), pp. 91-92, 105-108, and passim; Canton, strongly insisting that he acted always on the side of law and order, tells his side of the story in Frontier Trails (Boston: Houghton, Mifflin Company, 1930).

²⁰ Governor John Campbell to Marshal Church Howe, May 28 and November 20, 1869, Letterpress Books of the Governors of Wyoming, 1869-1907, Wyoming State Archives, Museums, and Historical Division, Cheyenne; Governor Francis Warren to Simon Adamsky, September 3, 1886, United States Department of the Interior Territorial Papers, Wyoming, 1870-1890; Larson, History of Wyoming, pp. 71, 72.

²¹ Territorial Secretary E. S. N. Morgan to W. A. Jameson, Albany County Sheriff, May 4, 1886, and Morgan to S. R. Calloway, General Manager

of the Union Pacific Railroad, May 7, 1886, Department of the Interior Territorial Papers; Warren to Marshal Carr, September 27, 1885; E. P. Johnson, United States Attorney for Wyoming to Attorney General, June 28, 1877, Record Group 60, Department of Justice Chronological Files, Wyoming, National Archives, Washington, D.C., and Suitland, Maryland. Items from this collection hereafter cited as RG 60.

²²P. W. Forney to Attorney General, May 15 and November 13, 1876, RG 60; Sherry L. Smith and Robert W. Righter, "Brief History of the Wyoming Territorial Penitentiary," unpublished ms. prepared for Banner Associates, Inc., Laramie, 1988, passim. Copy in author's possession.

²³Examples of contracts may be found in Wolcott to Attorney General, February 13 and September 8, 1875; contract between Charles Hutton and Wolcott, July 13, 1874, RG 60.

²⁴Wolcott to Attorney General, September 8, 1875, RG 60; Schnitgar biographical file, AHC.

²⁵Rankin to Attorney General, October 31, 1892, RG 60, is the fullest account of the Marshal's actions and thought patterns on the matter.

²⁶Report of Examiner Frank B. Crossthwaite to Attorney General, November 2, 1892; Rankin to Attorney General, October 31, 1892, RG 60.

²⁷ Helena Huntington Smith, The War on Powder River (New York: McGraw-Hill Book Company, 1966), is the standard account; see also Larson, History of Wyoming, pp. 268-284.

²⁸ Crossthwaite to Attorney General, November 2, 1892, RG 60.

²⁹ Benjamin F. Fowler, United States Attorney for Wyoming, to Attorney General, June 27, 1892, RG 60. One account of the Wellman murder, no more definitive than numerous other versions, is J. Elmer Brock, "Who Dry-Gulched the Hoe Ranch Foreman?" The Denver Westerners' 1953 Brand Book (Denver: The Westerners, 1954), pp. 17-30.

³⁰ Attorney General to Rankin, July 1, 1892; Crossthwaite to Attorney General, November 2, 1892; Gould, Wyoming: A Political History, pp. 167-168.

³¹ Rankin to Attorney General, October 31, 1892, RG 60.

³² Crossthwaite to Attorney General, November 2, 1892, RG 60, for the Examiner's findings.

³³ Albert Langeluttig, The Department of Justice of the United States (Baltimore: Johns Hopkins University Press, 1927), pp. 82-89, 185-189, for an exhaustive catalog of marshals' remaining responsibilities.

³⁴"Thomas Jefferson Carr, A Frontier Sheriff. Compiled from C. G. Coutant's Notes Made in 1884-1885," Annals of Wyoming, 20 (July, 1948), pp. 165-176; Rankin daybook and journal for frequent references to Carr.

³⁵Rankin file, MBFC.

³⁶Hadsell files, MBFC and AHC; Larson, History of Wyoming, pp. 270, 367; Hadsell to Charles J. Webb and Company, March 11, 1904, Frank A. Hadsell collection, Wyoming State Archives, Museums, and Historical Division, Cheyenne, lends insight to the Marshal's business interests, which he actively pursued while serving in his federal office. Hereafter cited as Hadsell collection.

³⁷For Patton, see Frances Birkhead Beard, Wyoming From Territorial Days to the Present (3 vols.; Chicago: American Historical Society, 1933), III, pp. 17-18. For Sanders, see Sanders file, MBFC; Casper Tribune-Herald, May 21, 1953; Wyoming State Tribune, May 20, 1953. For Riley, see Riley file, MBFC; Cody Enterprise, May 7, 1953.

³⁸For Terrill, see Rawlins Daily Times, March 30 and August 11, 1961, and August 9, 1980; Wyoming State Tribune, October 1, 1968. For Henson, see Wyoming State Tribune, December 24, 1968. For Wilcox, see Torrington Telegram, June 19, 1969. Other examples include Casper Star Tribune, July 24, 1977; MBFC for Marshals Earl R. Burns and George J. Carroll.

³⁹ Interview with Roberts, August 18, 1987; Roberts to author, November 5, 1987, letter in author's possession; Laramie Boomerang, April 5, 1987.

⁴⁰ Warren to Hadsell, January 22, 1907, Hadsell collection. For Davis, MBFC; for Hudson, Bartlett, History of Wyoming, III, pp. 528-530.

⁴¹ Joe LeFors, Wyoming Peace Officer: An Autobiography (Laramie: Laramie Printing Company, 1953), p. 118, and passim for this Deputy's career.

⁴² Cooley, "Office of the United States Marshal," pp. 138-139; "Deputy United States Marshals Employment Opportunities," flyer in Marshal's Office.

⁴³ Buffalo Bulletin, March 10, 1932; Wyoming State Tribune, December 24, 1968; Roberts interview, August 18, 1987.

⁴⁴ Craig to McKinley, March 18, 1898; Hadsell to Senators Warren and Clark, March 21, 1898; Governor W. A. Richards to Hadsell, December 31, 1898; Hadsell to Clark, May 27, 1902; Van Orsdel to Hadsell, August 7, 1900, Hadsell collection.

⁴⁵ LeFors, Wyoming Peace Officer, pp. 135, 166.

⁴⁶Warren to Hadsell, February 1, 1907, Hadsell collection;
Hadsell file, MBFC; Wyoming State Tribune, October 19, 1927.

⁴⁷Roberts interview, August 18, 1987; Roberts to author, December 12, 1985, letter in author's possession.

⁴⁸Rankin daybook and journal for dates indicated; Roberts interview, August 18, 1987. One is struck with the small number of changes which have taken place in the day-to-day operation of marshals' offices. See also Chapter 37 of Title 28, United States Code (1982 ed.), vol. 12, pp. 153 and following, for the latest statutory codification of these ancient functions of the office.

⁴⁹Rankin file, MBFC; Annual Report of the Attorney General..for 1894, pp. xxx-xxxi; Carlos A. Schwantes, Coxey's Army: An American Odyssey (Lincoln: University of Nebraska Press, 1985), pp. 110-111, 197-201; Larson, History of Wyoming, pp. 297-298.

⁵⁰Emmett D. Chisum, "The Wilcox Train Robbery: Newspapers and Instant Mythmaking," Annals of Wyoming, 55 (Spring, 1983), pp. 22-31; Cheyenne Daily Sun-Leader, June 5, 6, 8, 15, 1899; LeFors, Wyoming Peace Officer, pp. 109-115.

⁵¹Lawrence A. Cardoso, "Nativism in Wyoming, 1868 to 1930: Changing Perceptions of Foreign Immigrants," Annals of Wyoming, 58 (Spring, 1986),

pp. 20-38, is an overview of anti-foreignism in the state. See also Casper Daily Tribune, April 23, 1917; Annual Report of the Attorney General...for 1917, pp. 61-62.

⁵² Annual Report of the Attorney General...for 1922, pp. 685-686.

⁵³ Rock Springs Rocket, December 30, 1921; Jean Mead, Casper Country: Wyoming's Heartland (Boulder: Pruett Publishing Company, 1987), p. 92; Robert B. Rhode, Booms and Busts on Bitter Creek: A History of Rock Springs, Wyoming (Boulder: Pruett Publishing Company, 1987), pp. 125-126.

⁵⁴ Rhode, Booms and Busts, pp. 149-150; Rebecca W. Thomson, "The Federal District Court in Wyoming, 1890-1982," Annals of Wyoming, 54 (Spring, 1982), pp. 16-18.

⁵⁵ Roberts interview, August 18, 1987.

⁵⁶ Frederick S. Calhoun, "The Lawmen: United States Marshals and Their Deputies, 1789 to the Present," Wyoming Patrolman, (Summer, 1987), p. 24.