



**CIRCUIT COURT OF OREGON**  
Fifteenth Judicial District

**MARTIN E. STONE**  
Judge

**Coos County Courthouse**  
Coquille, Oregon 97423  
(541) 396-4117

October 14, 2025

Michael D. Montag  
Attorney at Law  
6000 Meadows Rd., Suite 500  
Lake Oswego, OR 97035

Erin E. Gould  
Attorney at Law  
800 Willamette St., Suite 530  
Eugene, OR 97401

Re: Curry County Board of Commissioners v. John Ward, Sheriff of Curry County; Curry County Case No. 25CV02479

Counsel:

This case came before the court for argument on October 2, 2025, on cross-motions for summary judgment. Plaintiff is the Curry County Board of Commissioners and seeks declaratory and injunctive relief against defendant John Ward who is the Curry County Sheriff regarding his statutory authority and duties. The sheriff seeks dismissal of plaintiff's claims.

The facts are not in dispute:

1. Plaintiff Board of Commissioners ("BOC") is the governing body of Curry County, Oregon and consists of three duly elected commissioners.
2. Defendant ("Sheriff") is the duly elected Sheriff of Curry County, Oregon.
3. On December 4, 2004 the BOC adopted Order 23510 ("Order") which sets forth eight directives seeking cooperation from the Sheriff and compliance with existing county policies. A copy of the Order is attached to this opinion letter as Exhibit A.
4. The Order requires the Sheriff to provide records and documents to the BOC, cooperate with BOC and County Counsel in the review of outstanding contracts the Sheriff may have executed, cooperate with BOC and County Counsel in disposition of county surplus property, provide personnel records of employees to the County Human Resources Department, attend as requested BOC meetings, comply with existing

county policies such as technology policies and personnel rules, acknowledge that property that has been purchased is county property to be disposed of pursuant to county Contract Review Board rules, and provide duplicate keys to all county vehicles in possession of the Sheriff.

5. The Sheriff agrees that the BOC has authority to require him to cooperate with BOC in the disposition of surplus property, provide personnel records to the Human Resources Department, and acknowledge that property purchased by the county remains county property unless disposed of by Contract Review Board rules. See Sections 3, 4 and 7 of Order 23510.

6. The Sheriff does not believe the BOC has authority to order him to comply or cooperate with other sections of Order 23510.

7. The Sheriff has refused to comply with parts of the Order and as a result the BOC has filed this action seeking declaratory and injunctive relief.

The questions presented are whether Order 23510 is a lawful order and whether the Sheriff is required to comply with the Order, or parts thereof. The parties agree that the court can declare the rights and relations of the parties under the circumstances of this case. See ORS 28.010.

Plaintiff argues that Order 23510 is a lawful order, that the BOC has express statutory authority to take all necessary steps in relation to the property and concerns of the county, that the subject matters of Order 23510 are matters of county concerns and county property, that the Sheriff should be required to comply with the Order, and that failure by the Sheriff exposes the county to litigation and liability.

The Sheriff, on the other hand, argues that the BOC has no judicial authority over him, that Order 23510 is not lawful, and that the Sheriff is immune from claims against him under ORS 30.265(6).

### Short Answer

As discussed below, the court will (1) grant plaintiff's motion for summary judgment as to sections 2, 3, 4, 6, 7 and 8 of Order 23510; (2) grant defendant's motion for summary judgment as to section 5 of Order 23510; and (3) deny both motions as to section 1 of Order 23510.

### Discussion

Plaintiff is seeking equitable relief in this action: (1) a declaration that Order 23510 is a lawful exercise of authority by the BOC, and (2) an injunction requiring the Sheriff to comply with the Order. Plaintiff is not seeking damages from the Sheriff. As such, the Sheriff is not immune from claims in this case which seek only declaratory or injunctive relief. See Penland v. Redwood Sanitary Sewer Service District, 324 Or 1, 8

(1998) (“we hold that ORS 30.265(3) confers immunity on public bodies only from liability for damages and does not confer immunity from injunction actions”). The more recent cases cited by the Sheriff do not overrule Penland. To the extent the Sheriff argues that he is immune from this equitable action, that argument is rejected.

The distribution of authority between a sheriff and a board of commissioners is governed by statute. A board of commissioners has broad authority over matters of property and concerns of the county. ORS 203.010 (4) (to do all necessary acts in relation to the property and concerns of the county); ORS 203.035 (to exercise authority within the county to the fullest extent over matters of county concern); and ORS 203.111 (to exercise general legislative authority over all matters of county concern).

A sheriff is the chief executive officer of the county with defined executive and administrative duties: to arrest and confine persons who break the law, to defend the county against those who endanger public safety, to execute process and orders of the court, to execute warrants and “to attend, upon call, the Supreme Court, Court of Appeals, Oregon Tax Court, Circuit Court, Justice Court or County Court held within the county, and to obey its lawful orders or directions”. ORS 206.010.

Read together, the legislature has given broad authority to BOC to take all necessary action regarding property and concerns of the county. On the other hand, the Sheriff has a more defined and limited role regarding matters of law enforcement.

The court must evaluate each section of Order 23510 in light of the powers and duties set forth in the statutes.

Sections 2, 3, 4, 6, 7 and 8 are matters of county concern and county property, including compliance with county Contract Review Board rules, transfer or disposition of county property, employee records needed by the county Human Resources Department, compliance with county policies adopted by the BOC, and access to county vehicles. These are lawful orders of the BOC, within the authority set forth in state statutes, and the Sheriff is directed to cooperate and comply. These six sections of the Order do not replace or interfere with the Sheriff’s duties as chief law enforcement officer of the county, rather the sections seek his cooperation with the BOC on matters of county concern and county property. The subjects of these sections include county employees, county contracts and county property-- all matters of county concern. Failure to cooperate and comply exposes the county to possible liability, tort claims and litigation. Summary judgment will be granted to plaintiff on these sections of the Order.

Section 5 exceeds the authority of the BOC and is not a lawful order. The BOC has no authority under ORS 206.010 (5) to order the Sheriff to attend BOC meetings on request. Several reasons support this ruling. First, the BOC is not a county court identified in ORS 206.010 (5). The reference to county court means the county courts that still exist in six other counties of the state and which exercise limited jurisdiction in judicial proceedings such as probate and juvenile cases. There is no county court in Curry County that exercises judicial authority, and the BOC does not have jurisdiction

over judicial proceedings. Second, the other words in the statute identify judicial entities, i.e. the Supreme Court, Court of Appeals, Oregon Tax Court, Circuit Court, and Justice Court. The maxim noscitur a sociis reminds the court that the meaning of words in a statute can be clarified or confirmed by reference to other words in the same sentence or provision. Third, if the legislature had intended to add a board of commissioners to the list of entities mentioned in ORS 206.010 (5) it could have done so much like it has done in other statutes. See, for example, ORS 51.020(1) in which the legislature has identified both the sheriff and the board of commissioners. Summary judgment will be granted to defendant on section 5 of the Order.

That leaves section 1 of the Order which the court cannot resolve at the summary judgment level. That section orders the Sheriff to provide "all records, information and supporting documents...upon request". The Sheriff in his deposition stated that there are certain materials that he is prohibited from making available to someone other than law enforcement. The plaintiff believes otherwise and argues that all records must be available to them on request. This court cannot tell, at least on this record, what records the Sheriff is required to keep confidential and therefore will require testimony at the trial. Summary judgment will be denied as to section 1.

Mr. Montag shall file an order granting plaintiff's motion for summary judgment as to sections 2, 3, 4, 6, 7, 8 and denying summary judgment as to section 1. Ms. Gould shall file an order granting defendant's motion for summary judgment as to section 5.

Given the limited scope of what the court must consider at trial, the two-day trial will be condensed to one day, October 28, 2025.

Sincerely,

A handwritten signature in black ink that reads "Martin E. Stone". The signature is written in a cursive, slightly slanted style.

Martin E. Stone  
Circuit Court Judge

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
IN AND FOR THE COUNTY OF CURRY, OREGON**

In the Matter of an Order Requiring )  
Coordination and Cooperation between )  
the Curry County Board of Commissioners )  
and Curry County Sheriff )

ORDER NO. 23510

**WHEREAS**, the Curry County Board of Commissioners ("Board") have jurisdictional authority over all matters of County concern to the fullest extent allowed by Constitutions and laws of the United States and of this state, as fully as if each particular power comprised in that general authority specifically set forth in ORS 203.010-203.075; and the 10<sup>th</sup> amendment of the United States Constitution, and

**WHEREAS**, the jurisdictional authority granted to the Board as described above is in addition to other grants of power to Counties, shall not be construed to limit or qualify any such grant and shall be liberally construed, to the end that the Board has all power over matters of County concern that it is possible for them to have under the Constitutions and laws of the United States and of this state; and

**WHEREAS**, pursuant to ORS 206.010(5), County Sheriffs in the State of Oregon are required to attend, upon call, the Supreme Court, Court of Appeals, Oregon Tax Court, circuit court, justice court or county court held within the county, and to obey its lawful orders or directions; and

**WHEREAS**, pursuant to ORS 203.240(2), when a County has established a Board of County Commissioners, any reference in the statutes to the County Court of that County shall be considered a reference to the Board of County Commissioners of the County; and

**WHEREAS**, pursuant to ORS 203.010(4), (5) the Board of Commissioners is responsible to make all necessary contracts and to do all other necessary acts in relation to the property and concerns of the County; and

**WHEREAS**, the Curry County Board of Commissioners reserves all such power and responsibility to itself and has not delegated same; and

**WHEREAS**, in order for the Board to fulfill its mandated duties as described herein above, certain requirements of the duly elected Sheriff of Curry County subject to ORS 206.010 must be adhered to.

**NOW, THEREFORE, IT IS HEREBY ORDERED THAT** the Sheriff of Curry County shall:

1. Promptly make available all records, information, and supporting documents to County Legal Counsel and the Board upon request.
2. Promptly and efficiently cooperate with County Legal Counsel in order to review and reform all outstanding agreements and contracts with outside agencies that the Sheriff or

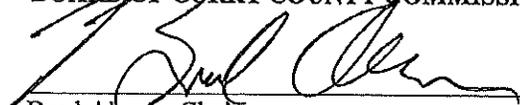
05-2024-224  
Curry County Clerk, Shelley Denney  
Filed Date 12 13 24  
Time 2:15pm - 2 pages  
Deputy S. Lindsey **Exhibit A** Page 1 of 2

his designee(s) may have attempted to enter into so that they are statutorily enforceable and in compliance with Curry County Local Contract Review Board Rules.

3. Promptly cooperate with County Legal Counsel and the Curry County Board of Commissioners to legally transfer, sell or dispose of any County surplus property, including any assets that may have been transferred, sold, or disposed without regard to County policy.
4. Provide the Human Resources Department complete and current personnel records for all employees of the Curry County Sheriff's Office and cooperate with future requests by the Human Resources Department regarding personnel matters and records.
5. Attend, as requested, Board of Commissioners Meetings pursuant to ORS 206.010(5) to discuss outstanding issues including, but not limited to public safety concerns.
6. Observe and comply with all County policies adopted by the Board or otherwise observed, including but not limited to internal Curry County Sheriff's Office policies, Curry County Technology Policy, and County Personnel Rules pursuant to Board Order No. 23432, unless specific justification or exception is discussed with County Legal Counsel for legality and set forth in writing by the Board of Commissioners or their designee.
7. Acknowledge that all property purchased by Curry County is property of Curry County unless otherwise specifically disposed of pursuant to Curry County Contract Review Board Rules, Section 8.
8. Promptly provide all duplicate keys to all County vehicles currently in the possession of the Curry County Sheriff's Office.

**AND IT IS FURTHER ORDERED THAT** the Board of Commissioners of Curry County shall convene as quickly as possible at the request of the Curry County Sheriff to discuss matters of public safety.

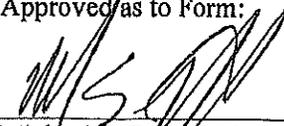
DATED this 4 day of December, 2024. **BOARD OF CURRY COUNTY COMMISSIONERS**

  
Brad Alborn, Chair

**Absent At Signing**

John Herzog, Vice Chair

Approved as to Form:

  
Michael E. Fitzgerald, OSB #950738  
Curry County Legal Counsel

  
Jay Trost, Commissioner