

02-016

**PRISONS AND OTHER METHODS OF CORRECTION: LOCAL
CORRECTIONAL FACILITIES – DUTIES OF SHERIFFS.**

Local sheriff is not required to provide more than one deputy sheriff to general district court for courtroom security in absence of order stating that particular case presents substantial security risk.

The Honorable Paula N. Wyatt
Sheriff for the City of Hopewell
February 20, 2002

You ask whether a local sheriff must provide more than one deputy sheriff to the general district court for courtroom security in the absence of an order stating that a particular case presents a substantial security risk.

You advise that a general district court judge is demanding that the sheriff's office provide two deputy sheriffs for courtroom security during the criminal docket. You believe that the sheriff is required to provide only one deputy when the general district court hears criminal cases. The general district court judge, however, insists that your office provide another deputy to serve as a judicial officer.¹

A 1998 opinion of the Attorney General considers whether a county board of supervisors has the authority to contract with private security personnel to provide security at the county courthouse.² The opinion notes that the issue of courtroom security is considered in detail by the General Assembly in a 1988 legislative study.³ "The purpose of the study was to resolve the apparent conflicts between the statutory responsibilities conferred on sheriffs and the limitations placed on their authority to meet such responsibilities contained in the Appropriation Act."⁴ Furthermore, the opinion refers to a 1988 opinion noting the following:

[T]he only limits upon a sheriff's discretion with respect to the evaluation of courtroom security needs is the establishment of "joint responsibilities with the chief judges and, in the absence of an agreement between the sheriff and the chief judges, subjecting a jurisdiction's courtroom security needs to review by the Compensation Board."^[5] Item 61(C), § 1-26 of the 2000 Appropriation Act, relating to appropriations for the Compensation Board, provides:

Notwithstanding the provisions of § 53.1-120,^[6] or any other section of the Code of Virginia, unless a judge provides the sheriff with a written order stating that a substantial security risk exists in a particular case, no courtroom security deputies may be ordered for civil cases, not more than one deputy may be ordered for criminal cases in a district court, and not more than two deputies may be ordered for criminal cases in a circuit court. In complying with such orders for additional security, the sheriff may consider other deputies present in the courtroom as part of his security force.^[7]

This provision, beginning with the phrase "[n]otwithstanding the provisions of § 53.1-120," indicates a legislative intent to override any potential conflicts with § 53.1-120.⁸

A 1977 opinion of the Attorney General considers similar language used by the General Assembly in the 1977 Appropriation Act.⁹ The opinion concludes that, except in extraordinary situations, it is the intent of the General Assembly that the state contribution to the salaries of deputy sheriffs be limited to the numerical restrictions required by the Appropriation Act.¹⁰ The General Assembly has taken no action to alter the conclusion of the 1977 opinion. The Supreme Court of Virginia has stated that "[t]he legislature is presumed to have had knowledge of the Attorney General's interpretation of the statutes, and its failure to make corrective amendments evinces legislative acquiescence in the Attorney General's view."¹¹

"The province of [statutory] construction lies wholly within the domain of ambiguity, and that which is plain needs no interpretation."¹² The language used by the General Assembly is unambiguous. Therefore, I must conclude that a local sheriff is not required to provide more than one deputy sheriff to the general district court for courtroom security in the absence of an order stating that a particular case presents a substantial security risk.

¹You do not define the term "judicial officer" or the duties of a deputy sheriff serving in that capacity. Section 19.2-119 of the *Code of Virginia* contains the only pertinent definition of the term "judicial officer"; however, such definition is restricted to the Chapter 9 of Title 19.2, addressing bail and recognizances.

²1998 Op. Va. Att'y Gen. 33, 34.

³*Id.* at 34 & 35 n.8 (referring to 3 H. & S. Docs., *Report of the Joint Subcommittee Studying Courtroom Security in the Commonwealth*, S. Doc. No. 5 (1988)).

⁴*Id.* at 34-35.

⁵*Id.* at 35 (quoting 1987-1988 Op. Va. Att'y Gen. 467, 468).

⁶Section 53.1-120 generally describes a sheriff's duty to provide security for the courtrooms and courthouses in his jurisdiction. Section 53.1-120 provides, in part:

"A. Each sheriff shall designate deputies who shall ensure that the courthouses and courtrooms within his jurisdiction are secure from violence and disruption. A list of such designations shall be forwarded to the Director of the Department of Criminal Justice Services.

"B. The ... chief general district court judge ... shall be responsible by agreement with the sheriff of the jurisdiction for the designation of courtroom security deputies for the[] respective courts. If the respective chief judge[] and sheriff are unable to agree on the number, type and working schedules of courtroom security deputies for the court, the matter shall be referred to the Compensation Board for resolution in accordance with existing budgeted funds and personnel."

⁷2000 Va. Acts ch. 1073, at 3220, 3260-61.

⁸See 2000 Op. Va. Att'y Gen. 112, 113.

⁹1977-1978 Op. Va. Att'y Gen. 381, 381 (citing 1977 Va. Acts ch. 685, Item 149, § 46, at 1386, 1407).

¹⁰*Id.* at 382.

¹¹*Deal v. Commonwealth*, 224 Va. 618, 622, 299 S.E.2d 346, 348 (1983).

¹²*Winston v. City of Richmond*, 196 Va. 403, 408, 83 S.E.2d 728, 731 (1954); see *Harrison & Bates, Inc. v. Featherstone Assoc.*, 253 Va. 364, 368, 484 S.E.2d 883, 885 (1997).

[Back to February 2002 Index](#)