

The Law:
Duties of a Sheriff
&
Authority of the County
Commissioners to Create a
County Police Force

General Duties of a Sheriff

- The noted Treatise on Sheriffs - *Anderson on Sheriffs, Coroners & Constables* - states:
 - § 42. "...The powers and duties of a sheriff as implied from the name and nature of his office are still the same today as they were at common law, except, insofar as it has been modified by **constitutional and statutory provision.**" (Emphasis added.)
 - § 44. "From the very title and by virtue of occupying the office of sheriff it carries with it all the common law powers and duties, **except as modified by the State Constitutions and by statutes...**" (Emphasis added.)

General Duties of a Sheriff

- The Maryland Court of Appeals (the highest court in Maryland) has stated:
 - *Soper v. Montgomery County*, 294 Md. 331 at 337 (1982): "Thus, Sheriffs are constitutional officers whose powers and duties are not expressly enumerated in the constitution, but whose powers and duties are prescribed by the common law and modified by acts of the legislature; accordingly, sheriffs retain their common law powers and duties **until deprived of them by the legislature.**" quoting *Beasley*, 94 Md. at 655-657. (Emphasis added.)

General Duties of a Sheriff

- Also, from the Maryland Court of Appeals:
 - *City of Baltimore v. State*, 15 Md. 376 (1860):
“The constitution mentions the office of Sheriff, and provides for filling it, but does not specify or describe his powers and duties; these are left to the common law and the Acts of Assembly and **may be changed by law.**”
(Emphasis added.)

The Maryland Constitution

- The Maryland Constitution creates the Office of Sheriff and states that the Sheriff shall: "...exercise such powers and perform such duties as now are or may hereafter be fixed by law." Article IV, Section 44

Common Law Duties of a Sheriff

- Under existing common law, the Sheriff has certain duties including:
 - Courthouse security
 - Law Enforcement

Statutory Duties of a Sheriff

- The General Assembly through the Annotated Code of Maryland has defined the duties of a Sheriff in the following examples:
 - Courts & Judicial Proceedings Article, Section 2-301 provides that the Sheriff shall serve all papers.
 - Correctional Services Article, Section 11-201 and 203, requires the Sheriff to keep and protect prisoners.
 - Correctional Services Article, Section 11-202 charges the Sheriff with transport of prisoners.

Statutory Authority of the County Commissioners

- Article 25, Section 3(q) of the Annotated Code of Maryland grants the authority to the County Commissioners to: "...provide for the appointment of county police and to prescribe their duties and fix their compensation..."
- The General Assembly has granted the Commissioners the authority to choose the primary law enforcement for the County.

Summary

- In 2004, the Maryland Attorney General affirmed the principle that a county may choose the primary law enforcement stating:
 - “Where however, either the county or a municipality has established a police force, general law enforcement functions are the responsibility of the local police department, and not the sheriff.”
Opinions of the Maryland Attorney General, No. 89 OAG 66 (March 26, 2004)