

Office of the Sheriff
Somerset County, Maryland

General Order: 01-14-04

Effective Date: September 1, 2014

Revised Date: July 1, 2013

Chapter 4
Powers of the Sheriff

1. Purpose

A. History of the Sheriff

The Office of the Sheriff is one of antiquity. It is the oldest law enforcement office known within the common law system and it has always been accorded great dignity and high trust. For the most part, the Office of the Sheriff evolved of necessity. Were it not for laws which required enforcing, there would have been no necessity for the Sheriff. There would have been no need for the development of Police Administration and criminologists. This is not the case; however, man learned quite early that all is not orderly in the universe. All times and all places have generated those who covet the property of their neighbors and who are willing to expropriate this property by any means. As such, man's quest for equity and order gave birth to the office of Sheriff, the history of which begins in the Old Testament and continues through the annals of Judeo-Christian tradition, indeed; there is no honorable law enforcement authority in Anglo-American law as ancient as that of the County Sheriff. And today, as in the past, the County Sheriff is a peace officer entrusted with the maintenance of law and order and the preservation of domestic tranquility.

Sheriffs have served and protected the English speaking peoples for a thousand years. The Office of Sheriff and the law enforcement, judicial and correctional functions he performs are more than 1000 years old. The Office of Sheriff dates to the reign of Alfred the Great of England, and some scholars even argue the office of Sheriff was first created during the Roman occupation of England.

Back around 500 A.D., Germanic tribes from Europe (called Anglo-Saxons) began the invasion of Celtic England which eventually led over the Centuries to the consolidation of Anglo-Saxon England as a unified Kingdom under Alfred the Great. Late in the 9th century. Alfred the Great divided England into units called “Shires” or counties.

In 1066, William the Conqueror defeated the Anglo-Saxons and instituted his own Norman Government in England. Both under the Anglo-Saxons and under the Normans, the King of England appointed a representative called a “Reeve” to act on behalf of the King in each Shire or County. The “Shire’ eve” or Kings Representative in each county became the Sheriff as the English language changed over the years. The Shire’ eve or Sheriff was the Chief Law Enforcement Officer of each County in the year 1000 A.D. That function remains in effect until this day.

2. Constitutional and Legal Provisions of the Sheriff’s Office

- A. The Sheriff is a constitutional office in Maryland within the judicial branch of state government. Article IV, Section 44 of the State Constitution provides for the election of Sheriffs to a four year term of office in each County of the State and Baltimore City, though the electorate for a Sheriff is not statewide but confined to the County in which he or she serves. The Sheriff is considered a State Official and not a county official.

3. Duties

- A. The general duties of the Sheriff of Somerset County include the enforcement of laws, the arrest of criminal offenders, the services of process and the return of impartial juries. In some other counties and municipalities, the law enforcement duties of Sheriff have been modified by the existence of other police agencies. In these instances, the Sheriff may refrain from exercising his own law enforcement functions.

4. Tenure and Vacancies

- A. There are no tenure restrictions on the Sheriff. He or she may serve as many terms as the voters permit. When vacancies occur, the Governor appoints a person to serve as Sheriff for the remainder of an official term.

5. Bond

- A. The Sheriff in Baltimore City and in Alleghany, Charles, Frederick, Prince George's County and Washington Counties are required to give bond of \$25,000. The Sheriffs in the remaining counties must give a bond of \$10,000. Bonds are required to have a surety and the surety must be approved by the Judge of the Circuit Court.
- B. Unlike Sheriffs, there are no bond requirements for Deputies.

6. Expenses, Records and Place of Office

- A. It is the responsibility of the county to furnish an office for the Sheriff and to pay necessary expenses for telephones, stationary, and other items. The county must also provide the Sheriff's traveling expenses, unless otherwise provided by law.
- B. The Sheriff is required to keep an official record of fees and charges he or she collects. The record must remain in the Sheriff's office after the Sheriff's term has expired.

7. The Duties of Sheriff at Law.

- A. The duties of Sheriff are not specified in the Maryland Constitution. Rather, the Sheriff is deemed to have those powers and duties granted under common law, except when the common law has been modified by statute.
- B. Under common law, the general duties of Sheriff include the enforcement of laws within a county, arresting criminal offenders, the service of process, and the return of impartial juries. None of these functions have been removed by statute and though many of them have been codified, the General Assembly has not expanded the Sheriffs Authority from what it was under common law.
- C. In Somerset County, the Sheriff's role is a traditional one – Peace Officer – responsible to perform law enforcement activities in all of Somerset County not otherwise policed by a municipal agency. Where state forces share responsibility with the Sheriff in maintaining peace and enforcing the law, the Sheriff will complement and back-up that agency and render assistance to municipal agencies when required.

8. Deputies

- A. The appointment and removal of Deputies falls solely under the Sheriff's discretion, unless otherwise provided by statute. Many counties do, however, have specific statutes providing for the number of deputies a Sheriff may hire and circumstances under which they may be dismissed. Qualifications for deputies are established and controlled by the Maryland Police Training Commission. Qualifications vary according to the type of function a Deputy serves. The duties of deputy are those the Sheriff chooses to delegate to him or her.

9. Duties

- A. The duties of deputy sheriff are not well specified in law. For the most part, statutory law provides only that a deputy will perform the duties assigned by the Sheriff. Common law, however, recognizes that a deputy, as a representative of the Sheriff, possesses that same scope of authority as that of the Sheriff. In effect, there is no power or duty of the Sheriff that can not be exercised by the deputy.
- B. For the good of the Office, deputies and civilian personnel assigned to the Somerset County Sheriffs Office shall perform any and all duties assigned by the Sheriff.

10. Posse

- A. In extraordinary circumstances, the Sheriff has the authority to summon ordinary citizens to assist him in his duties. In these instances, those summoned are known as a posse comitatus, or the force of the county, which may be raised when a Sheriff confronts or anticipates resistance to the performance of official duties. Citizens asked to perform a posse are required to participate; however; they are not considered to be actual deputies of the Sheriff.

11. Sheriffs Term of Office

- A. The term of the Sheriff's, elected under Article IV, Section 44, of the Constitution of the State of Maryland is 4 years and continues until his successor is elected and qualified.

12. Chapter Revision

- A. General Order 01-10-04 "Powers of the Sheriff" has been revised.
- B. Effective September 1, 2014, General Order 01-14-04 supersedes General Order 01-10-04.

Robert N. Jones

Sheriff
Somerset County, Maryland

REFERENCES

1. 50 Op. Attorney General 346 (1965)
2. Maryland Constitution Art. 4, Section 44
3. Id.
4. Maryland Annotated Code, Article, 33 Section 4-1
5. Maryland Annotated Code, Article 33, Section 4A-1
6. Id.
7. Maryland Annotated Code, Article 33 Section 4A-2
8. Maryland Annotated Code, Article 33 Section 4A-3
9. Maryland Annotated Code, Article 33 Section 7-1
10. Id, Section 4C-1
11. Maryland Annotated Code, Article CJ Section 2-104, 2-105
12. Maryland Annotated Code, Article CJ Section 2—106
13. Maryland Constitution Article 1, Section 10
14. Id. Article 1, Section 9
15. Maryland Annotated Code, Article CJ Section 2-309
16. Id. Article CJ, Section 2-307
17. 58 op. Attorney General's 683 (1973)
18. Section 2 U. Baltimore Law Rev. 282 (1973) "The Maryland Sheriff v. Modern Efficient Administration of Justice.
19. 60 Op. Attorney General's 647 (1975)
20. State v. Williams, 144 S.W 2d 98 104 (Sup. Ct. Mo. 1940)
21. Maryland Annotated Code, Article 27 Section 594B

22. Maryland Annotated Code, Article CJ Section 2-301
23. Maryland Annotated Code, Article 27 Section 638
24. Maryland Constitution Article 4 Section 44
25. 58 Opinion Attorney General 683 (1973)
26. Id, 708
27. Maryland Annotated Code, Article CJ Section 2-309
28. Id., Article 41, Section 70A
29. Police Training Commission Records
30. Maryland Annotated Code, Article CJ Section 2-104
31. Maryland Annotated Code, Article CJ Section 2-307
32. 58 Opinion Attorney General 708 (1973)
33. Maryland Annotated Code, Article CJ Section 2-309
34. Maryland Annotated Code, Article 87, Section 49-51
35. Maryland Annotated Code, Article CJ Section 51
36. Blacks Law Dictionary
37. Somerset County Employees Handbook 2010
38. Maryland Transportation Articles
39. Maryland State Police Patrol Manual
40. Maryland State Police Administrative Manual
41. Frederick Police Department Frederick, Maryland
42. Carroll County Sheriffs Office, Carroll County, Maryland
43. Harford County Sheriffs Office, Harford County, Maryland
44. International Association of Property and Evidence, Burbank, California
45. Worcester County Sheriffs Office, Worcester County, Maryland

46. Washington County Sheriffs Office, Washington County, Maryland
47. Queen Anne's County Sheriff's Office, Queen Anne's County, Maryland
48. CALEA
49. Article 4, Section 44, Code Ann., Courts, and Judicial Proceedings Article, 2-309.
50. §2-104 of the Courts and Judicial Proceedings Article, Annotated Code of Maryland.
51. Delmar Police Department, Delmar Maryland/Delaware
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