You ask whether the county manager for the County of Henrico has the authority to reduce the operating budget for the county sheriff’s office.

You state that, effective July 1, 1997, the county board of supervisors approved an annual operating budget for the sheriff’s office in the amount of $20,760,980. The amount included both funds provided by the Commonwealth and funds provided by the county. You agreed that the budgeted amount was adequate to operate your office. On February 25, 1998, the county manager reduced your operating budget by $1,400,000. You state that the reduction was made without consultation with your office and without the knowledge or approval of a majority of the board of supervisors.

You acknowledge that a locality has no statutory obligation to provide funding to a sheriff’s office beyond that established by the Compensation Board and that the board of supervisors may reduce or eliminate any local funding provided your office. It is your position, however, that the county manager lacked the authority to reduce the amount budgeted to your office by the governing body.

The statutes providing for the county manager form of government, under which Henrico County operates, are set out in §§ 15.2-600 through 15.2-642. Under the county manager form of government, the board of supervisors remains the policy-determining body of the county and has all of the rights and powers conferred on boards of supervisors by general law. Section 15.2-609 requires the board to appoint a county manager as the administrative head of the county. The county manager is responsible to the board for the administration of the affairs of the county which the board has the authority to control. The county manager appoints the directors or heads of all of the departments of the county, other than the clerk of the circuit court, the Commonwealth’s attorney and the sheriff.

Section 15.2-638 requires the county manager to annually prepare and submit to the board of supervisors "a budget presenting a financial plan for conducting the county’s affairs for the ensuing year." The budget is to be set up and adopted in accordance with general law. The general law provisions regarding a locality’s budget are set out in §§ 15.2-2500 through 15.2-2507. Section 15.2-2503 requires the governing body to prepare and approve a budget "for informative and fiscal planning purposes only." Section 15.2-2506 requires publication of a synopsis of the budget and the holding of a public hearing. Section 15.2-2507(A) expressly authorizes any locality to "amend its budget to adjust the aggregate amount to be appropriated during the current fiscal year as shown in the currently adopted budget," although notice and an additional hearing at the board meeting are required if the amendment exceeds the lesser of one percent of the total expenditures or $500,000. After the hearing, "[a]ny local governing body may adopt such amendment at the advertised meeting."
You state that the board of supervisors did not, as required by § 15.2-2507, approve the amendment reducing the operating budget for the sheriff’s office but, rather, that the county manager made the reduction. Neither the general statutes relating to the approval of a locality’s budget nor the statutes applicable to counties operating under the county manager form of government authorize a county manager of his own accord to amend the budget approved by the governing body for funding the office of the sheriff. I am unaware of the existence of any other authority that would have permitted the county manager to take such action.

My conclusion that the county manager lacked the authority to reduce the amount budgeted for your office is based solely on the facts you provide. Different or additional facts could, of course, alter the conclusion.

You state that the county provided approximately 51% of your office’s 1997-1998 budget, with the remaining 49% provided by the Commonwealth and other noncounty sources. In 1997, the relevant statutes controlling the salary and expenses of the office of sheriff were set out in Title 14.1 of the Code of Virginia. At its 1998 session, the General Assembly repealed Title 14.1 and distributed into other sections of the Code the provisions relating to the costs, fees, salaries and allowances of constitutional officers. See 1998 Va. Acts ch. 872, at 2128. The provisions relating specifically to sheriffs are now codified in Title 15.2. The statutes require the sheriff to file with the Compensation Board “a written request for the expense of his office, stating the amount of salaries requested, and itemizing each item of expense.” Section 15.2-1636.7 (comparable section of § 14.1-50). The sheriff is to file a copy simultaneously with the governing body of the locality. See id. The Compensation Board fixes the salaries and expenses of the office. See § 15.2-1636.8 (comparable section of § 14.1-51). The annual salary of the sheriff is set in the appropriation act. See § 15.2-1609.2(B) (comparable section of § 14.1-73). The Commonwealth pays the salary and expense allowances of sheriffs and deputies. See § 15.2-1609.7 (comparable section of § 14.1-79) A locality, in its discretion, may supplement the amount fixed by the Compensation Board. See § 15.2-1605.1 (comparable section of § 14.1-11.4). For a summary of the statutory funding system for sheriffs’ offices, see 1997 Op. Va. Att’y Gen. 60, 64.


Section 15.2-604.

Section 15.2-612.

Section 15.2-635.

Section 15.2-638.

Approval of the budget is not deemed an appropriation, and no money is to be paid out unless and until the governing body makes an appropriation for the expenditure contemplated in the budget. Section 15.2-2506.

Section 15.2-2507(A).

You state that the county manager reduced the budget for no county office other than the sheriff’s office and that the reduction had a negative impact on your ability to meet the mandates of your office. You suggest that the county manager’s action constituted an intrusion on your autonomy as an office created by Article VII, § 4 of the Constitution of Virginia (1971). Prior opinions conclude that a locality has no authority to dictate or control the operation of a sheriff’s office. See Op. Va. Att’y Gen.: 1974-1975 at 385, 386-87 (county may not obligate salaries of deputy sheriffs to federal funding program which contains employment limitations because it
would restrict sheriff's power to appoint deputies); 1971-1972 at 367, 367 (neither governing body nor county executive has authority to prohibit sheriff from hiring deputies as approved by Compensation Board). These opinions do not suggest that a locality's reduction in the operating budget of the office of the sheriff, if properly authorized, constitutes an illegal infringement on a sheriff's authority to operate his office.

10 See, e.g., 1986-1987 Op. Va. Att'y Gen., supra note 2, at 87 (under long-standing policy of governing body, city manager may adjust salary of constitutional officer in city budget upon final action of Compensation Board if minutes of city council reflect proper delegation of this authority).