Interjurisdictional law-enforcement authority of sheriff's office to go beyond locality served by sheriff is limited to activities prescribed by statute. Officer properly engaged in activity so prescribed beyond territorial limits of his locality is authorized to act in same manner and is subject to same limitations as would apply to law-enforcement officer of extraterritorial locality responding to such activities.

The Honorable Robert E. Maxey Jr.

Sheriff for Campbell County

May 17, 2001

You inquire whether the law-enforcement authority of your office to go beyond Campbell County is limited to matters directly associated with the circumstances set forth in § 15.2-1724 of the Code of Virginia. You also ask whether the authority of your office under the circumstances set forth in § 15.2-1724 is limited to assisting law-enforcement officers of the other locality or whether the sheriff's office has authority to act independently beyond the county.

A sheriff is an independent constitutional officer whose duties "shall be prescribed by general law or special act." A 1980 opinion of the Attorney General notes that, in the absence of a statute providing otherwise, the authority of a sheriff is coextensive with his county. The Supreme Court of Virginia has commented that, as a general rule, the duties of a sheriff and his deputies are regulated and defined by statute. The Court has also stated:

The sheriff is an officer of the court subject to its orders and directions. He is also a conservator of the peace and charged with the enforcement of all criminal laws within his jurisdiction. It is his duty, as well as the duty of the other police officers of the county and city, to investigate all violations of law and to serve criminal warrants.

Prior opinions of the Attorney General conclude that, in the absence of a constitutional or statutory provision to the contrary, a sheriff has exclusive control over the day-to-day operations of his office and the assignment of his personnel. Furthermore, a 1985 opinion of the Attorney General notes that, although a sheriff's powers and duties are limited to those prescribed by statute, he is free to discharge those powers and duties in a manner he deems appropriate. The opinion further notes that a sheriff has discretionary authority with respect to
personnel policies, cooperative agreements with federal agencies, and policies governing the use of vehicles by the sheriff's personnel.\textsuperscript{8}

Generally, in the absence of a statute providing otherwise, the authority of a sheriff is coextensive with his county.\textsuperscript{9} In a 1978 opinion, the Attorney General concludes that, "as a general rule a county law-enforcement officer has no authority to make an arrest outside his jurisdiction, except in his status as a private citizen to arrest for a felony, affray or breach of the peace."\textsuperscript{10} A 1974 opinion also concludes that a county deputy sheriff has no statutory authority to arrest for a misdemeanor committed in his presence within the boundaries of an independent city located outside the county of his sheriff.\textsuperscript{11} The General Assembly has enacted no statute altering the conclusions of these opinions. With the exception of certain specific situations, therefore, the status of a county sheriff outside his locality is that of a private citizen.\textsuperscript{12} Another 1978 opinion concludes that, as a general proposition, a private citizen may only effect an arrest for felonies, affrays or breaches of the peace committed in his presence.\textsuperscript{13}

Section 15.2-1724 authorizes law-enforcement officers to go beyond their territorial limits "[w]henever the necessity arises … for the enforcement of [the drug] laws" or "during any emergency resulting from the existence of a state of war, internal disorder, or fire, flood, epidemic or other public disaster."\textsuperscript{14} The language in § 15.2-1724 limits its application to exceptional situations of great and immediate necessity. The 1978 opinion considers whether the authority granted to a sheriff in § 8.01-295 to execute civil process "throughout the political subdivision in which he serves and in any contiguous county or city" also permits the sheriff to arrest, without a warrant, a person who unlawfully interferes with such service.\textsuperscript{15} The opinion concludes that § 8.01-295 implies that a sheriff remains clothed with those powers of his office incidental to perfecting service of process outside his usual jurisdiction, including the authority to arrest, without a warrant, a person who unlawfully interferes with or obstructs the sheriff’s performance of that duty.\textsuperscript{16} The General Assembly has taken no action to alter the conclusion of the 1978 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."\textsuperscript{17}

Sections 8.01-295 and 15.2-1724 both contemplate a sheriff performing limited official duties beyond the boundaries of his locality. Moreover, § 15.2-1724 strongly implies that a sheriff remains clothed with those powers of his office incidental to the enforcement of drug laws outside his jurisdiction or an emergency arising outside his jurisdiction due to an act of war, internal disorder, fire, flood, epidemic or other such public disaster. "[T]he primary objective of statutory construction is to ascertain and give effect to legislative intent."\textsuperscript{18} Analysis of legislative intent includes appraisal of the subject matter and purpose of the statute, in addition to its express terms.\textsuperscript{19} The purpose underlying a statute’s enactment is particularly significant in construing it.\textsuperscript{20} Moreover, statutes should not be interpreted in ways that produce absurd or irrational consequences.\textsuperscript{21}

I must, therefore, conclude that § 15.2-1724 limits the interjurisdictional law-enforcement authority of the sheriff’s office beyond Campbell County to matters directly and incidentally related to the circumstances set forth in that statute. It is also my opinion that an officer properly engaged in one of the activities enumerated in § 15.2-1724 beyond the territorial limits of his locality is authorized
to act in the same manner and is subject to the same limitations as would apply to a law-enforcement officer of the extraterritorial locality.

1"Whenever the necessity arises (i) for the enforcement of laws designed to control or prohibit the use or sale of controlled drugs as defined in § 54.1-3401 or laws contained in Article 3 (§ 18.2-344 et seq.) of Chapter 8 of Title 18.2, (ii) in response to any law-enforcement emergency involving any immediate threat to life or public safety, (iii) during the execution of the provisions of § 37.1-67.01 or § 37.1-67.1 relating to orders for temporary detention or emergency custody for mental health evaluation or (iv) during any emergency resulting from the existence of a state of war, internal disorder, or fire, flood, epidemic or other public disaster, the police officers and other officers, agents and employees of any locality … may, together with all necessary equipment, lawfully go or be sent beyond the territorial limits of such locality … to any point within or without the Commonwealth to assist in meeting such emergency or need, or while enroute to a part of the jurisdiction which is only accessible by roads outside the jurisdiction.....

"In such event the acts performed for such purpose by such police officers or other officers, agents or employees and the expenditures made for such purpose by such locality … shall be deemed conclusively to be for a public and governmental purpose, and all of the immunities from liability enjoyed by a locality … when acting through its police officers or other officers, agents or employees for a public or governmental purpose within its territorial limits shall be enjoyed by it to the same extent when such locality … within the Commonwealth is so acting, under this section or under other lawful authority, beyond its territorial limits.

"The police officers and other officers, agents and employees of any locality … when acting hereunder or under other lawful authority beyond the territorial limits of such locality … shall have all of the immunities from liability and exemptions from laws, ordinances and regulations and shall have all of the pension, relief, disability, workers' compensation and other benefits enjoyed by them while performing their respective duties within the territorial limits of such locality … ."


5Commonwealth v. Malbon, 195 Va. 368, 371, 78 S.E.2d 683, 686 (1953); see also Op. Va. Att'y Gen.: 1985-1986 at 255; id. at 54, 55; 1976-1977 at 257. A county sheriff generally has the following duties within his county:
(a) enforcement of county ordinances and state laws (see Malbon, 195 Va. at 371, 78 S.E.2d at 685-86); (b) service of process for the courts within his county (see, e.g., Va. Code Ann. §§ 16.1-79, 16.1-99 (Michie Repl. Vol. 1999)); (c) maintenance of order in the courtroom and assistance of the court generally (see, e.g., Va. Code Ann. § 53.1-120 (Michie Repl. Vol. 1998)); Near v.
Commonwealth, 202 Va. 20, 30, 116 S.E.2d 85, 92 (1960)); and (d) operation of the jail (see, e.g., Watts's Case, 99 Va. 872, 877, 39 S.E. 706, 707 (1901)).


8See id. See, e.g., Op. Va. Att'y Gen.: 1983-1984 at 323 (authority to appoint and remove deputies); 1982-1983 at 462, 463-64 (authority over personnel policies); 1978-1979 at 238 (authority to enter into agreement with federal agency for provision of law-enforcement services on land of concurrent jurisdiction); 1976-1977 at 250 (authority to assign duties to deputies; official use of department vehicle and claim for mileage expense); 1973-1974 at 39, 40 (authority over vehicles assigned to sheriff's office); id. at 322 (authority to request reimbursement for personal car used in performance of official business).


12See, e.g., Op. Va. Att'y Gen.: 1996 at 113 (concluding that, when court issues capias on indictment, county deputy sheriff may enter city to execute capias, without requiring assistance of law-enforcement officer from city); 1978-1979, supra note 10, at 15 (stating that § 8.01-295 implies that sheriff remains clothed with powers of his office incidental to perfecting service of process outside his usual jurisdiction).


14Section 15.2-1724(i), (iv).


16Id.


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