Issues Presented

You pose two questions regarding the appropriate law enforcement agency responsible for the retrieval and return of a fugitive to court for trial. Specifically, you ask whether, pursuant to a warrant sworn out by a town police department within a county, the county sheriff's office or the town police department is responsible for returning to court a fugitive held in a locality other than the one issuing the warrant. You also ask which law enforcement agency is responsible for returning to court a fugitive located in another state.

Response

It is my opinion that the police department of the town issuing the warrant for a fugitive's arrest is responsible for the retrieval and return to court of a fugitive held in a locality other than the one issuing the warrant. It is further my opinion that under the Uniform Criminal Extradition Act, the Governor may appoint any agent he chooses to retrieve and return to court a fugitive located in another state.

Facts

It is my understanding that the Tazewell County sheriff's office does not have the manpower to form a separate transportation unit to retrieve and return fugitives located outside the county. It is further my understanding that the sheriff's office is the chief criminal law enforcement agency for the county; however, there are town police departments within the county. You inquire whether it is the duty of
the sheriff’s department to retrieve and return a fugitive to court wanted on a warrant issued by one of the town police departments located within the county.

Applicable Law and Discussion

Section 15.2-1701 requires that, "[w]hen a locality provides for a police department, the chief of police shall be the chief law enforcement officer of that locality." Section 15.2-1704(A) provides:

The police force of a locality is hereby invested with all the power and authority which formerly belonged to the office of constable at common law and is responsible for the prevention and detection of crime, the apprehension of criminals, the safeguard of life and property, the preservation of peace and the enforcement of state and local laws, regulations, and ordinances.

This Office previously has concluded that, when it is the duty of a police department to investigate crimes, it is that department’s responsibility, as part of the investigatory process, to retrieve a fugitive located in another jurisdiction. This is also the case for a person arrested by a police department and brought to court for his initial arraignment. Therefore, when a fugitive is held in another locality, it is the duty of the police department of the locality issuing the warrant to retrieve and return the fugitive to the court.

You further inquire concerning the agency responsible for returning to court a fugitive located in another state. The Uniform Criminal Extradition Act governs the retrieval of fugitives from other states. Section 19.2-108 of the Act provides:

Whenever the Governor shall demand a person charged with crime or with escaping from confinement or breaking the terms of his bail, probation or parole in this Commonwealth, from the executive authority of any other state, … he shall issue a warrant under the seal of this Commonwealth to some agent commanding him to receive the person so charged if delivered to him and convey him to the proper officer of the county or city in this Commonwealth in which the offense was committed.

Thus, the selection of the agent to retrieve a fugitive from another state is within the sole discretion of the Governor. The Governor’s
decision is final and binding. Presumably, the Governor will appoint an agent from the locality demanding return of the fugitive. The Governor, however, could appoint an agent from the county sheriff’s office, even if a town within the county issues the warrant.

**Conclusion**

Accordingly, it is my opinion that the police department of the town issuing the warrant for a fugitive’s arrest is responsible for the retrieval and return to court of a fugitive held in a locality other than the one issuing the warrant. It is further my opinion that under the Uniform Criminal Extradition Act, the Governor may appoint any agent he chooses to retrieve and return to court a fugitive located in another state.

1 The term "locality," as used in Title 15.2, "shall be construed to mean a county, city, or town as the context may require." Va. Code Ann. § 15.2-102 (Michie Repl. Vol. 1997).

