

**Pennsylvania's Law Enforcement Community
Opposes Expansion of Sheriff Duties**

Dear Chairman Belfanti and Chairman DiGirolamo,

We want to thank you for your attempt to address many of the concerns raised in our previous objections to legislation designed to expand the powers and duties of sheriffs and their deputies. But as currently written, House Bill 2585 unfortunately fails to resolve those concerns and the law enforcement organizations in Pennsylvania must continue to stand together to oppose the bill.

In their desire to add police work to their existing duties of court service, it is unfortunate that the sheriffs have misrepresented current law by claiming that they cannot act even when a crime is committed within their view. To the contrary, as repeatedly noted by the PA Supreme Court, a properly trained sheriff's deputy can make arrests for violations of the Motor Vehicle Code that he or she observes, can file citations for summary offenses, and can arrest for felonies or breaches of peace committed in their presence. What they cannot do is launch criminal investigations or arrest on third party information for suspected crimes, by gathering evidence, summoning witnesses, conducting electronic eavesdrops, or executing search and arrest warrants, independently of prosecutorial oversight through cross-designation and unbridled by any fiscal or administrative accountability to the executive branch.

Before the committee takes any action, we urge you to consider the serious and long-term implications of the sweeping changes sought by HB 2585 to the law enforcement community and to the public it serves. It is important to note that Pennsylvania, with its nearly 1200 municipal police departments, has perhaps more local law enforcement agencies than any other state and has a rich heritage of deference to and reliance upon local law enforcement. While the current Pennsylvania law enforcement system has the advantage of promoting community policing and allowing law enforcement to quickly adapt to regional needs, it also requires great coordination among agencies to avoid jurisdictional conflicts while promoting stability, reliability, and public trust.

It has taken decades to establish complex, detailed protocols within each county to enhance the proper coordination of local, county, and state-wide law enforcement activities and requires continuous effort to avoid the dangers to police and public that stem from duplicative or counterproductive action by different law enforcement agencies working on the same case. Adding yet another player, whose job is and should remain complementary to state and local police, to the mix will not improve law enforcement efforts in our state; but will only encourage jurisdictional conflicts and confusion, and will heighten the challenge of coordinating activities, particularly if the sheriff departments exercise full police powers free of the executive authority oversight which is provided by law for traditional state and local police departments.

There is, however, a workable, realistic solution. As the Supreme Court noted in the *Kopko* case in which sheriffs unsuccessfully sought judicial acknowledgment of claimed common law police powers, Pennsylvania counties have for many years responded to short-term needs for additional law enforcement personnel by cross-designating municipal police officers and deputy sheriffs as county detectives. The Court further stated that such cross designation, when accompanied by completion of Act 120 training and certification, conferred full police powers and was historically proven and legally sound. This process works well and is overseen by our district attorneys

pursuant to such authorizing provisions of existing law contained in the County Detective Act and Commonwealth Attorney's Act. Given Pennsylvania's long history and success with the process of "cross-designation" we encourage the members of the General Assembly to consider this approach and, if necessary, to revise House Bill 2585 or prepare similar legislation, to authorize sheriffs and deputy sheriffs to perform the full range of law enforcement activities *only* after completing Act 120 training (municipal police basic training) and receiving and maintaining their MPOETC certification; and when properly cross-designated as a county detective by the District Attorney or Attorney General. Statutory clarification of this authority would vest in cross-designated sheriffs and their deputies the very police powers they argued for in the Kopko and Dobbins decisions, has been sanctioned by the Supreme Court, and would provide additional properly trained police resources responsive to state and local public safety priorities, economies, demographics and prosecutorial needs.

In regards to HB 2585 our specific concerns center on several critical elements

- First, if the legislature deems that Sheriffs and their deputies should possess full police powers then Sheriff Departments should officially be designated as police departments so that all personnel can receive MPOETC training and certification. MPOETC Certification is the critical element as it assesses the individual's physical and emotional capabilities to perform the functions of a police officer. It would also be necessary for the legislature to redirect the Deputy Sheriff Education and Training Account to MPOETC to provide funding for the training and certification reviews of up to 2300 Sheriffs and their Deputies.
- Secondly, HB 2585 would vest existing sheriffs and their deputies with full police powers, irrespective of any instruction in or completion of Act 120 training and without the MPOETC certification required of every other municipal police officer performing such functions in Pennsylvania. It goes beyond saying that it is both short-sighted and unwise to put individuals out in our communities to enforce our laws without proper training and certification, regardless of how many years they may have been performing the limited and quite different court-related duties of sheriff or deputy sheriff.
- HB2585 would allow the substitution of the National Sheriff's Institute Training or the Deputy Sheriffs' Education and Training Act for Act 120 training, and does not require the acquisition or the maintaining of MPOETC certification. Since it is our understanding that these training programs are different in scope and focus, any legislative grant of full police authority to sheriffs and their deputies must be premised upon successful completion of Act 120 training, as well as completion of all requirements provided by MPOETC for receipt and maintenance of MPOETC certification. A brief comparison of the Deputy Sheriff's Education and Training Act curriculum to the MPOETC training and certification requirements appears to show significant deficiencies of police training and qualifications inherent in the Sheriff's Education and Training Act, which include:
 - The Deputy Sheriff Training program provides no training in
 - search and seizure,
 - no training regarding the rules of evidence,
 - substantially less criminal investigations training than MPOETC requirements for municipal officers, and
 - no training regarding how to conduct vehicle stops.

- Additionally, municipal police officer candidates who successfully complete basic academy training must then apply for certification, only after being successfully screened in a number of other areas, including psychologically, physically, undergoing a background investigation, criminal history check, credit examination, and personal interviews.
- To obtain and maintain MPOETC certification, municipal police officers must be United States citizens, cannot have been convicted of a felony or serious misdemeanor, must undergo a drug screening, and must meet audio and visual acuity standards established by MPOETC.
- For Deputy Sheriffs there is no US citizenship requirement, no background check requirement, no convicted felon or serious misdemeanor exclusion provision, no drug screening requirement, no specific visual and audio acuity requirement and no requirement to successfully pass a psychological examination to be certified as a deputy sheriff.
- Municipal police officer candidates who cannot successfully pass the legislated screening and testing requirements are not eligible for certification, cannot become certified police officers and cannot exercise the powers and authority of a municipal police officer.
- In order to maintain certification, municipal officers must attend annual mandatory training updates as developed and established by MPOETC.
- Municipal police officers are also subject to de-certification through MPOETC for a variety of reasons, including arrest and conviction for certain offenses.
 - It is our understanding that no such “de-certification” exists under either the National Sheriffs Institute Training or the Deputy Sheriffs’ Education and Training programs.
- While HB 2585 would extend current Act 195 protections for Deputy Sheriffs, it would not provide those Deputies with the full civil service, just cause and Act 111 bargaining provisions that are afforded to police officers throughout the Commonwealth. Deputy Sheriffs in counties of the second class are covered by civil service and just cause.

The office of the sheriff in Pennsylvania is a constitutional and elected office, whose duties are statutorily court-related, and the sheriff has been regarded by the Courts as an arm of the judicial system. Because sheriffs are elected officials and are not subject to any regulation by outside authority, questions arise as to the constitutional tension of vesting an elected official and his or her deputies with plenary criminal investigative and arrest powers. Unlike police officers who are subject to statutory regulation through certification and revocation of certification if warranted, it is unclear whether, if police powers are granted to the office of the sheriff, any elected sheriff can be regulated or even decertified, absent impeachment.

As noted by the Supreme Court in the *Kopko* case argument, the vesting of such plenary police powers in the sheriff also raises the question of duality of duties and separation of powers. Unlike police officers, who are neither judicial officers nor under Court control, vesting police

powers in the sheriff blurs the distinction between the sheriff's statutory and judicial duties of carrying out writs, process, and such orders as directed by the court and the police duties of a sheriff or deputy testifying before the same court he or she serves.

With all this in mind, it still remains our preference that the legislature provide our sheriffs with the resources needed to more adequately perform their numerous existing duties. We hold deep respect for the critically important work that sheriffs and their deputies perform. To add full police duties to the current statutorily-mandated court service responsibilities of the sheriff may not only diminish attention to the performance of those important duties but may also place additional burdens on the rest of Pennsylvania's law enforcement community. We thank you for your attention on this important issue.

Very truly yours,

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cc: All Members of the House Labor Relations Committee