

# **House Judiciary Committee Informational Hearing**

Powers and Duties of the Office of Sheriff

Erie County Sheriff Bob Merski

February 21, 2008

Good morning. I am Sheriff Bob Merski of Erie County and President of the Pennsylvania Sheriffs' Association. I would like to thank Chairman Caltagirone and all the members and staff of the House Judiciary Committee for holding this informational hearing on the important issue of the power and duties of the Office of Sheriff in Pennsylvania.

Allow me to review why the issue of powers and duties of the sheriff has become a legislative concern. In February 2006, the Pennsylvania Supreme Court ruled in a case known as Kopko that sheriffs "are not 'investigative or law enforcement officers'" under the Pennsylvania Wiretapping Act. In that decision, the Court restated that the sheriffs' common law authority allows only for arrests for breaches of the peace and felonies committed in their presence – authority "no different than a private citizen."

It did not take long for Sheriff Offices to feel the impact of the Kopko decision. Attorney General Tom Corbett removed all deputy sheriffs serving on state Drug Task Forces based on the Kopko decision. Many Sheriff Offices, especially those in rural areas where there are few or no municipal police forces, faced uncertainty over what law enforcement activities they could and could not perform.

This is not a new issue. The Supreme Court has been asked to clarify the duties of sheriffs no less than five times in the past 15 years. Clearly, there is a need to pass legislation that resolves this issue.

Last November, the Supreme Court issued its most recent decision in a case called Dobbins, which dealt with a search warrant executed by deputy sheriffs on a methamphetamine lab in Bradford County. The court remanded the case to the lower courts and suppressed the evidence seized by deputy sheriffs.

The facts of this case illustrate the need for law enforcement authority for deputy sheriffs in rural counties like Bradford County.

In July 2003, two Bradford County deputy sheriffs visited a residence in Troy seeking to question an individual about a prior methamphetamine case. At the residence, the deputies smelled the chemical ether, which is used in the manufacture of the drug, coming from a nearby barn.

At the barn they encountered the suspect, who did not live at the residence and was not the individual they were seeking. The suspect ran into the woods and escaped.

The deputies secured a search warrant from a district magistrate and recovered methamphetamine and evidence of its manufacture. The suspect was later arrested in upstate New York. He was found guilty by a jury and sentenced to state prison.

Then the Kopko decision was issued.

Soon afterwards, the defendant's attorney appealed the conviction on grounds that Kopko said deputy sheriffs are not law enforcement. The Supreme Court ultimately agreed and determined that the Bradford County Sheriff lacks authority to investigate violations of the Controlled Substance Act.

And that is why we are here today.

We are seeking your support for House Bill 466, sponsored by Rep. Dally, which would give sheriffs the statutory authority to perform law enforcement duties based on the needs of their communities. Let me repeat that, because it is very important: Law enforcement duties based on the needs of their communities.

The needs of Pennsylvania communities are very different depending on the size and resources of that county. Many urban or suburban counties have sufficient municipal police and state police coverage. In those counties, sheriffs would be utilized mostly as back-up assistance and in cases of emergencies.

However, many rural counties have no municipal police and only state police coverage and could use highly trained deputies to handle law enforcement duties. I want to stress that the state police do an excellent job protecting the citizens of our Commonwealth. However, state troopers are often faced with covering large geographical regions in rural areas in our Commonwealth.

What happens when the state police are investigating a crime on one side of the county when another crime occurs in their jurisdiction? In those communities that need and want sheriffs to handle those duties, House Bill 466 would give that authority to allow sheriffs to handle those law enforcement duties.

Some have questioned whether the Pennsylvania Sheriffs' Association is trying to create new police forces in the Commonwealth. That is not our intent. Again, we are seeking the legal authority for sheriffs to perform law enforcement duties in counties where they are needed.

Keep in mind that the elected sheriff can perform only those duties that he or she has the manpower and resources to perform. The resources of the Office of Sheriff are controlled by the county commissioners, who must approve the sheriff's budget and pay

the sheriff's expenditures. So there is very real check on the sheriff's power and ability to perform law enforcement duties.

There is another more important check on the sheriff's power and duties: the voters. Like a district attorney, who controls the county detectives, the elected sheriff must face the voters of a county every four years. If the voters do not approve of the sheriff's performance, they have the right and obligation to remove him or her from office.

Others have questioned the training of deputy sheriffs and whether they have the ability to perform law enforcement duties. As you know, municipal police officers are required to be Act 120 certified, and deputy sheriffs are required to be Act 2 certified.

The course work for both certifications is very similar, with Act 2 training including more civil procedure training. In fact, many deputy sheriffs are certified in both Act 120 and Act 2 to allow them to work for both the Sheriff's Office and the local police force.

The fact that many of our deputies are also police officers is another reason that the General Assembly should codify the powers and duties of the sheriff. How do we explain to the public that a criminal is going free because the law enforcement officer who arrested him was in his deputy sheriff uniform that day and not in his municipal police officer uniform?

The Pennsylvania Sheriffs' Association has a great working relationship with the State Police and the Chiefs of Police Association. We have no interest in competing with them for jurisdiction. We do believe that there is enough criminal activity being committed in Pennsylvania that there is a need to give us authority to protect our communities, if those communities have a need for our services.

There is precedent in Pennsylvania that an Office of Sheriff can have law enforcement authority and co-exist with municipal and state police. Since 19XX, the Allegheny County Sheriff's Office has had the legal authority to operate in the same fashion as local and state police.

In conclusion, we are asking the General Assembly to allow us to perform the duties we performed before the Kopko decision. House Bill 466 would allow sheriffs; especially those in rural counties where they are desperately needed, to participate in law enforcement activities.

Otherwise, the Office of Sheriff would have – as the Supreme Court pointed out – law enforcement authority “no different than a private citizen.”

Thank you.

Hand  
outs



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**Final Top Line Results**  
**Susquehanna Polling Spring 2006 Statewide Poll**  
**Sample Size 700**  
**Conducted April 17-21, 2006**

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There are 67 County Sheriff Offices in Pennsylvania. Are you aware that there are more than 2,000 deputy sheriffs who receive full law enforcement training comparable to state and local police, yet according to the law they do not have the same law enforcement powers as local and state police?

1. Yes	169	24%
2. No	508	73%
3. Undecided	7	01%
4. Refuse	16	02%

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The role of deputy sheriffs includes protecting county courthouses and transporting prisoners. Deputies also serve on drug task forces and act as first responders in cases of terrorism or natural disasters. Since deputy sheriffs receive the same training as police and are licensed to carry firearms, do you think they should make arrests and investigate crimes?

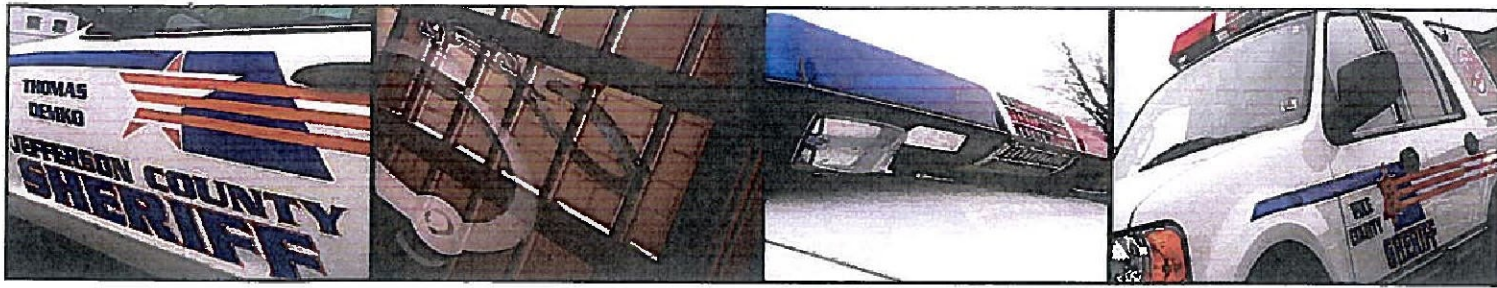
1. Yes	458	65%
2. No	162	23%
3. Undecided	64	09%
4. Refuse	16	02%

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Generally speaking, would you support or oppose passage of a law which gives deputy sheriffs the same law enforcement powers as state and local police? (Test Intensity – would you say you strongly or somewhat support or oppose...?)

1. Strongly support	222	32%	<b>Total Support: 64%</b>
2. Somewhat support	223	32%	
3. Strongly oppose	76	11%	
4. Somewhat oppose	96	14%	
5. Undecided	66	09%	
6. Refuse	17	02%	

*A proven winner in survey research and public opinion polling*



***Municipal police officers are required to be Act 120 certified. Deputy Sheriffs are required to be Act 2 certified. Below is a comparison.***

## **Academy Training Requirements Curriculum and Training Hours**

### **Act 120 (Municipal Police)**

Introduction Academy (7 hours)  
 Introduction to Law Enforcement (24 hours)  
 Physical and Emotional Readiness (54 hours)  
 Laws and Procedures (112 hours)  
 Defensive Tactics (44 hours)  
 MV Law Enforcement/ Acc. Invest.(60 hours)  
 MV Collision Investigation (20 hours)  
 Patrol Procedures and Operations (73 hours)  
 Principals of Crim. Investigations (61 hours)  
 Human Relations (24 hours)  
 Crisis Intervention (23 hours)  
 Families in Crisis (20 hours)  
 Basic Firearms (80 hours)  
 Operation of Patrol Vehicle (40 hours)  
 Report Writing (8 hours)  
 Case Presentations (20 hours)  
 First Aid/CPR (52 hours)  
 Handling Arrested Persons (32 hours)

### **Act 2 (Deputy Sheriffs)**

Court System (16 hours)  
 Intro to Criminal Justice and Civil Law (12 hours)  
 Physical Conditioning (48 hours)  
 Professional Development (16 hours)  
 Criminal Law (60 hours)  
 Law Enforcement Technologies (8 hours)  
 Other Legal Issues (8 hours)  
 Control and Defensive Tactics (56 hours)  
 State/Local Anti Terrorism Training (16 hours)  
 PA Motor Vehicle Code (56 hours)  
 Accident Investigation/HAZMET (24 hours)  
 Patrol Procedures/Operations (60 hours)  
 Principals of Criminal Investigation (44 hours)  
 Family Crisis/Domestic Violence (8 hours)  
 Crisis Intervention (16 hours)  
 Cultural Diversity/Special Needs Groups (8 hours)  
 Lethal Weapons/Proficiency (80 hours)  
 Less Lethal Weapons (10 hours)  
 Emergency Vehicle Operations (40 hours)  
 Communications (30 hours)  
 Advances in First Aid/ CPR (49 hours)  
 Managing Security (16 hours)  
 Managing Prisoners (14 hours)

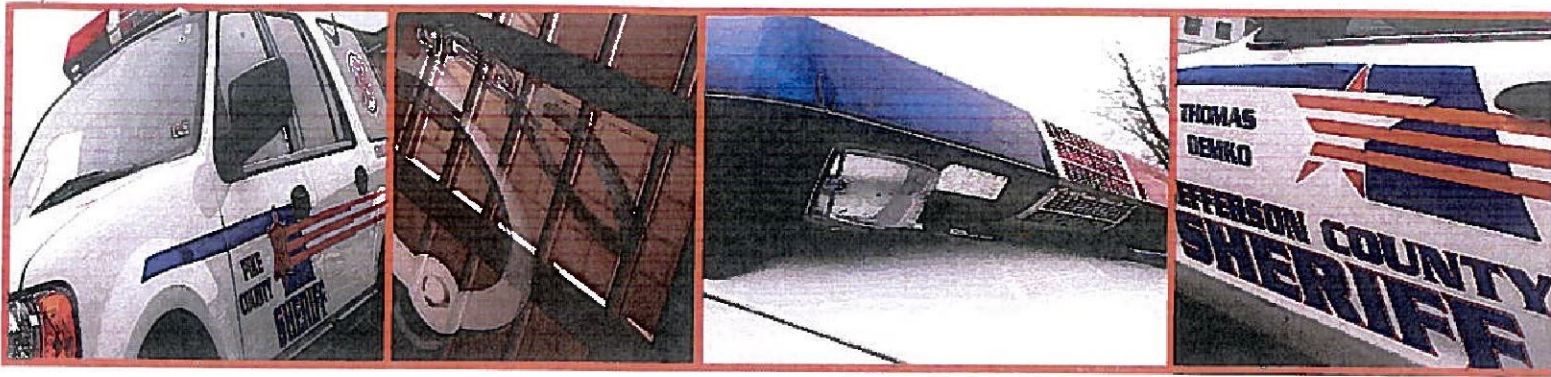
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**754 Hours**

**Total Training**

**760 Hours**

**For more information about the Pennsylvania Sheriffs' Association please visit us on the web:  
[www.pasheriffs.org](http://www.pasheriffs.org).**



## PENNSYLVANIA SHERIFFS' OFFICES: A LAW ENFORCEMENT RESOURCE FOR OUR COMMUNITIES



*The Pennsylvania Supreme Court has determined that Sheriffs and Deputy Sheriffs are not law enforcement personnel as defined by state law.*

*In November 2007, the Supreme Court remanded the case of a convicted methamphetamine dealer to the lower courts and suppressed the evidence seized by deputy sheriffs, even though they obtained a search warrant.*

*The Pennsylvania Sheriffs' Association is urging the General Assembly to approve HB 466 that would allow sheriffs and deputy sheriffs to participate in law enforcement activities, depending upon the need of their communities.*

### PENNSYLVANIA HAS 2,200 FULLY TRAINED SHERIFFS AND DEPUTY SHERIFFS READY TO SERVE:

- The February 2006 Supreme Court decision (Kopko) has raised confusion over what law enforcement duties that sheriffs and deputy sheriffs can and cannot perform. The confusion is acute in rural counties where there is a need for sheriffs and deputy sheriffs to serve and protect.
- Many sheriffs and deputy sheriffs have worked side-by-side with municipal and state police, including serving on drug and DUI task forces, until the Kopko decision.
- The Allegheny County Office of Sheriff has full law enforcement powers under the law and works cooperatively with other law enforcement agencies.
- HB 466 would allow sheriffs and deputy sheriffs to participate in law enforcement activities, based on the need of the communities in their counties.
- This authorization is vital in rural counties, where there is little if any municipal police.

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