



## **Secretary of Public Safety and Homeland Security**

### **Special Conservator of the Peace Task Force**

### **Final Report**

## **Task Force History**

A special conservator of the peace (SCOP) is a statutorily created position that allows citizens to obtain the same arrest powers as law-enforcement officers employed by a municipal law-enforcement agency.<sup>1</sup> Although they possess the same arrest powers, special conservators of the peace are not recognized as law-enforcement officers except when making arrests pursuant to Article 4 of Chapter 8 of Title 37.2 (*Emergency Custody and Involuntary Temporary Detention*) or Article 16 of Chapter 11 of Title 16.1 (*Psychiatric Treatment of Minors Act*).<sup>2</sup>

Corporations, sheriffs, police chiefs, custodians of property and museums owned by the Commonwealth may petition circuit courts to appoint individuals as SCOPs. Eligibility for appointment requires SCOP applicants to obtain 24 hours of training for unarmed positions or 40 hours of training for armed positions.<sup>3</sup> Judges have wide discretion in the appointment process. The arrest powers of special conservators of the peace may extend throughout several cities and counties. Special conservators of the peace can obtain appointments in every locality or judicial circuit in which they demonstrate a “necessity for the security of property or the peace.” They may wear the seal of the Commonwealth and the word “police” on badges and uniforms. Special conservators of the peace may be armed and use firearms. They may also use up to lethal force to effect arrests. They may display red or red and white flashing lights on personal vehicles used in the performance of their duties.

The Department of Criminal Justice Services (DCJS) has regulatory oversight of SCOPs requiring registration with the state.<sup>4</sup> Recognizing that the program had not been reviewed in several years, in 2013 DCJS convened a work group of subject matter experts, including SCOPs, to study the laws and regulations governing the SCOP program. As a result of the concerns the work group identified with the program, Senator Thomas Norment sponsored Senate Bill 495 which addressed training and registration requirements, court orders, jurisdiction and the use of the seal of the Commonwealth and the word “police.”

During the 2014 regular session of the General Assembly, Senate Bill 495 unanimously passed the Senate;<sup>5</sup> however the House Militia, Police and Public Safety Committee voted to carry the bill over until the 2015 session. Subsequent to the session Delegate L. Scott Lingamfelter, Chairman of the Committee, requested Secretary of Public Safety and Homeland Security Brian Moran to create a bipartisan task force to study the special conservator of the peace program and make further recommendations. A copy of his letter is attached as Appendix B.

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<sup>1</sup> Virginia Code Section 19.2-13.

<sup>2</sup> Virginia Code Section 19.2-13 (A).

<sup>3</sup> Virginia Code Section 9.1-150.2.

<sup>4</sup> Virginia Code Section 9.1-150.1 *et seq.*; Virginia Code Section 19.2-13 (D) exempts certain individuals from registration with DCJS.

<sup>5</sup> Senate Bill 495 was amended to include the recognition of certain private police departments. However, the policy question concerning the existence of private police departments was not addressed by the task force.

A 27 member task force named by the Secretary included SCOP representatives, law enforcement representatives, and other criminal justice system stakeholders. Task force members are listed in Appendix A. DCJS, in its role as the criminal justice planning agency for the Commonwealth and state agency responsible for regulating special conservators of the peace, provided staffing and support to the task force.

### **Task Force Objectives**

The task force's objectives were to study the SCOP program and provide policy recommendations to the Secretary of Public Safety and Homeland Security regarding changes needed to enhance public safety. Detailed information was shared with the members from local, state and private agencies and organizations. Information focused on training requirements, the scope of power and jurisdiction, the court order process, registration procedures and relevance of the SCOP program.

### **Executive Summary and Recommendations**

At the fourth and final meeting, task force members discussed several areas of the SCOP program and made several recommendations. However, the members were not able to reach consensus on some issues. Some participants questioned the need for the SCOP program when law-enforcement and armed security guards are viable alternatives. The ability of citizens to distinguish between government law-enforcement officers and SCOPs was a major concern to many members.

**Appointment Process and Court Orders** – Task force members agreed that consistency in the appointment process is needed. Specifically,

- Mandatory state forms should be used by applicants and judges to ensure uniformity and accuracy of appointment orders.
- Judges should maintain jurisdiction over orders for the lifetime of the appointments and have the ability to revoke appointments for good cause shown.
- The approval process for applications should be expanded to include notification to chief law-enforcement officers and local Commonwealth's Attorneys, who can make recommendations about pending SCOP appointments and the character of applicants.
- Background investigations should be mandatory for all applicants, in addition to criminal history checks. Background investigations entail a more thorough review of applicants' history including employment, education, experience and character references.

Consensus was not reached on whether DCJS should play a greater role in the appointment process.

**Jurisdiction and Appearance** – Task force members agreed that private corporations should not be allowed to employ SCOPs whose powers extend beyond corporate property, as is currently the case. Members felt that circuit court judges should not be allowed to authorize SCOP powers beyond the borders of the localities in which they are applying. Specifically,

- SCOPs should only be authorized to enforce laws on the real property owned by the corporations for which they are employed.
- SCOPs should apply in each jurisdiction in which they intend to work, or the initial appointing court should be required to notify additional jurisdictions if the applicant is seeking SCOP powers in other localities, which would require the court to notify the chief law enforcement officers, Commonwealth’s Attorneys and courts in the other localities.

Task force members did not reach a consensus on whether SCOPs should be permitted to wear the traditional indicators of certified law-enforcement officers working for a local or state government. Most members felt that citizens have a right to clearly know when they are interacting with an SCOP or a law-enforcement officer. Because SCOPs are currently allowed to wear the seal of the Commonwealth and have the word “police” on their badges and uniforms, citizens do not necessarily recognize which type of enforcement officer they are interacting with. Other task force members stated that wearing the seal of the Commonwealth and the word “police” should only be allowed if the SCOP receives the same training as a certified law-enforcement officer, which is between 580 and 1,200 hours. Concerning the use of flashing lights on vehicles, some members believed SCOPs should not have *any* type of light since they are operating on private property and cannot lawfully act on public roadways.

**Registration and Regulation** – Registration proved an easy consensus point, as task force members agreed that no exceptions to registration should exist, and that

- All SCOPs should be registered with DCJS regardless of prior experience or current law-enforcement status.

However, task force members did not agree on whether private businesses providing SCOP services for hire should be regulated by the state. Currently a corporation may employ SCOPs who do not protect property owned by the corporate applicant but instead protect property owned by other entities pursuant to a contract for services. Some members expressed concern that failure to regulate these corporations diminishes accountability to the public and creates opportunities for abuse. Traditional governmental law-enforcement agencies are accountable to the public and employ officers who take oaths to uphold state and federal constitutional rights of citizens.

**Training** – Consensus was easily reached by members that the current training requirements of 24 hours for an unarmed SCOP and 40 hours for an armed SCOP are inadequate to protect both the public at large and the SCOP. Specifically,

- Minimum training requirements for SCOPs should be compatible with the authority and duties granted them by the circuit courts.

The members, however, were not able to agree on the type and amount of training that should be required. Private and public employers of SCOPs use them for a variety of tasks. Some use SCOPs like certified law-enforcement officers while others use SCOPs for less rigorous and dangerous duties, such as the enforcement of local zoning ordinances. A suggestion was made to create graduated training requirements for SCOPs using the model for creating graduated levels of training for auxiliary police officers.

## **Appendix**

- A. Task Force Members
- B. Delegate L. Scott Lingamfelter Letter dated February 24, 2014
- C. Summary of Task Force Meeting Agendas and Materials
- D. June 25, 2014, Meeting Agenda and Materials
- E. July 24, 2014, Meeting Agenda and Materials
- F. August 27, 2014, Meeting Agenda and Materials
- G. September 29, 2014, Meeting Agenda and Materials