

**FINAL REPORT OF THE VIRGINIA STATE CRIME
COMMISSION ON**

**STUDY OF SPECIALLY
APPOINTED POLICE OFFICERS**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



HOUSE DOCUMENT NO. 39

**COMMONWEALTH OF VIRGINIA
RICHMOND
1996**



COMMONWEALTH of VIRGINIA

Frederick L. Russell
Executive Director

VIRGINIA STATE CRIME COMMISSION
General Assembly Building

(804) 225-4534
(804) 786-7872 Fax

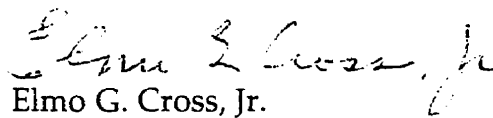
December 12, 1995

TO: The Honorable George Allen, Governor of Virginia, and Members of the
General Assembly:

House Joint Resolution 471, agreed to by the 1995 General Assembly, directed the Virginia State Crime Commission to study specially appointed police officers, and to submit its findings and recommendations to the Governor and the 1996 session of the General Assembly.

In fulfilling this directive, a study was conducted by the Virginia State Crime Commission in 1995. I have the honor of submitting herewith the study report.

Respectfully submitted,


Elmo G. Cross, Jr.
Chairman

EGC/sc

MEMBERS OF THE VIRGINIA STATE CRIME COMMISSION 1995

From the Senate of Virginia:

Elmo G. Cross, Jr., Chairman
Janet D. Howell
Edgar S. Robb

From The House of Delegates:

James F. Almand
Robert B. Ball, Sr.
Jean W. Cunningham
Howard E. Copeland
Raymond R. Guest, Jr.
Clifton A. Woodrum, Vice Chairman

Appointments by the Governor:

Robert C. Bobb
Robert F. Horan, Jr.
Rev. George F. Ricketts, Sr.

Attorney General:

James S. Gilmore, III

Members of the Law Enforcement Subcommittee

The Honorable Robert F. Horan, Chairman
Delegate James F. Almand
Delegate Howard E. Copeland
Delegate Jean W. Cunningham
Delegate Raymond R. Guest, Jr.
Senator Janet D. Howell
Rev. George F. Ricketts, Sr.
Senator Edgar S. Robb
Senator Elmo G. Cross, Jr., ex officio

Crime Commission Staff

D. Robie Ingram, Staff Attorney

Frederick L. Russell, Executive Director
Sylvia Coggins, Executive Assistant

Study Of Specially Appointed Police Officers

TABLE OF CONTENTS

| | | |
|-------|--|-----|
| I. | Authority for Study | 1 |
| II. | Members Appointed to Serve | 1 |
| III. | Executive Summary | 2 |
| IV. | Overview of Issues Presented | 3 |
| V. | Powers of Specially-Appointed Officers | 4 |
| VI. | Comparison of Laws | 8 |
| VII. | Judicial Comments | 9 |
| VIII. | Proposal for Statutory Amendments | 10 |
| | | |
| | Appendix A - Study Resolution HJR 471 | A-1 |
| | Appendix B - Conservators Appointed, 1993 & 1994 | B-1 |
| | Appendix C - Judicial Survey Questions | C-1 |
| | Appendix D - Proposed Legislation | D-1 |

Study Of Specially Appointed Police Officers

I. Authority for Study

During the 1995 General Assembly session, Delegate Raymond R. Guest, Jr. introduced House Joint Resolution 471, requesting that the Virginia State Crime Commission "study the appointment of special police officers, the extent of their police powers and liability issues connected to their actions, and examine the feasibility of a standardization of responsibilities and minimal training standards." The Commission's Law Enforcement Subcommittee, charged with the conduct of the study, broadened the scope of the study to include special conservators of the peace, whose duties and responsibilities and mode of appointment are similar to the special police. The Commission is required to report the results of the study to Governor and the 1996 Session of the General Assembly. (See Appendix A.)

Code of Virginia § 9-125 establishes and directs the Virginia State Crime Commission "to study, report, and make recommendations on all areas of public safety and protection." Code of Virginia § 9-127 provides that "the Commission shall have the duty and power to make such studies and gather information in order to accomplish its purpose, as set forth in Code § 9-125, and to formulate its recommendations to the Governor and the General Assembly." Code of Virginia § 9-134 authorizes the Commission to "conduct private and public hearings, and to designate a member of the Commission to preside over such hearings." The Virginia State Crime Commission, in fulfilling its legislative mandate, undertook the study of Virginia's law on handgun purchase limits.

II. Members Appointed to Serve

At the April 27, 1995 meeting of the Crime Commission, Chairman Elmo G. Cross, Jr., selected Robert F. Horan, Jr., to serve as Chairman of the Law Enforcement Subcommittee, which was directed to conduct the study. The following members of the Crime Commission were selected to serve on the subcommittee:

The Honorable Robert F. Horan, Fairfax, Chairman
Delegate James F. Almand, Arlington
Delegate Howard E. Copeland, Norfolk
Delegate Jean W. Cunningham, Richmond
Delegate Raymond R. Guest, Front Royal
Senator Janet D. Howell, Reston
Rev. George F. Ricketts, Sr., Hallieford
Senator Edgar S. Robb, Charlottesville
Senator Elmo G. Cross, Jr., Mechanicsville, ex officio

III. Executive Summary

House Joint Resolutin 471 (1995, Delegate Guest) asked the Commission to investigate the training and liability concerns associated with specially appointed policemen appointed by circuit court judges. (See Appendix A.) This Crime Commission-sponsored study was requested because there was concern that such policemen are easily appointed without the requirement for any formal police training and without consistent criteria governing their qualifications statewide. At the study's initiation, the Law Enforcement Subcommittee included specially-appointed conservators of the peace within the scope of the study because the mode of appointment is similar and the duties and powers are almost identical.

Fundamentally, both classes of specially-appointed officers serve as conservators of the peace and, as such, have full powers of police officers. In some cases, those powers even exceed the powers ordinarily granted to fully-trained policemen. For example, the right to carry a concealed weapon is granted by law to conservators of the peace without regard to training. That right, among others, coupled with the police powers granted and lack of a training requirement creates the potential for a misuse of power. The Commission sought to make the appointment process consistent for both classes of specially-appointed officers and to establish minimum, consistent qualifications and to grant judicial power to limit the powers of such officers who are not sufficiently trained.

The Commission surveyed each Circuit Court judge in the state and received helpful comments from many on the appointment process, reviewed information on file at the Supreme Court for appointments made and recorded, researched the Code of Virginia for the specific statutory authority governing such appointments and interviewed selected Circuit Court Clerks for information on the utilization of such appointments.

Upon careful consideration of the information generated and input from the law-enforcement community as well as the Department of Criminal Justice Services regarding the relative powers and duties of all classes of law-enforcement officers, the appointment qualifications of both classes were amended to simplify the process and to make background search, training requirements and bond requirements consistent. Broader judicial discretion was granted to limit the carrying of weapons. Broad statutory grants of police power were limited so as not to exceed those granted to full-time, fully-trained officers. Specific criteria were set forth for justification of appointments. It was made clear that civil liability for misconduct by the appointees would rest with the entity requesting such an appointment. And it was clarified that the requesting authority for special policeman should be law-enforcement agencies while the requesting authority for special conservators of the police should be

private entities. Proposed legislation was drafted to accomplish the changes recommended by the Commission.

IV. Overview of Issues Presented

Study resolution HJR 471 (See Appendix A.) asked the Commission to investigate the training and liability concerns associated with specially appointed policemen appointed by circuit court judges. These appointments are limited by § 15.1-144 to county circuit courts but in actuality, both county and city courts can appoint special conservators of the peace upon the application of any "owner, proprietor or authorized custodian of any place within the Commonwealth." And county and city circuit courts can also appoint special policemen for all the places they for which they may appoint special conservators of the peace. (See Appendix B for the total number of appointments and re-appointments made in 1993 and 1994. This total includes both specially appointed categories aggregated as "special conservators of the peace" but is not indicative of the total number of such appointees extant. That number is unknown and is likely much larger due to appointments already made which do not expire.)

All of these special officers have the powers of conservator of the peace. A conservator of the peace has the power of arrest, the power to conduct warrantless searches and the statutory right to carry a concealed weapon.

But none of these classes of special officers is required to receive training.

Only a special conservator of the peace is required to submit to a background check; however, the court may require an FBI record review of a special policeman. Only a special policeman is required to post a bond and the bond is only \$1,000 unless he is a town police officer who has received police training; however, a special conservator of the peace MAY be required to post a bond.

By request of the Commission at its first meeting this year, the Law Enforcement Subcommittee was asked to broaden the scope of the study to include a review and comparison of the requirements for appointment as a special conservator of the peace, an auxiliary police officer and for employment as a security guard.

An auxiliary policeman has all the power, authority and immunity of a constable at common law. A constable at common law, according to the Attorney General in 1981, "is by virtue of his office a conservator of the peace, whose duties are similar to those of a sheriff." He may thus arrest, search and carry a concealed weapon. He may do those things despite never having received any training. However, he may enjoy all the power, authority and immunity of a full-time police officer if he has received that training.

Any auxiliary police officer employed after July 1, 1987 may not carry a gun without firearms training. But he may carry a gun if he is not compensated. And he does not need to be trained if he works 80 hours or less a year.

By contrast, unarmed private security officers must receive training, are registered by DCJS, cannot have a criminal record, shall be investigated by their employer to determine suitability, shall be employed by a bonded and/or insured employer, shall be fingerprinted, shall not be entitled to carry a concealed weapon, and shall not be entitled to exercise the powers of a conservator of the peace.

An armed registered security officer has the power of arrest at the location of the premises he is assigned to protect.

V. Specific Powers of Classes of Law-Enforcement Officers

A. A conservator of the peace:

- shall have the authority to arrest without a warrant in such instances as are set out in §§ 19.2-19 and 19.2-81. Va Code §19.2-18.
- shall, except for notaries public, registrars, operators of motor vehicle carriers and commissioners in chancery, be permitted to carry a concealed weapon. Va Code § 19.2-308.
- shall be permitted to conduct a warrantless search. McClannan v. Chaplain, 136 Va. 1 (1923).
- shall have the authority to require a person who threatens to kill or injure another or who commits violence or injury to the person or property of another to give recognizance to keep the peace ("peace bond"). Va Code § 19.2-19, Fedele v. Commonwealth, 205 Va. 551 (1964).
- shall include (in addition to every specially-appointed policeman and conservator of the peace) the following: every judge, magistrate and sitting commissioner in chancery; and, while engaged in official duties, every special agent of the United States Department of Justice, National Marine Fisheries Service of the Department of Commerce, Department of Treasury, Department of Agriculture, Department of State, Department of Interior; any inspector, law-enforcement official or police personnel of the United States Postal Inspection Service; any United States marshal or deputy with criminal law enforcement responsibility, any criminal investigator with the United States Department of Labor, any special agent of the United States Naval

Criminal Investigative Service; and any officer of the Virginia Marine Patrol.
Va Code § 19.2-12.

B. A special policemen appointed by a county Circuit Court under
Va Code §15.1-144:

- shall be a conservator of the peace in the county wherein appointed. Va Code §15.1-144. And jurisdiction shall extend no further except for situations of hot pursuit. Va Code § 15.1-152.
- shall post a \$1000 secured bond unless a town police officer who has received police officer training pursuant to § 9-170. Va Code § 15.1-151.
- shall be a suitable and discreet person. Va Code § 15.1-144. And shall be required in his application for appointment to supply his full name, age, place of residence, occupation and regular employer. Va Code § 15.1-145.
- may have his FBI record reviewed by the court prior to appointment. Va Code § 15.1-144.
- shall be under the supervision of the chief of police of the county, if any, and shall have, if so ordered by the court, full authority to issue civil and criminal process as if a deputy sheriff. Va Code § 15.1-152.
- shall have the power to execute arrest and search warrants and shall have the authority to require any person present during the execution of a search warrant to aid in making an arrest. Va Code § 15.1-153.
- shall apprehend and carry before a judge any person he suspects has violated or intends to violate any law of the Commonwealth. Va Code § 15.1-153.

C. A special conservator of the peace appointed by a county or city Circuit Court under Va Code § 19.2-13:

- shall have all of the powers, functions, duties, responsibilities and authority of any other conservator of the peace. Va Code § 19.2-13.
- shall, subject to the court's order of appointment, have all of the powers, functions, duties, responsibilities and authority of any other conservator of the peace throughout the Commonwealth, or within such geographical limitations as the court may deem appropriate. Va Code § 19.2-13.

- may be appointed upon the application of any “owner, proprietor or authorized custodian of any place within the Commonwealth.” Va Code § 19.2-13.
- may be appointed upon the application of any corporation authorized to do business in the Commonwealth. Va Code § 19.2-13.
- shall, when appointment is pursuant to application by a corporation, have jurisdiction in any county or city designated by the court which may include any or all counties or cities where the corporation does business. Va Code § 19.2-13.
- may be required to post bond with approved surety as fixed by the court. Va Code § 19.2-13.
- shall be subject to a background and character investigation by the local law-enforcement agency and may be required to pay a fee therefor, not to exceed \$300. Va Code § 19.2-13.

D. A policeman appointed pursuant to Va Code § 19.2-17 by a city or county circuit court judge “for the places mentioned in” § 19.2-13:

- shall be a citizen. Va Code § 19.2-17.
- shall have the same powers and duties as a special policeman appointed by a county circuit court under § 15.1-144 except the power to execute civil process. Va Code § 19.2-17.
- shall post a \$1,000 bond with security. Va Code § 19.2-17.

E. An auxiliary policeman appointed by the governing body of a county, city or town:

- shall have all the power, authority and immunities as constables at common law. Va Code § 15.1-159.2.
- shall have all the power, authority and immunities as a full-time police officer if he has met the training requirements set forth in § 9-170. Va Code § 15.1-159.2.

F. A law-enforcement officer is:

- a full-time or part-time employee of a police department or sheriff’s office which is part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection

of crime and the enforcement of the penal, traffic or highway laws of this Commonwealth, and shall include any special agent of the Department of Alcoholic Beverage Control, any police agent appointed under the provisions of § 56-353, any officer of the Virginia Marine Patrol, any game warden who is a full-time sworn member of the enforcement division of the Department of Game and Inland Fisheries, any agent, investigator, or inspector appointed under § 56-334 or any investigator who is a full-time sworn member of the security division of the State Lottery Department. Part-time employees are compensated officers who are not full-time employees as defined by the employing police department or sheriff's office. Full-time Sworn members of the enforcement division of the Department of Motor Vehicles meeting the Department of Criminal Justice Services qualifications shall be deemed to be "law-enforcement officers" when fulfilling their duties pursuant to § 46.2-217. Va Code § 9-169.

G. A constable at common law:

- "is by virtue of his office a conservator of the peace, whose duties are similar to those of a sheriff." 1981 Report of the Attorney General.

H. An unarmed private security officer:

- shall be subject to compulsory, entry-level, in-service, and advanced training in accordance with regulations promulgated by the Criminal Justice Services Board. Va Code § 9-182.
- shall be registered by the Department of Criminal Justice Services (DCJS). Va Code § 9-183.3 B. Failure to be registered while acting as a private security officer is a Class 1 misdemeanor. Va Code § 9-183.9 A.
- shall not have a criminal record including a misdemeanor involving moral turpitude or any felony unless the prohibition is waived by DCJS. Va Code § 9-183.3 E.
- shall be subject to an investigation by his employer to determine his suitability. Va Code § 9-183.3 E.
- shall be employed by a licensed security services business which has (i) posted a cash bond or a surety bond in a reasonable amount set by DCJS or (ii) given evidence of adequate liability insurance. Va Code § 9-183.6.
- shall have been fingerprinted upon application for registration. Va Code § 9-183.7.

- shall not, by virtue of compliance with the other requirements for registration as a security officer, be entitled to carry a concealed weapon. Va Code § 9-183.8.
- shall not, by virtue of compliance with the other requirements for registration as a security officer, be entitled to exercise the powers of a conservator of the peace. Va Code § 9-183.8.

I. A registered armed security officer:

- shall, while at the location he is assigned to protect, have the power to arrest for an offense committed in his presence. Va Code § 9-183.8.
- shall, while at the location he is assigned to protect, have the power to arrest for an offense occurring in the presence of a merchant, agent or employee of the merchant if such merchant, agent or employee of the merchant had probable cause to believe the arrestee was shoplifting. Va Code § 9-183.8.

VI. Comparison of Laws Governing Special Police and Special Conservators of the Peace

A. A special policeman is appointed for up to four years. Va Code § 15.1-144. A special conservator of the peace is appointed for no particular period of time.

B. A special policeman shall apply in writing and name his employer. Va Code § 15.1-145. No criteria or need for appointment are required by the statute. A special conservator's "corporate sponsor" shall show a necessity for security of property or the peace. Va Code § 19.2-13.

C. A special policeman shall post bond of \$1,000 unless a town police officer. Va Code § 15.1-151. A special conservator may be required by the court to post a bond of no set amount. Va Code § 19.2-13.

D. A special policeman shall be under the supervision of the Chief of Police if there is one. Va Code § 15.1-152. A special conservator has no named supervisor. And a special policeman has no supervisor, apparently, if there is no Chief of Police.

E. A special policeman may be required to submit to a background check. Va Code § 15.1-144. A special conservator shall submit to a background check and may be charged a reasonable fee for it not to exceed \$300. Va Code § 19.2-13.

F. A special policeman shall be a conservator of the peace with limits on geographical authority set by the judge. Va Code § 15.1-152. A special conservator shall be a conservator of the peace with limits on geographical authority set by the judge. Va Code § 19.2-13.

G. The court may limit the carrying of weapons by a special policeman. Va Code § 15.1-152. No such limitation is placed upon a special conservator.

VII. Comments of Judges re Special Police and Special Conservators, etc.:

Every circuit court judge in Virginia was sent a questionnaire (See Appendix C.) inquiring about his appointment of special policemen and special conservators of the peace and asked to offer comments. These are all of the comments:

Judge Sarver - Woodstock

The various Code Sections in Title 15.1 and 19.2 should be consolidated. I agree with the desired objectives and HJR 471.

Judge Smith - Abingdon

These are confusing and seemingly overlapping provisions. It is unclear just what their authority and jurisdiction is. The Code gives little direction to the court.

Judge Stout - Richmond

The only issue that had come up in the year I've been sitting is the special jurisdiction of the VCU police. But I believe they receive extensive training.

Judge Frank - Newport News

I think the distinction between 19.2-13 and 19.2-17 is somewhat blurred. These sections should be re-written to clearly delineate the distinction.

Judge McGlothin - Lebanon

In the 29th Judicial Circuit the Judges have appointed only those applicants who can demonstrate that they are gainfully employed as security officers by a reputable business, who are nominated by and whose assistance is needed by a local law enforcement agency, or who are employed by local or state government in a position in which special police powers are shown to be necessary. The great majority of appointees have had formal law enforcement training and years of experience.

Judge Fugate - Jonesville

§19.2-17 App. very limited in time and scope (county fair work, etc)

Under §15.1-144 - training from staff of Community College in law enforcement training.

Judge Mink - Radford

Your letter of June 1, 1995 does not make a reference to Code Section § 23-233 regarding campus police. However, for your information, I do make those appointments, and if training requirements are to be defined for other special police officers and conservators of the peace, then campus police should probably be included under the same standard.

Judge Ledbetter - Fredericksburg

Officers appointed under §19.20-13 are for prescribed geographical areas. The order must be endorsed by Sheriff and Commonwealth's Attorney.

Judge O'Hara - Emporia

Appointments under any of the above authorities have been made only upon request and with the concurrence of local police, Sheriff and Commonwealth Attorney.

Judge Overton - Hampton

All such appointments in this court require that the person appointed take and complete successfully such police firearm training.

VIII. Proposal for Statutory Amendments

The following are proposals for amendments to the existing code which would clarify and distinguish the roles of both categories of specially-appointed officers. The amendments also 1) grant broader discretion to the appointing judge to limit the carrying of weapons if a prospective appointee is without appropriate training and 2) more clearly set forth the potential civil liability of the entity applying for the appointment (a law-enforcement agency or "corporate sponsor"). (See Appendix D for proposed legislative draft.)

1. Distinguish authority of the two offices such that special policemen are appointed pursuant to request by a law-enforcement agency and special conservators are appointed pursuant to request by private entities, provided that existing appointments continue under existing law.
2. Limit the length of appointment for both to no more than four years.
3. Require a request (by law-enforcement or "corporate sponsor") and a justification (preservation of the peace, security of property) for the appointment.

4. Require that a bond be posted in an amount set by the court unless the prospective appointee is a law-enforcement officer as defined in § 9-169 (9).
5. Require a background check at the expense of the applicant unless the prospective appointee is a law-enforcement officer as defined in § 9-169 (9).
6. Give the court discretion to limit/prohibit the carrying of a firearm unless the prospective appointee meets current police training requirements under § 9-170 for police officers.
7. Eliminate distinctions between city and county appointments.
8. Require the court to state in the order of appointment any reason for extending jurisdiction of the appointee beyond political subdivision lines.
9. Hold employer or principal civilly liable for misconduct by statute (as is currently the case, by statute, for special conservators).
10. Remove statutory authority for a special officer a) to arrest someone who he suspects is about to commit a crime and b) to require the assistance of a civilian in making an arrest.

APPENDIX A

HJR 471 - SPECIALLY APPOINTED POLICE OFFICERS

LD8412825

HOUSE JOINT RESOLUTION NO. 471

Offered January 18, 1995

Requesting the Virginia State Crime Commission to study specially appointed police officers regarding training issues, liability issues, and scope of authority.

Patrons—Guest, Almand, Cunningham, Mims and Woodrum; Senator: Robb

Referred to Committee on Rules

WHEREAS, by authorization of § 15.1-144 of the Code of Virginia, special police officers for a county may be appointed by the county circuit court to assist in the efforts of local law-enforcement agencies; and

WHEREAS, specially appointed police officers have the same powers and authority as conservators of the peace; and

WHEREAS, the current training requirements are undefined; and

WHEREAS, issues concerning the extent of powers for specially appointed police officers, and liability for their actions while serving in their appointed capacity, may also require further consideration; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Virginia State Crime Commission study the appointment of special police officers, the extent of their police powers and liability issues connected to their actions, and examine the feasibility of a standardization of responsibilities and minimal training standards. The Commission shall be assisted by the agencies of the Commonwealth at the request of the Commission. Representatives of local law-enforcement agencies and the circuit court will be requested to assist in the study.

The Commission shall complete its work in time to submit its findings and recommendations to the Governor and the 1996 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for processing documents.

LD8412825

HJ471

1/18/95 16:21

| Official Use By Clerks | | | |
|---------------------------------|--------------------------|-----------------------------|--------------------------|
| Passed By | | Passed By The Senate | |
| The House of Delegates | | | |
| without amendment | <input type="checkbox"/> | without amendment | <input type="checkbox"/> |
| with amendment | <input type="checkbox"/> | with amendment | <input type="checkbox"/> |
| substitute | <input type="checkbox"/> | substitute | <input type="checkbox"/> |
| substitute w/amdt | <input type="checkbox"/> | substitute w/amdt | <input type="checkbox"/> |
| Date: _____ | | Date: _____ | |
| _____ | | _____ | |
| Clerk of the House of Delegates | | Clerk of the Senate | |

APPENDIX B

HJR 471 - SPECIALLY APPOINTED POLICE OFFICERS

Appointed Conservators of Peace 1993 & 1994

| <u>Locality/Circuit</u> | <u>1994</u> | <u>1993</u> |
|---|--------------------------|--------------------------|
| Chesapeake First Circuit | <u>0</u> 0 | <u>0</u> 0 |
| Accomack | 0 | 0 |
| Northampton | 1 | 0 |
| Virginia Beach Second Circuit | <u>35</u> 36 | <u>9</u> 9 |
| Portsmouth Third Circuit | <u>6</u> 6 | <u>2</u> 2 |
| Norfolk Fourth Circuit | <u>186</u> 186 | <u>167</u> 167 |
| Isle of Wight | 0 | 0 |
| Southampton | 0 | 0 |
| Suffolk Fifth Circuit | <u>0</u> 0 | <u>0</u> 0 |
| Brunswick | 0 | 0 |
| Greensville | 0 | 0 |
| Prince George | 0 | 4 |
| Surry | 0 | 0 |
| Sussex | 0 | 0 |
| Hopewell City Sixth Circuit | <u>0</u> 0 | <u>0</u> 4 |
| Newport News Seventh Circuit | <u>13</u> 13 | <u>16</u> 16 |
| Hampton Eighth Circuit | <u>5</u> 5 | <u>10</u> 10 |
| Charles City | 0 | 0 |
| Gloucester | 0 | 0 |
| King and Queen | 0 | 2 |
| King William | 2 | 0 |
| Mathews | 0 | 0 |
| Middlesex | 0 | 0 |
| New Kent | 0 | 0 |
| York | 0 | 0 |
| Williamsburg/James City Ninth Circuit | <u>65</u> 67 | <u>49</u> 51 |

| <u>Locality/Circuit</u> | <u>1994</u> | <u>1993</u> |
|---------------------------|-------------|-------------|
| Appomattox | 0 | 0 |
| Buckingham | 0 | 0 |
| Charlotte | 0 | 3 |
| Cumberland | 0 | 0 |
| Halifax | 0 | 0 |
| Lunenburg | 0 | 0 |
| Mecklenburg | 0 | 0 |
| Prince Edward | <u>0</u> | <u>1</u> |
| Tenth Circuit | 0 | 4 |
| <hr/> | | |
| Amelia | 5 | 4 |
| Dinwiddie | 15 | 17 |
| Nottoway | 0 | 0 |
| Powhatan | 0 | 0 |
| Petersburg | <u>0</u> | <u>0</u> |
| Eleventh Circuit | 20 | 21 |
| <hr/> | | |
| Chesterfield | 0 | 0 |
| Colonial Heights | <u>0</u> | <u>0</u> |
| Twelfth Circuit | 0 | 0 |
| <hr/> | | |
| Richmond City | 0 | 0 |
| Richmond--Manchester | <u>0</u> | <u>0</u> |
| Thirteenth Circuit | 0 | 0 |
| <hr/> | | |
| Henrico | <u>0</u> | <u>0</u> |
| Fourteenth Circuit | 0 | 0 |
| <hr/> | | |
| Caroline | 12 | 4 |
| Essex | 0 | 0 |
| Hanover | 0 | 0 |
| King George | 0 | 0 |
| Lancaster | 0 | 0 |
| Northumberland | 0 | 0 |
| Richmond County | 0 | 0 |
| Spotsylvania | 2 | 2 |
| Stafford | 1 | 0 |
| Westmoreland | 7 | 16 |
| Fredericksburg | <u>0</u> | <u>0</u> |
| Fifteenth Circuit | 22 | 22 |

| <u>Locality/Circuit</u> | <u>1994</u> | <u>1993</u> |
|------------------------------|-------------|-------------|
| Albemarle | 0 | 0 |
| Culpeper | 0 | 0 |
| Fluvanna | 7 | 1 |
| Goochland | 2 | 0 |
| Greene | 0 | 0 |
| Louisa | 5 | 3 |
| Madison | 0 | 0 |
| Orange | 0 | 0 |
| Charlottesville | <u>0</u> | <u>1</u> |
| Sixteenth Circuit | 14 | 5 |
| <hr/> | | |
| Arlington | <u>1</u> | <u>5</u> |
| Seventeenth Circuit | 1 | 5 |
| <hr/> | | |
| Alexandria | <u>56</u> | <u>18</u> |
| Eighteenth Circuit | 56 | 18 |
| <hr/> | | |
| Fairfax | <u>0</u> | <u>2</u> |
| Nineteenth Circuit | 0 | 2 |
| <hr/> | | |
| Fauquier | 0 | 0 |
| Loudoun | 5 | 3 |
| Rappahannock | <u>0</u> | <u>0</u> |
| Twentieth Circuit | 5 | 3 |
| <hr/> | | |
| Henry | 16 | 1 |
| Patrick | 0 | 0 |
| Martinsville | <u>0</u> | <u>0</u> |
| Twenty-First Circuit | 16 | 1 |
| <hr/> | | |
| Franklin County | 0 | 0 |
| Pittsylvania | 1 | 6 |
| Danville | <u>15</u> | <u>1</u> |
| Twenty-Second Circuit | 16 | 7 |
| <hr/> | | |
| Roanoke County | 5 | 1 |
| Roanoke City | 9 | 10 |
| Salem | <u>2</u> | <u>5</u> |
| Twenty-Third Circuit | 16 | 16 |

| <u>Locality/Circuit</u> | <u>1994</u> | <u>1993</u> |
|-------------------------------|-------------|-------------|
| Amherst | 0 | 0 |
| Bedford | 0 | 0 |
| Campbell | 0 | 23 |
| Nelson | 2 | 1 |
| Lynchburg City | <u>0</u> | <u>0</u> |
| Twenty-Fourth Circuit | 2 | 24 |
| <hr/> | | |
| Alleghany | 0 | 1 |
| Augusta | 0 | 0 |
| Bath | 52 | 22 |
| Botetourt | 1 | 5 |
| Craig | 0 | 0 |
| Highland | 0 | 0 |
| Rockbridge | 5 | 3 |
| Buena Vista | 0 | 0 |
| Clifton Forge | 0 | 0 |
| Staunton | 0 | 0 |
| Waynesboro | <u>0</u> | <u>0</u> |
| Twenty-Fifth Circuit | 58 | 31 |
| <hr/> | | |
| Clarke | 0 | 0 |
| Frederick | 0 | 0 |
| Page | 0 | 0 |
| Rockingham | 0 | 0 |
| Shenandoah | 0 | 0 |
| Warren | 0 | 0 |
| Winchester | <u>1</u> | <u>1</u> |
| Twenty-Sixth Circuit | 1 | 1 |
| <hr/> | | |
| Bland | 0 | 1 |
| Carroll | 0 | 0 |
| Floyd | 0 | 0 |
| Giles | 1 | 2 |
| Grayson | 0 | 0 |
| Montgomery | 0 | 0 |
| Pulaski | 3 | 5 |
| Wythe | 0 | 0 |
| Radford City | <u>0</u> | <u>0</u> |
| Twenty-Seventh Circuit | 4 | 8 |
| <hr/> | | |
| Smyth | 0 | 0 |
| Washington | 0 | 0 |
| Bristol City | 0 | <u>0</u> |
| Twenty-Eighth Circuit | 0 | 0 |

| <u>Locality/Circuit</u> | <u>1994</u> | <u>1993</u> |
|-----------------------------|-------------|-------------|
| Buchanan | 0 | 0 |
| Dickenson | 39 | 0 |
| Russell | 0 | 0 |
| Tazewell | <u>22</u> | <u>34</u> |
| Twenty-Ninth Circuit | 61 | 34 |
| <hr/> | | |
| Lee | 6 | 3 |
| Scott | 1 | 1 |
| Wise | <u>20</u> | <u>22</u> |
| Thirtieth Circuit | 27 | 26 |
| <hr/> | | |
| Prince William | <u>0</u> | <u>0</u> |
| Thirty-First Circuit | 0 | 0 |
| <hr/> | | |
| <hr/> | | |
| Virginia (Total) | 632 | 487 |

APPENDIX C

HJR 471 - SPECIALLY APPOINTED POLICE OFFICERS

Name of Judge
Address

1. Have you appointed a special policeman pursuant to Code of Virginia § 15.1-144 et seq.?

YES

NO

1b. Was the appointee required to undergo a background check or investigation of any sort?

1c. Had the appointee received any firearm or police officer training?

2. Have you appointed a special conservator of the peace pursuant to Code of Virginia § 19.2-13 et seq.?

YES

NO

2b. Was the appointee required to post a bond?

2c. Had the appointee received any firearm or police officer training?

3. Have you appointed a special policeman pursuant to Code of Virginia § 19.2-17?

YES

NO

3b. Was the appointee required to undergo a background check or investigation of any sort?

3c. Had the appointee received any firearm or police officer training?

COMMENTS:

APPENDIX D

HJR 471 - SPECIALLY APPOINTED POLICE OFFICERS

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend and reenact §§ 15.1-144, 15.1-145, 15.1-151, 15.1-152, 15.1-153, 19.2-13,
2 19.2-17 of the Code of Virginia, relating to special policemen

3 **Be it enacted by the General Assembly of Virginia:**

4 **1. That §§ 15.1-144, 15.1-145, 15.1-151, 15.1-152, 15.1-153, 19.2-13, 19.2-17 of the Code**
5 **of Virginia are amended and reenacted as follows:**

6 § 15.1-144. Circuit courts may appoint special policemen.

7 A. The circuit court of any county or city, or the judge thereof in vacation, may, upon the
8 application of, and a showing of a necessity for the security of property or the peace by, the
9 sheriff or chief of police, appoint special policemen for so much of such county or city as is not
10 embraced within an incorporated town located in the county, who shall be suitable and
11 discreet persons and who shall serve as such for such length of time as the court or judge
12 may designate, but not exceeding four years under any one appointment. Such person or
13 persons so appointed shall be conservators of the peace in their respective counties under
14 the supervision of the person or agency making application for the appointment, who shall
15 likewise be civilly liable for any wrongful action or conduct committed by the appointee while
16 within the scope of his employment.

17 B. The court may shall, prior to appointment, review the record order the applicant to conduct
18 a background investigation, in accordance with § 15.1-131.8 (ii), of such appointee as
19 furnished by the Federal Bureau of Investigation each prospective appointee who is not a
20 police officer as defined in § 9-169 (9).

21 § 15.1-145. Application for appointment as special policeman; qualifications.

22 Before any person shall be appointed as a policeman under § 15.1-144, he the sheriff or chief
23 of police shall make written application for such appointment to the circuit court or the judge
24 thereof in vacation. Such application shall state applicant's the necessity for the appointment

1 and the prospective appointee's full name, age, place of residence, occupation and by whom
2 regularly employed regular employer. A part-time deputy of the sheriff may be appointed as
3 such policeman. Any person appointed as a policeman under § 15.1-144 shall reside in the
4 Commonwealth during his tenure of office.

5 § 15.1-151. Bond of special policemen.
6 Before entering upon the duties of ~~their his~~ office ~~the persons so~~ any person initially appointed
7 on or after July 1, 1996, shall give bond in the penalty of ~~\$1,000~~ such sum as may be fixed by
8 the court, with approved security before the ~~county~~ circuit court clerk, with condition faithfully
9 to discharge ~~their his~~ official duties. No bond shall be required, however, if the person so
10 appointed ~~is also a police officer of a town and~~ has met the applicable training requirements
11 established by the Department of Criminal Justice Services under § 9-170 for a police officer.

12 § 15.1-152. Jurisdiction and authority of special policemen; evidence of their office.
13 The jurisdiction and authority of such police shall extend no further than the limits of the
14 county or city in which they are appointed, and a copy of the order of appointment made by
15 the court, attested by the clerk of such court, shall in all cases be received as evidence of
16 their official character. But the authority of such police shall extend throughout the
17 Commonwealth when actually in pursuit of persons accused of crime and when acting under
18 authority of a duly executed warrant for the arrest of persons accused of committing crime.

19 The jurisdiction and authority of such police upon order entered of record by the circuit court
20 ~~of the county, or the judge thereof in vacation,~~ may be limited to a specific place or places ~~in~~
21 ~~such county;~~ may limit or prohibit the carrying of weapons by such police; and shall prescribe
22 the type of uniform, badge, insignia or identification to be worn or carried by such police to the
23 extent that such uniform, badge, insignia or identification shall not resemble or be in facsimile
24 of the uniform, badge, insignia or identification of the State Police or that of any sheriff, or
25 member of a police department in such county or city or an adjoining county or city. Any
26 special police officer initially appointed on or after July 1, 1996, whose order of appointment
27 does not prohibit the carrying of weapons while within the scope of his employment as such

1 may be required by the court to meet the training requirements established by the Department
2 of Criminal Justice Services under § 9-170 for police officers within 12 months of his
3 appointment. Such order may provide that such ~~county~~ special police shall, within the limits of
4 their jurisdiction, have the same authority and responsibility as deputy sheriffs with regard to
5 the service of civil and criminal process.

6 However, the jurisdiction and authority of such police upon an order entered of record by the
7 circuit court of an adjoining county or city, ~~or by the judge thereof in vacation~~, may be
8 extended into such adjoining county or city or into such part thereof as said order may
9 designate, provided that the special circumstances necessitating such extension of jurisdiction
10 and authority are set forth in the order and provided that such authority shall not extend into
11 an incorporated town.

12 ~~Such police shall be under the supervision of the chief of police in those counties having a~~
13 ~~local police department.~~

14 § 15.1-153. Duties and powers of special policemen.

15 Such police shall apprehend and carry before a judge or ~~justice of the peace~~ magistrate to be
16 dealt with according to law, all persons whom they may be directed by the warrant of a judge
17 or ~~justice of the peace~~ magistrate to apprehend, ~~or whom they have cause to suspect have~~
18 ~~violated, or intend to violate any law of the Commonwealth~~ and shall have the authority to
19 make arrests and issue summonses in accordance with Chapter 7 of Title 19.2 (§ 19.2-71 et
20 seq.); and they may execute any search warrant issued under §§ 19.2-52 and 19.2-53. If such
21 property as is mentioned in such sections ~~be~~ is found, the police shall proceed as ~~an officer~~
22 officers acting under Chapter 5 (§ 19.2-52 et seq.) of Title 19.2, ~~and they shall have the~~
23 authority to ~~require any person present to aid in making an arrest.~~

24 § 19.2-13. Special conservators of the peace; authority; jurisdiction; bond; liability of
25 employers.

26 A Upon the application of any corporation authorized to do business in the Commonwealth or
7 the owner, proprietor or authorized custodian of any place within the Commonwealth and the

1 showing of a necessity for the security of property or the peace, the circuit court of any county
2 or city, in its discretion, may appoint one or more special conservators of the peace who within
3 ~~the area and for the time specified in the order of appointment, shall have all of the powers,~~
4 ~~functions, duties, responsibilities and authority of any other conservator of the peace shall~~
5 serve as such for such length of time as the court may designate, but not exceeding four years
6 under any one appointment. The order of appointment may provide that a special conservator
7 of the peace shall have all the powers, functions, duties, responsibilities and authority of any
8 other conservator of the peace ~~throughout the Commonwealth, or~~ within such geographical
9 limitations as the court may deem appropriate, whenever such special conservator of the
10 peace is engaged in the performance of his duties as such. Prior to granting an application for
11 appointment, the circuit court shall order the local law-enforcement agency to ~~investigate the~~
12 conduct a background and investigation, in accordance with § 15.1-131.8 (ii), character of the
13 prospective appointee and file a report of such investigation with the court unless the
14 prospective appointee is a police officer as defined in § 9-169 (9). The local law-enforcement
15 agency may charge the prospective appointee a reasonable fee not to exceed the lesser of
16 the actual cost to the local law-enforcement agency or \$300 for the time and costs expended
17 in preparing the investigative report.

18 When the application is made by a corporation, the circuit court shall specify in the order of
19 appointment the geographic jurisdiction of the special conservator of the peace, and this
20 jurisdiction may include any or all counties and cities of the Commonwealth wherein the
21 corporation does business. The clerk of the appointing circuit court shall certify a copy of the
22 order of appointment to the circuit court of every jurisdiction specified in said order, and each
23 special conservator of the peace so appointed on application of a corporation shall present
24 his credentials to the chief of police or sheriff of all such jurisdictions.

25 Every person initially appointed on or after July 1, 1996, as a special conservator of the peace
26 pursuant to the provisions of this section, before entering upon the duties of such office, ~~may~~
27 shall be required by the court to enter into a bond with approved ~~surety~~ security before the

1 clerk of the circuit court of the county or city wherein such duties are to be performed, in the
2 penalty of such sum as may be fixed by the court, conditioned upon the faithful performance of
3 such duties. Such bond shall be conditioned upon the faithful performance of such duties in
4 any locality in which he is authorized to act pursuant to the order of the court. No such bond
5 shall be required, however, if such person has met the training requirements established by
6 the Department of Criminal Justice Services under § 9-170 for police officers.

7 If any such special conservator of the peace is the employee, agent or servant of another, his
8 appointment as special conservator of the peace shall not relieve his employer, principal or
9 master, from civil liability to another arising out of any wrongful action or conduct committed by
10 such special conservator of the peace while within the scope of his employment.

11 B. The court may limit or prohibit the carrying of weapons by any special conservator of the
12 peace initially appointed on or after July 1, 1996, while the appointee is within the scope of his
13 employment as such. If the order of appointment does not prohibit the carrying of weapons,
14 the court may require that the appointee meet the training requirements established by the
15 Department of Criminal Justice Service under § 9-170 for police officers.

16 § 19.2-17. Appointment of policemen for certain places; bond required.

17 ~~Any court or judge mentioned in § 19.2-13 may also appoint, for the places mentioned in that~~
18 ~~section, one or more persons as policemen with the same powers and duties as are vested in~~
19 ~~special policemen in counties under the provisions of Article 3 (§ 15.1-144 et seq.) of Chapter~~
20 ~~3 of Title 15.1, except that they shall not have authority to execute civil process. Before any~~
21 ~~such policeman shall enter upon the duties of his office, he shall enter into bond with~~
22 ~~approved security before the clerk of the circuit court having jurisdiction over the county for~~
23 ~~which he is appointed in the penalty of \$1,000, with condition for the faithful discharge of his~~
24 ~~official duties.~~

25 #

