



**United Counties Council of Illinois**  
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May 6, 2019

To: UCCI Membership

Issue: Dissolution of Police Department

Analysis:

- a. If a municipality dissolves its police department what governmental unit inherits those duties?

While the Municipal Code allows a municipality to provide police protection, 65 ILCS 5/1-1-1 and 5/1-1-2, we are not aware of any statutory requirement that a municipality have its own police department. In fact, the Local Governmental and Governmental Employees Tort Immunity Act provides that “[n]either a local public entity nor a public employee is liable for failure to establish a police department or otherwise provide police protection service.”<sup>1</sup> The county sheriff “shall serve and execute, within their respective counties, and return all warrants, process, orders and judgments of every description that may be legally directed or delivered to them.”<sup>2</sup> Additionally, the “sheriff shall be conservator of the peace in his or her county, and shall prevent crime and maintain the safety and order of the citizens of that county; and may arrest offenders on view, and cause them to be brought before the proper court for trial or examination.”<sup>3</sup> Thus, it appears the sheriff would inherit those duties. However, the provision of the sheriff’s resources would be subject to the discretion of the sheriff absent an intergovernmental agreement (as will be discussed below).

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<sup>1</sup> 745 ILCS 10/4-102.

<sup>2</sup> 55 ILCS 5/3-6019.

<sup>3</sup> 55 ILCS 5/3-6021.

b. Is this voluntary or mandatory?

As set forth above, the language used in Sections 3-6019 and 3-6021 is mandatory, thus indicating an intent that the sheriff is required to provide these services in the county. However, it should be noted that a municipality can also enter into an intergovernmental agreement with another municipality, rather than the county, to have law enforcement services provided.

c. Is the municipality required to compensate whoever assumes the duties for those services?

Absent an intergovernmental agreement, a municipality is not required to compensate the sheriff for the performance of its statutory duties. However, the municipality may want to have an intergovernmental agreement whereby it agrees to compensate the sheriff for performing agreed upon services in a mutually agreeable manner. Such an agreement would spell out the duties required of the sheriff and the compensation from the municipality to the sheriff. The intergovernmental agreement could be in the form of a contract that would remove some of the discretion of the sheriff as to its deployment of resources in exchange for the agreed upon compensation. .

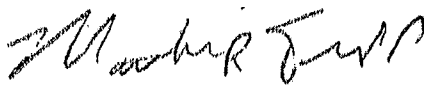
d. If the County Sheriff's Department agrees to assume the duties would the County Board have to agree with the action.

The Illinois Attorney General has opined that a sheriff "has no power independently to enter into agreements with other units of government."<sup>4</sup> Thus, if there was an intergovernmental agreement whereby the county sheriff agreed to provide services for the municipality, the county board would have to approve the contract.<sup>5</sup> It "follows that the county board must provide the necessary funds and authorize the necessary number of deputies to enable the sheriff to fulfill the responsibilities set forth in the contract."<sup>6</sup> However, in the absence of an intergovernmental agreement, there does not appear to be any requirement that county board approve of the sheriff voluntarily assuming those duties. However, the sheriff would have to do so within the confines of the amount appropriated to him or her in the county budget.

GIFFIN, WINNING, COHEN & BODEWES, P.C.



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<sup>4</sup> Ill. Att'y Gen. Op. No. 99-003, at pg. 3 (March 3, 1999).

<sup>5</sup> Id.; See also Ill. Att'y Gen. Op. No. S-1485, at pg. 4 (April 14, 1980).

<sup>6</sup> Ill. Att'y Gen. Op. No. S-1485, at pg. 4.