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October 7, 2024

Sheriff Joseph J. Gamble
Talbot County Sheriff's Office
28712 Glebe Road, Suite 1
Easton, MD 21601

Dear Sheriff Gamble:

As chief legal officer of the State and counsel to the State Board of Elections, I am writing in response to your October 1, 2024 letter to the Talbot County Board of Elections. I thank you for your commitment to the diligent and equitable enforcement of our state's laws within your jurisdiction. However, I want to clarify the limited role of local law enforcement, including our Sheriff's Offices, in the electoral process.

As you know, the Sheriff in each county shall "exercise such powers and perform such duties as now are or may hereafter be fixed by law." Md. Const., Art. IV, § 44. The Sheriff's powers and duties thus are "subject to control by the General Assembly." *Rucker v. Harford County*, 316 Md. 275, 281 (1989). To determine the Sheriff's role in the election process, then, it is necessary to look to the statutes governing elections and election law enforcement.

Under State law, the bipartisan State Board of Elections oversees the local boards of elections and has primary responsibility for ensuring compliance with the Election Law Article and other law governing elections in Maryland. Md. Code Ann., Elec. Law ("EL") § 2-102. The Office of the State Prosecutor is responsible for investigating and prosecuting criminal violations of the State election laws and may use the services of the State Police and other law enforcement as necessary. Md. Code Ann., Crim. Proc. §§ 14-107(a)(1)(i), 14-112(d). My Office also has authority to seek emergency injunctive relief against certain election law violations, including voter intimidation. EL §§ 16-201, 16-1004.

Responsibility for keeping order at polling places is vested in election judges appointed by the local board of elections. EL § 10-303(c). Police officers on duty at polling places, including deputy sheriffs, must obey the orders of election judges. EL § 10-304.

The Election Law Article also specifies who may have access to the voting room in a polling place:

- (1) a voter;
- (2) an individual who accompanies a voter in need of assistance in accordance with [EL § 10-310(c)];
- (3) polling place staff;
- (4) a member or other representative of the State Board or local board;
- (5) an accredited watcher or challenger under [EL § 10-311];
- (6) an individual under the age of 18 who accompanies a voter [subject to certain requirements]; and
- (7) any other individual authorized by the State Board or local board.

EL § 10-308(a). A law enforcement officer who does not fall into one of these categories and is not acting under the direction of an election judge does not have access to the voting room.

State law thus specifies and carefully circumscribes the authority of local law enforcement in polling places, while conferring primary responsibility for election law enforcement on other agencies. I understand that local law enforcement agencies do provide assistance to local boards of elections in some jurisdictions, including deploying personnel to provide security and transporting election materials, but importantly, this is done at the request and under the direction of the local board of elections itself, and in compliance with the laws discussed above.

I therefore advise you that your Office does not have authority to enforce election law except as requested or directed by the local board of elections and/or the election judges at individual polling places (assuming the election judges are themselves complying with the directives of the local board of elections, *see* EL § 10-303(a)(1)). *See also* EL § 16-903(b)(2) (providing limited grounds for law enforcement officers to appear in uniform at polling places only when performing one of the previously mentioned functions or some other “official government function,” or when voting while “on duty or traveling to or from duty”).

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Finally, as for the concerns about election judges that gave rise to your letter, State law requires equal representation of the two principal political parties among election judges at each separate polling place but does not require equality in the total number of judges recruited and trained by the local board of elections. EL §§ 10-201, 10-202. Even at the individual polling place level, while all local boards make best efforts to achieve exact party balance, this is not always possible for reasons outside the local board's control, including the number of judges from each party who volunteer, the local board's training capacity, and the possibility that not all judges assigned to a polling place will actually appear on Election Day. My Office has consistently advised that opening a polling place, even if the number of judges from each party is not exactly equal, is preferable to closing the polling place and disenfranchising all the voters who would have voted there. See Letter from Donna Hill Staton, Deputy Attorney General, and Robert N. McDonald, Chief Counsel, Opinions & Advice, to Del. Samuel I. Rosenberg and Del. Peter Franchot (Oct. 24, 2006). The law also allows, in precincts with six or more total judges, that judges who are not affiliated with either principal political party may be used as long as the total number of those judges does not exceed the total number of judges from either principal party. EL § 10-201(b)(2). To the extent citizens have concerns about the operation of polling places, I encourage them to either volunteer and be trained as election judges themselves or, if that is not possible, to act as a properly accredited challenger or watcher within the polling place, subject to all rules and guidelines for challengers and watchers. See EL § 10-311; State Board of Elections, *Instructions and Information for Challengers, Watchers, and Other Election Observers* (Mar. 11, 2024), https://elections.maryland.gov/pdf/Challenger_and_Watchers_Manual_2024.pdf.

Thank you again for your law enforcement service. Although this is not an official opinion of the Attorney General, I hope that it is helpful in setting forth the roles of law enforcement officers during elections.

Sincerely,



Anthony G. Brown

cc: State Board of Elections
Jared DeMarinis, State Administrator of Elections
Katie Berry, Deputy Administrator of Elections
Talbot County Board of Elections
Tammy Stafford, Talbot County Election Director