

## Introduction

The Vermont Sheriffs' Association is broadly in support of reforms that bring meaningful change and it's our belief that this bill provides an opportunity to do so. This document serves as a concept that does not address all the complexities in detail. As such, we present the following problem statements that we feel, if addressed, would embody reforms of the office of sheriff improving service to the public:

**Problem statement #1:** A community does not feel safe when a person in an elected position, such as a sheriff, has committed a crime against a victim or the department.

**Problem statement #2:** The statutory construct of where sheriffs fall within governance and funding is incredibly complex, leading to frustration when services are needed and aren't available.

**Problem statement #3:** The system under which the Legislature intended sheriffs to be compensated is outdated.

For these reasons, we don't support S.17 as drafted, as it doesn't address solutions to these problems.

## Sheriffs' Broadly & Background

Vermont sheriffs are a unique construct of a public office. Under [Title 24 Chapter 5](#)<sup>1</sup>, sheriffs are charged and empowered with:

- Service of civil process
- Transportation of prisoners
- Preservation of the peace
- May enter written contracts
- Do all other things pertaining to the office of sheriff

The delineation of services and the fiscal responsibility to provide such service, whether intentional or unintentional, creates a piecemealed approach to how sheriffs receive operating funds. Each county's sheriff generally operates across three streams of revenue and expenses. It is often heard that sheriffs must operate as a business. This is said because there is no singular budget authority that the Legislature has constructed responsible for the full scope of the services rendered.

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<sup>1</sup> <https://legislature.vermont.gov/statutes/chapter/24/005>



## Funding

The following is a general summary of how revenues and expenses generally work for sheriffs in Vermont. While we're all bound by the same laws, each county operates differently as the needs of each county are drastically different.

### State Funds

In the annual budget passed by the Legislature, sheriffs (by way of the Department of State's Attorneys and Sheriffs') receive access to funding that:

State budget provides	State budget does not provide
<ol style="list-style-type: none"><li>1. Salary and benefits of the sheriff</li><li>2. Salary and benefits for transport deputies</li><li>3. Incidental funding for transports</li><li>4. Mileage fee for transports</li></ol>	<ol style="list-style-type: none"><li>1. Uniforms</li><li>2. Equipment</li><li>3. Vehicles</li><li>4. Insurance/liability coverage</li><li>5. Fuel</li><li>6. Legal counsel/representation</li><li>7. Human resources</li></ol>

### County Funds

Sheriffs receive funding in an annual budget approved by the assistant judges of the county. Assistant judges are required to provide (when statutory authority mandates the sheriff's responsibility):

1. Keep the courthouse, jail, and other county buildings insured
2. Make needed repairs and improvements in and around the same
3. Full-time employees of the sheriff's department, paid by the county, shall be county employees for all purposes but shall be eligible to join the State Employees Retirement System, provided the county shall pay the employer's share
4. An adequate bond
5. A suitable office
6. Office equipment and supplies
7. Adequate telephone service
8. Law enforcement equipment
9. Supplies
10. Insurance
11. Funds for maintaining and operating such equipment as the assistant judges consider necessary to ensure that the department operates in a safe, accountable, and professional manner
12. Reasonable secretarial assistance and bookkeeping assistance
13. Training department personnel to comply with basic and in-service training requirements established by the Vermont Criminal Justice Council
14. The matching share for grants from federal, State, or private sources
15. Funds to pay the liability insurance premiums for the sheriff and sheriff's deputies



We must call out that [24VSA73\(b\)](#)<sup>2</sup>, which is contrary to the above requirements:

*From revenues derived from a contract, the sheriff's department shall provide salaries, equipment, and other funds necessary to carry out that contract.*

In 1976, the Vermont Supreme Court found in [Town of Stowe v. County of Lamoille, 134 Vt. 402 \(1976\)](#)<sup>3</sup> a variety of issues when the Lamoille County Sheriff tried to employ personnel who were not explicitly authorized in statute. The Town of Stowe contended they could not pay the county tax, as doing so would fund expenditures for which the county had no authority. The court's decision created a hodgepodge of interpretations in each county as to what can or cannot be funded by the county. The following excerpts help explain why counties don't fund sheriffs wholly:

*"Certainly the sheriff himself cannot be personally required to finance the operation of the lockup."*

*"It has already been determined that there is a statutory limit upon the personnel a sheriff can hire from county funds, so that the cost of manning the lockup must come from other sources, presumably the state."*

*"The language of the statute is plain; the assistant judges may, at their option, authorize the employment of a secretary to assist the sheriff. No other statutory authority spelling out the employment of salaried personnel for the sheriff by the county exists."*

*"It has already been determined that there is a statutory limit upon the personnel a sheriff can hire from county funds."*

*"This historical authority has never been held in this state to support the establishment of a paid county police force. This function has been performed by local police forces at the municipal level, and at the state level by the state police force."*

*"Without enabling legislation, expenditures for such a purpose are not part of a proper county function."*

Each county's assistant judges are left to interpret the statutes and Supreme Court opinion that results in inconsistent funding practices across the state. There is not an agreed upon practice across any of the fourteen counties on what is or is not funded. As such, below is a list that on surface level appear to be agreeable by practice:

1. Providing the building/office of the sheriff and paying for repairs
2. Telephone service
3. Building insurance
4. Secretarial and bookkeeping assistance

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<sup>2</sup> <https://legislature.vermont.gov/statutes/section/24/003/00073>

<sup>3</sup> <https://casetext.com/case/town-of-stowe-v-county-of-lamoille>



For the same reason as above, the following is a non-exhaustive list of things generally not paid for by the counties:

1. Deputy sheriffs' salaries
2. Dispatchers/communications officers' salaries
3. Radio equipment and infrastructure
4. Vehicles
5. Law enforcement equipment
6. Body worn cameras
7. Law enforcement liability insurance
8. Automobile insurance
9. Unemployment insurance
10. Retirement (unless position is authorized by statute)
11. Healthcare (unless position is authorized by statute)
12. Employee sick leave (unless position is authorized by statute)
13. Employee vacation leave (unless position is authorized by statute)
14. Property insurance (equipment)
15. Fuel
16. Legal counsel/representation
17. Human resources

A concluding note is that it is difficult to ascertain exact data on county budgets as county audits are not published on the State Auditor's website.

#### Department Funds

The unique part of this funding source is what makes sheriffs' incredibly responsive and nimble to changing environments. As a result, each sheriff has different contractual relationships with the various needs and infrastructure unique to their county. The sheriff is the sole fiduciary responsible for the funds; the funds are insured via the previously mentioned bond that statute requires in the sheriff's name.

Generally, the department's budget captures two to three streams of funds: fees as set by the Legislature for serving process, grant funds (if acquired), and contract funds (if acquired). Each sheriff's department utilizes the Vermont Auditor's [Uniform Accounting Manual](#)<sup>4</sup>, are audited annually, and generally considered enterprise funds as evaluated under the Generally Accepted Accounting Principles and the Government Accounting Standards Board.

Each sheriff usually engages tens, if not hundreds of agreements annually. The sheriff is responsible for administering the contracts. A non-exhaustive list of examples where sheriffs' have and/or continue to contract to provide service:

- Law enforcement coverage with villages and municipalities
- Court security

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<sup>4</sup> <https://auditor.vermont.gov/sites/auditor/files/files/local/Sheriffs-Accounting-Manual%20July%202021%20Revision.pdf>



- Critical infrastructure security
- Regional dispatching
- Security for the Department of Children and Families
- Security for the Department of Mental Health
- Security for state-funded congregate living programs
- Transports of violent/high-risk persons in State custody
- Traffic direction on construction projects
- Regional highway safety task forces for the State Highway Safety Office

Though this revenue stream, the sheriff can recruit, hire, and train personnel to provide services; purchase equipment needed for the performance of these contracts; acquire professional services such as accountants, IT, and attorneys; install radio communications networks; and so on. Often, contracts are limited to periods of a year or less, though the relationships and renewals of contracts tend to endure for decades.

### Perceptions and Realities

The perception of a casual observer would expect that the sheriff provided a county-wide law enforcement services. A sheriff, certified by the Vermont Criminal Justice Council has statewide law enforcement jurisdiction. Because of the construct created through the funding mechanisms above, the reality of the matter is that this isn't true. Sheriffs serve process countywide, transport prisoners statewide, and perform extraditions on behalf of the state nationwide. Contracts are fulfilled within the legal parameters of the contract itself.

Contracting serves as one of the only fully funded methods for which sheriffs can properly and professionally operate. The result of decades worth of successful relationships in various capacities via contracts tends to result in a public perception that the sheriff is obligated to provide any given service, even when the contract doesn't exist. This recently came to a head when sheriffs began notifying the Judiciary that they could not sustain their contract any longer as the cost to provide the service far exceeded the revenue for it.

### Not like the other

One of the issues that S.17 contemplates is how sheriffs are compensated, specifically regarding [24VSA291a](https://legislature.vermont.gov/statutes/section/24/005/00291a)<sup>5</sup>. One reason given for the proposed bill was with regards to sheriffs being compensated for administering contracts and how that language occurred in no other place in state statute. There are a variety of places where sheriffs are held to a different standard, including in statute as well as standard practices of the state:

- Administration fee: The state itself charges 20-30% fees for administration of its agreements
- Retirement: Sheriffs' and their employees are entitled to retirement from the Vermont State Employees Retirement (VSER) system.

<sup>5</sup> <https://legislature.vermont.gov/statutes/section/24/005/00291a>



- Upon retirement, a sheriff's highest compensation is approximately \$47,000 compared to other senior level executives retiring at roughly double
- All employees in the VSER system have the employer's contributions covered by direct taxation – except employees of the sheriff
- Healthcare: Employees who retire from VSER are entitled to 80% of their medical coverage paid by the state during their retirement – except employees of the sheriff. Contributions to the system remain the same between employees of the state and the sheriff.
- Liability: Sheriffs are personally liable for the malfeasance of actions of their deputies unlike any state law enforcement executive, or municipal police chief
- Pay: Despite similar, and sometimes greater responsibilities, each sheriff is compensated lower than analogous positions in state or municipal departments.

## Problem Statement #1:

**Problem statement #1:** A community does not feel safe when a person in an elected position, such as a sheriff, has committed a crime against a victim or the department.

The Vermont Sheriffs' Association believes that we should have a system of government that holds any elected official accountable when involved in a crime, malfeasance, or other violations of public trust. To that end, we support carefully crafted language that assists in all instances of public official misconduct. To the extent of two incidents related to sheriff/sheriff-elect in present mind, we encourage the Legislature to refine impeachment that allows for a less expensive, time-consuming process to remove any state, county, or locally elected individual. This work has been deferred numerous times before and continues to remain the same old problem. Vermont has had at least thirteen prior discussions of impeachment in which five resulted in convictions. Before this legislative session, the most recent discussion of impeachment was in 2016 with regards to a then-senator.

The Vermont Sheriffs' Association commits to supporting the professional operation of every sheriff's office in the state. It provides knowledge and training resources to every elected or appointed sheriff. When a sheriff of any county has been accused of a crime or misconduct, the Vermont Sheriffs' Association rallies around to support the institution of the Office, to ensure the remaining staff and the community see services rendered appropriately, professionally, and legally. Our Association acknowledges the accused remains innocent until proven guilty. This occurred in July of 2022, where support was offered to (and used by) the second-in-command, the High Bailiff of Addison County. We've provided teams of sheriffs to fill in with the administrative and operational needs before and will continue this practice going forward.

There is much work to be done by the Department of State's Attorneys and Sheriffs (SAS) office relating to policy development and management of the Sheriff's program. Currently the office staff is focused on the budget relating to the Sheriffs, transport deputies' salaries and transport program. The Executive Director and Human Resources Director does not have the time to manage the daily Sheriff's issues, policy development, and to take on the additional duties as suggested in this initiative. We are fortunate to be working with the professional staff at the SAS



and this initiative is meant to extend their abilities. The creation of a dedicated management position is long overdue and there are currently enough open transport deputy positions to pay for a high-level management position.

There also exists the State Police Advisory Commission (SPAC)<sup>6</sup>. Sheriffs are required by statute to assemble a civilian oversight panel as part of their required internal affairs. The State has created a similar function for the Department of Public Safety.

#### Solutions:

1. Improve the impeachment process
2. Create a Deputy Director of Sheriffs within the Department of States Attorneys & Sheriffs
  - a. Responsible for developing and maintaining the sheriffs' code of ethics, and model policies
  - b. Oversees the Sheriff's Oversight Commission
3. Create the Sheriffs' Oversight Commission (SOC) in a similar manner as the State Police Advisory Commission (20VSA1922). The SOC can assist sheriffs' departments statewide with the responsibilities they're already needing to fill. The SOC can also consider violations of the code of ethics, whether by a deputy sheriff, or the sheriff themselves.
4. Add language to [24VSA294](#):
  - a. That suspends a sheriff when a finding of probable cause by a criminal court has been made for a listed crime ([13VSA5301](#)), simple or aggravated assault while on duty; or embezzlement. The sheriff can be reinstated upon adjudication
  - b. Allows either a majority vote of the Vermont Sheriffs' Association, or the Executive Director of the Department of State's Attorneys and Sheriffs to suspend the pay of the sheriff.
5. Upon conviction of a crime, a sheriff's pay shall be reduced a significant amount (80%?) until the final disposition of their case (completion of a sentence or otherwise).

#### **§ 294. Sheriff imprisoned or charged with a crime**

~~(a) If a sheriff is confined in prison by legal process, his or her their functions as sheriff shall be suspended. When the sheriff is released from imprisonment during his or her term of office, he or she shall file a certificate of his or her their discharge signed by one of the judges of the Superior Court, in the office of the county clerk, and deliver a like certificate to the high bailiff. Thereupon he or she shall resume the powers and execute the duties of sheriff.~~

~~(b) When probable cause has been found against a sheriff by the Superior Court for a listed crime, simple or aggravated assault while on duty, or embezzlement, their functions as sheriff shall be suspended.~~

~~(c) During the sheriff's term of office, a sheriff suspended under subsections (a) or (b) of this statute shall be reinstated at the disposition of their docket, once the sheriff files a certificate of their discharge signed by one of the judges of the Superior Court, in the office of the county clerk, and deliver a like certificate to the high bailiff. Thereupon he or she shall resume the powers and execute the duties of sheriff. A reinstated sheriff whose pay was suspended under~~

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<sup>6</sup> <https://legislature.vermont.gov/statutes/section/20/113/01922>



subsection (d) of this section shall also provide the certificate to the [Agency of Administration | Department of Human Resources | ???].

(d) By a majority vote, the Vermont Sheriffs' Association may vote to suspend the pay of a sheriff that has been suspended under subsection's (a) or (b) of this section. A suspended sheriff shall receive no compensation under 32VSA1182 and 24VSA291a(c). Pay shall resume to the sheriff upon reinstatement under subsection (c). Upon reinstatement, a sheriff shall only receive back-pay if they are acquitted or the underlying charge resulting in their suspension is dismissed.

### **§ 333. Confinement of sheriff; vacancy; suspension**

(a) A high bailiff by virtue of a writ or other process directed to him or her against the sheriff may commit the sheriff to the Commissioner of Corrections.

(b) While the sheriff remains in confinement, ~~or~~ in case of vacancy in the office, or suspension of duties under 24VSA294, the functions of the sheriff shall be exercised by the high bailiff, who shall have the powers and be subject to the liabilities of a sheriff until the sheriff is ~~released from confinement~~ reinstated pursuant to 24VSA294(c) or ~~one~~ a sheriff is appointed and sworn into office.

## Problem Statement #2: Responsibilities

**Problem statement #2:** The statutory construct of where sheriffs fall within governance and funding is incredibly complex, leading to frustration when services are needed and aren't available.

Vermont's various emergency services, from law enforcement, to EMS, to fire services, and dispatch have a storied history of organic growth. As identified above, there is a variety of nuance to how and why sheriffs might engage or not engage in any contract. It is also noted that sheriffs do not have an endless depth of resources, though it is a storied practice that sheriffs work with other sheriffs to fulfill any need when possible.

There is a broadly acknowledged need of security in court houses. In 2020, the Vermont Sheriffs' Association contacted the Vermont Judiciary identifying that the cost provided by the Judiciary was insufficient to continue providing the services. Contrary to the need for a contract to cover all costs associated, the Judiciary's rates failed to cover most agencies expenses. Some counties were reimbursed \$33.30 or less. In January 2022, the Judiciary increased the reimbursement to \$36.00 per hour. Based on work completed by the Vermont Sheriffs' Association, as well as separate parallel work of the Department of State's Attorneys and Sheriffs was \$50.00 to cover the cost of salary, retirement, insurances, etc.

The Legislature added language in 2022 to better manage resources paid for by the state. Unless the desire exists to simplify the various issues previously outlined, the following recommendations are provided to improve the current system.

### Solutions:

1. Add language to Title 24 that clarifies the state responsibilities of the sheriff and places the budget for those duties within the Department of States Attorneys and Sheriffs budget.





2. Create a secure facility for the Department of Children and Families.
3. Improve the situation with available beds for mental health patients

### Problem Statement #3: Compensation

**Problem statement #3:** The system under which the Legislature intended sheriffs to be compensated are outdated.

With the title of S.17 being, “An act relating to sheriff reforms,” we get the opportunity to discuss how a sheriffs’ compensation improves the institution of the sheriff. First, sheriffs are compensated by the state. In addition, 24VSA291a allows a sheriff to collect a fee not to exceed 5% of the value of the contract. As an example, a sheriff may accept \$50 for administration of a contract valued at \$1,000 and falls within the total cost of the contract. Contract administration is very involved. According to Dr. Lawrence L. Martin, “Contract administration can be defined as all those activities that take place from the time a decision is made to contract out until the contract is fully executed and final payment is made. Contract administration costs include procurement, contract negotiations, contract award, the processing of amendments and change orders, the resolution of disputes, the processing of contractor invoices, and contract monitoring and evaluation.”<sup>7</sup>

As of FY2022, sheriffs’ salaries are below rank and file state law enforcement and civilian positions. In FY2022, the highest compensated sheriff by the state received 44.14% less than the director of the state police.

Positions of state police sworn/dispatch personnel compensated higher than the lowest paid sheriff<sup>8</sup>

Position	Highest	Lowest	Count
Colonel, VSP	\$265,327.87	\$265,327.87	1
Major, Vermont State Police	\$257,119.54	\$241,703.15	3
Governor	\$254,870.60	\$254,870.60	1
Sergeant	\$234,978.42	\$115,946.70	78
Lieutenant	\$223,760.37	\$112,159.00	25
Captain	\$223,734.25	\$156,939.30	9
Trooper	\$217,269.73	\$109,665.79	24
PSAP Emrgcy Com Dsp Spvsrs	\$207,649.30	\$118,991.61	8
PSAP Emrgcy Comm Dispatcher II	\$166,492.41	\$109,991.61	11
PSAP Administrator	\$159,749.43	\$159,749.43	1
Sheriff	\$148,190.67	\$108,012.02	14
PSAP Emrgcy Comm Dispatcher I	\$143,374.71	\$109,139.03	10

<sup>7</sup> Mackinac Center for Public Policy – Determining the Cost of Contract Service Delivery  
<https://www.mackinac.org/7273>

<sup>8</sup> Total Compensation and Expenses FY2020 – 2022 -  
<https://data.vermont.gov/Government/Total-Compensation-and-Expenses-FY2020-2022/2is8-zt8g>



Our Association notes that our discussion of compensation is unique for a variety of reasons, flagging the position sheriffs are being placed in while proudly acknowledging our exemplification of transparency to this discussion. Where discussion of how an employee of the state is compensated is occurring in public testimony, livestreamed to YouTube, supports that sheriffs are treated unlike other public officials, elected or otherwise. We identify this observing the Legislature codified in Title 1 VSA Chapter 5, the opportunity for a public body to enter into Executive Session for the purpose negotiating contracts, labor relations agreements with employees, and for the appointment or employment or evaluation of a public officer or employee, provided that the public body shall make a final decision to hire or appoint a public officer or employee in an open meeting and shall explain the reasons for its final decision during the open meeting.

Under S.17, which seeks to reform sheriffs, we are aware of no theory of compensation in which cutting pay creates better accountability, or more suitable sheriffs. The Vermont Sheriffs' Association acknowledges that the current system the Legislature intends sheriffs to be compensated is outdated. As currently written, S.17 does nothing to recognize the contributions a sheriff administering tens if not hundreds of contracts a year. Rather, it disincentivizes people from wanting to hold the office.

When considering compensation, there are a variety of factors to review:

- What Knowledge, Skills, and Abilities required for the position?
- What do we pay equivalent positions?
- What assets and resources are they responsible for?
- What does the market pay?

Under the first and third problem statements we articulate, I would submit that Vermont should pursue a leading compensation strategy that targets the attraction of qualified, competent personnel.

## Solutions

1. Leave contract administration intact and add a prevailing limit to what the sheriff can accept for contract administration, such as, "Total compensation cannot exceed the chief executive of the state police."
2. Allow the sheriff and the entity they contract with to negotiate the terms of contract administration and eliminate the specificity that is unique to sheriffs alone. Doing this would align statute with the State's current practice of negotiating cost of administration.
3. Require the sheriff to pass through compensation for administration to the Department of Human Resources, which would provide oversight from the state, while also addressing the retirement discussion.
4. Eliminate any pay for administration of contracts and properly compensate the sheriff. Provide all funds needed to operate a sheriff's department through taxes. A non-exhaustive list includes:
  - Vehicles
  - Uniforms



- Radio communications equipment
- Training
- Retirement
- Healthcare
- Professional services
  - Accounting
  - Administration
  - Attorney

This Vermont Sheriffs' Association renews its desire to work with the Legislature to find meaningful improvements to the institution that help benefit our communities and members of the public we serve. We are embracing reforms which seek improving the institution of the office of sheriff.

Respectfully submitted,

Sheriff Mark Anderson, President  
Vermont Sheriffs' Association

Sheriff Roger Marcoux, 1<sup>st</sup> Vice President  
Vermont Sheriffs' Association

