

Department of State's Attorneys & Sheriffs  
David J. Cahill, Executive Director

**REPORT REGARDING PROJECTED FY17 SAVINGS  
AND AVOIDED COSTS  
RESULTING FROM VIDEO ARRAIGNMENTS  
AND PRETRIAL HOME DETENTION PROGRAMMING**

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This Report is made pursuant to Section E.335.3 of Act 58 of 2015 which requires the following:

*On or before November 1, 2015, the Court Administrator, the Department for Children and Families, the Department of Corrections, the Department of State's Attorneys and Sheriffs, the Defender General, and any other impacted entity deemed relevant by the Committee shall report to the Joint Legislative Justice Oversight Committee on the estimated fiscal year 2017 avoided costs resulting from the budget and cost-saving measures undertaken during the 2015 legislative session, including whether there are any reductions in Department of Corrections' demand for out-of-state beds, and reductions in demand for sheriffs' transports resulting from expansion of home detention and video conferencing initiatives.*

**SUMMARY: The Chittenden Video Arraignment Pilot Project and the Windham Pretrial Monitoring Pilot Project, though both promising initiatives, have been too small in scope and duration to generate meaningful savings or to allow for the reliable projection of FY17 savings should these Pilot Projects be expanded. To date, our Department has not realized any savings or avoided costs from these initiatives, though it is possible that other agencies, departments, and branches of government have realized some savings or avoided costs. We have made specific recommendations at the end of this Report to improve upon the "no savings" result.**

**SCOPE**

This Report is limited in scope to actual FY 16 and projected FY17 savings and avoided costs attributable to the Chittenden video arraignment pilot project and the Windham pretrial home detention pilot project.

## QUALIFICATION

This Report is authored by an attorney, not an economist. As such, please take financial prognostications with a grain of salt.

## CHITTENDEN REGIONAL VIDEO ARRAIGNMENT PILOT PROJECT

Commencing midsummer 2015 and continuing through the present, regional arraignments heard in the Chittenden Superior Court, Criminal Division, have been conducted on a pilot basis using video conferencing technology. The pilot has been scheduled for Wednesdays and appears to have been implemented on twelve out of thirteen available Wednesdays. On those Wednesdays, detainees have participated in arraignment hearings remotely from the correctional facility rather than being driven by the Chittenden Sheriff from the facility to court for an in-person appearance at arraignment. Conversely, on those Wednesdays, detainees participating in court hearings other than arraignments have been driven by the Chittenden Sheriff to and from court as usual.

During the three month period from August 1, 2015 through October 31, 2015, a total of 405 regional arraignments involving detainees were conducted in the Chittenden Superior Court, Criminal Division.<sup>1</sup> Of those 405 regional arraignments, 342 (84.4%) were conducted via the traditional method of physically transporting detainees from a correctional facility to court for an in-person arraignment. The remaining 63 regional arraignments (15.6%) were conducted on a Wednesday via the pilot videoconference and did not require the physical transport of a detainee to or from court by a sheriff's department. On these Wednesdays, the Chittenden Sheriff continued to transport prisoners for non-arraignment Chittenden Court events and to out-of-county events.

Due to the limited duration (3 months), chronological scope (Wednesdays only), geographical scope (Chittenden region only), and mission scope (arraignment events only) of the Chittenden Pilot, there have been no measurable savings in the prisoner transport budget. This is because prisoner transport is primarily accomplished by full-time, salaried, state-paid deputy sheriffs who provide statewide transport services and whose training and employment costs cannot be scaled-down to reflect a short-term, one-day-per-week reduction in demand limited to one corner of the state. If the video arraignment pilot project were expanded in duration, chronological scope (more days per week) and geographical scope (more counties), it would be possible to determine which step-fixed costs (e.g., salaried employees) could be reduced or avoided in response to reduced long term, statewide demand for transports. It would also be possible to report which variable costs (e.g., costs paid for the services of per diem "overflow" transport services) are actually being reduced or avoided by virtue of a reduction in demand for

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<sup>1</sup> Data provided by the Chittenden County Sheriff.

overflow transport services. Generally speaking, the sheriffs are not in a position to adjust staffing in response to short- or intermediate-term (meaning: pilot) trends in demand for transport services because the training process for their sworn law enforcement employees is both costly and lengthy.

The difficulty in identifying savings is borne out by statistics comparing Chittenden prisoner transport expenses for the period July 1, 2014 through October 31, 2014 (no pilot in place yet) and the same period the following year, July 1, 2015 through October 31, 2015 (pilot program in effect for most of this period). See *Figure 1*, below.

*Figure 1: Chittenden Transport Cost Comparison – Pilot vs. No Pilot.*

*(Source: Department of State’s Attorneys & Sheriffs billing and payroll records.)*

	JULY 1, 2014- OCTOBER 31, 2014  (NO VIDEO ARRAIGNMENT PILOT PROJECT)	JULY 1, 2015- OCTOBER 31, 2015  (VIDEO ARRAIGNMENT PILOT PROJECT)
COST OF EMPLOYING CHITTENDEN STATE- PAID TRANSPORT DEPUTIES	\$141,077	\$145,726
CHITTENDEN PER-DIEM “OVERFLOW” TRANSPORT COSTS	\$23,159	\$26,482
CHITTENDEN TRANSPORT MILEAGE COSTS	\$12,124	\$12,770
TOTALS	\$176,360	\$184,978
TOTAL PERCENT CHANGE		+ 4.88%

During this period, all three categories of transport costs – salaries, per diem transport costs, and mileage – increased from 2014 to 2015. Granted, some of this increase may be attributed to inflation and variation in the court docket, but it is worth noting that the statutory per diem reimbursement rate did not increase from 2014 to 2015. As such, an increase in per diem spending from 2014 to 2015 represents an actual increase in demand for per diem transport services in 2015.

After accounting for routine inflation, the increase in transport spending on salaries and mileage during the Pilot Program may not be statistically significant. To the extent the increase (or failure to achieve a decrease) needs explanation, the explanation is:

- The short duration and limited scope of the pilot program has not allowed the Chittenden Sheriff to reduce fixed costs.
- Prisoner transport demand remains high, and indeed even on “Pilot Days” (Wednesdays) the Chittenden Sheriff deputies frequently make trips to and from the correctional facility to transport prisoners for court events other than arraignments. In simpler terms, the deputies continue to drive between the court and prison even while the video pilot is taking place. For those trips to be avoided, the Pilot would need to be expanded to include court events other than arraignments.
- The prisoner transport system functions primarily as a unified statewide system with sheriffs’ deputies routinely crossing county lines in order to achieve the highest possible occupancy of each transport cruiser and cover the fewest aggregate miles. A pilot project tailored to one region is limited in its ability to generate savings in a system that achieves its current level of efficiency from operating, in significant part, on a unified statewide basis. Indeed, a regional pilot project has the effect of injecting a short term disruption into the statewide system as the system learns to adapt to short-term reductions in transport demand one day per week in one corner of the state.

#### WINDHAM PRETRIAL MONITORING PILOT PROJECT

13 V.S.A. Sec. 7554d(a)(1) provides that:

*The Windham County Sheriff’s Office (WCSO) shall establish and manage a two-year electronic monitoring pilot program in Windham County for the purpose of supervising persons ordered to be under electronic monitoring as a condition of release pursuant to section 7554 of this title, to home detention pursuant to section 7554b of this title, and home confinement furlough pursuant to 28 V.S.A. Sec. 808b. The program shall be part of an integrated community incarceration program and shall provide 24-hours-a-day, seven-days-a-week electronic monitoring with supervision and immediate response.*

Windham County Sheriff Keith Clark is midway through the two-year Pilot Project authorized above by the General Assembly. Sheriff Clark reports that, in any given month, there are on average six persons participating in his monitoring Project, and that the Project has an intended capacity of fifteen persons. The Project is thus operating at below half-capacity, largely owing to a lack of referrals from the court system. Criminal justice system participants have observed that a change in the home confinement and home detention statutes regarding victim rights and the appropriate scope of exceptions to the presumption of “house arrest” may be necessary in order to achieve a higher referral rate from the court system.

The Department of State’s Attorneys & Sheriffs is not in a position to estimate the savings, if any, that the Department of Corrections (DOC) might experience from a reduction in DOC’s in-state detainee headcount by six, the average number of participants in the Windham Pilot Project. The Department of State’s Attorneys & Sheriffs derives no savings from Sheriff Clark’s operation of this Project. It should be noted for sake of comparison to DOC’s per-detainee cost of incarceration that approximately \$96,000 has been spent administering the Project over the past fourteen months, making for a rough annual cost of \$82,200 with a rough annual cost-per-participant of \$13,700. Because much of the spending to date has been on fixed costs, one would expect the annual per-participant cost to fall well below \$10,000 if the number of participants increased to match Sheriff Clark’s capacity.

#### RECOMMENDATIONS

- (1) It will be easier to estimate prisoner transport savings from videoconferencing if the videoconferencing pilot project(s) are equipped to achieve a true “no transport” condition for all court hearings on a given day of the week in an entire region of the State. The current Chittenden Pilot project does not avoid physical transport trips on pilot days because transports are still necessary for non-court hearings.
- (2) It will be easier to estimate prisoner transport savings from videoconferencing if the pilot project(s) are able to operate in multiple adjacent counties at once. The current one-county project is disruptive to a physical transport system that achieves its current level of efficiency from crossing county lines.
- (3) Home detention (pre-trial) and home confinement (post-sentencing) programs will continue to be underutilized unless judges, prosecutors, and crime victims have confidence in the system. Clear and firm statutory boundaries need to be set in place regarding the scope, purpose, and duration of detainee/inmate movement outside the home while on GPS supervision. Likewise, statutory language must be added to make clear the extent to which crime victims have a right to advance notice of detainee/inmate movement outside the home and any future changes in the movement schedule.