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**Report to The Vermont Legislature**

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**INMATE TRANSPORTATION STUDY REPORT**

**In Accordance with Sec. E.207 of Act 11 (H.16) of 2018 Special Session  
An Act Relating to Making Appropriations for the Support of Government, Financing  
Education and Vital Records**

**Submitted to:** Senate and House Committees on Appropriations and Judiciary, the House Committee on Corrections and Institutions, and the Senate Committee on Institutions

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The Work Group also wishes to thank the State's Chief Performance Officer, Susan Zeller, for her support regarding process improvement strategies that contributed to this report.

**Report Date:** November 1, 2018

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## **EXECUTIVE SUMMARY**

To complete this report, representatives from each of the departments designated to the Inmate Transportation Work Group met several times. The Work Group examined a number of different options and discussed strategies for creating a more efficient transportation process that could also potentially reduce both the costs and the strain on staff resources for all of the statewide stakeholders.

Three departments within the Agency of Human Services (AHS) require transports for individuals in their custody. This includes the Department of Corrections (DOC), the Department of Mental Health (DMH), and the Department for Children and Families (DCF). Many transports are also currently being conducted by staff from DOC and DCF. All three departments have contracts with the Sheriffs that provide for the required transport services, and DOC/DCF also utilize private vendors. The Sheriffs' offices in each county provide transports to criminal court. In addition, AHS contracts with the Sheriffs' Offices for supplemental transportation services.

The cost of transports for each department is significant. The amount of movement conducted – between correctional facilities, to court, to hospitals, and other transport needs – is significant and costly. There is a considerable amount of coordination between the DOC and the Sheriffs to facilitate these transports. The collaboration between the DOC and the Sheriffs prevents duplicative efforts in these transports and helps to ensure that those being transported are arriving for their court proceedings in the most timely and efficient manner as possible.

The Work Group evaluated current processes to examine what is currently working well and what changes could be made that might improve processes and/or reduce costs and continue to serve all the populations in our custody and care.

It is the recommendation of this Work Group to initially focus on one area, reducing the total number of court-related transports, as it is the area that could most likely be impacted without major system changes or a large amount of resources. A reduction of court-related transports will also likely greatly reduce the interfacility transports being done by the DOC.

There are a number of lingering questions related to how much these recommendations will reduce the total number of transports required annually statewide. Additionally, there are implementation costs associated with some of the process improvement recommendations outlined in this report.

## **INTRODUCTION**

Act 11 of the 2018 Special Session established an Inmate Transportation Work Group to study Vermont's system of transporting inmates for court appearances and make recommendations for improving the system's processes and efficiency and reducing its cost.

Inmate Transportation Study Report

This report is submitted under 2018 Legislative Act 11 (H.16) Sec. E. 207 INMATE  
TRANSPORTATION WORK GROUP

(a) There is established an Inmate Transportation Work Group to study Vermont's system of transporting inmates for court appearances and make recommendations for improving the system's processes and efficiency and reducing its cost.

(b) The Work Group shall be composed of the following members:

(1) The Secretary of Administration or designee.

(2) The Chief Superior Judge or designee.

(3) The Executive Director of the Department of State's Attorneys and Sheriffs or designee.

(4) The President of the Vermont Sheriffs' Association or designee.

(5) The Defender General or designee.

(6) The Commissioner of Corrections or designee.

(7) The Commissioner of Mental Health or designee.

(8) The Commissioner for Children and Families or designee.

(c) The Work Group shall study how to develop and implement a system that ensures inmates are transported to court when necessary in the most cost effective and efficient manner possible. The study shall include:

(1) any recommendations for process improvements to the current inmate transport system;

(2) recommendations for methods to ensure that transport deputies are available when needed;

(3) analysis of whether transport should be provided by the Judiciary, the Executive, or a statewide entity; and

(4) consideration of whether transported inmates should be permitted to be scheduled first in court proceedings in order to reduce transport deputy costs.

(d) On or before November 1, 2018, the Work Group shall submit a report to the Senate and House Committees on Appropriations and Judiciary, the House Committee on Corrections and Institutions, and the Senate Committee on Institutions containing its recommendations, including any proposals for legislative action.

Note: This Work Group has assumed the intent of the use of the word “inmate” is broader than the traditional definition of inmate which is tied to someone in a correctional facility. Given that DMH and DCF were asked to serve on this Work Group, the assumption is the legislature intended to include individuals with mental illness and juveniles being transported as well as those individuals in the custody of DOC.

### **BACKGROUND OF INMATE TRANSPORTATION**

The fourteen Vermont Sheriffs’ departments are statutorily mandated to provide transports. The Sheriff’s work in the transportation of individuals in state custody is outlined in 24 V.S.A. § 290, which states that:

“Full-time deputy Sheriffs whose primary responsibility is transportation of prisoners and persons with a mental condition or psychiatric disability shall be paid by the State of Vermont. The appointment of such deputies and their salary shall be approved by the Governor or his or her designee. The Executive Committee of the Vermont Sheriffs Association and the Executive Director of the Department of State’s Attorneys and Sheriffs shall jointly have authority for the assignment of position locations in the counties of State-paid deputy sheriffs and shall review the county location assignments periodically for efficient use of resources.”

Additionally, 24 V.S.A. § 296 includes that:

“All commitments to a State correctional facility or to any other place named by the Commissioner of Corrections or committing court shall be made by any sheriff, deputy sheriff, State Police officer, police officer, or constable in the State, or the Commissioner of Corrections or his or her authorized agent.”

This includes any inmates, juveniles, and those with mental illness. The type of transport most commonly being conducted by the Sheriffs is for persons lodged in correctional facilities who must be brought to criminal court for arraignments and other pre-trial hearings. For persons with mental illness, the Sheriffs provide transport to and from Emergency Departments (EDs), inpatient units, and civil and criminal court. Much less frequently, DMH requests Sheriffs provide transport for Level 1 patients to and from appointments, depending on their acuity. DMH also contracts with the Sheriffs for supervision of persons with mental illness in EDs when requested by the EDs because of behavioral concerns.

It is also important to note that there was legislation in both 2017 and 2018 pertaining to Sheriff's transport of people in DMH and DCF custody.

The first was Act 85 (2017), Section E.314 which required future AHS contracts to require Sheriffs to comply with AHS policies on the use of restraint. DMH has separate contracts with two Sheriff departments, Lamoille and Windham. These two departments have undergone special training and comply with the DMH policy on restraints (Attachment A). This requires the Sheriffs to use soft or no restraints, be in plain clothes, and use unmarked vehicles whenever possible.

#### Sec. E.314 TRANSPORTING PATIENTS

(a) Beginning on July 1, 2017, any new or renewed contracts entered into by the Agency of Human Services with designated professionals or law enforcement officers for transport of persons pursuant to 18 V.S.A. § 7511 or the transport of children pursuant to 33 V.S.A. § 5123 shall include the requirement to comply with the Agency's policies on the use of restraints.

Then, last session, Act 200 (2018), in Section 6, added a requirement that the Secretary of AHS report on the implementation of the requirement above.

#### Sec. 6. REPORT; TRANSPORTING PATIENTS

On or before January 15, 2019, the Secretary of Human Services shall submit a written report to the House Committees on Appropriations and on Health Care and to the Senate Committees on Appropriations and on Health and Welfare regarding the implementation of 2017 Acts and Resolves No. 85, Sec. E.314 (transporting patients). Specifically, the report shall:

- (1) describe specifications introduced into the Agency of Human Services' fiscal year 2019 contracts as a result of 2017 Acts and Resolves No. 85, Sec. E.314;
- (2) summarize the Agency's oversight and enforcement of 2017 Acts and Resolves No. 85, Sec. E.314;
- (3) provide data from each sheriff's department in the State on the use of restraints during patient transports; and
- (4) if the data indicates noncompliance, identify the plans of correction and how the services of noncompliant sheriffs' departments are being replaced if the plan of correction is not achieved.

To facilitate the transports, Sheriffs employ both State-paid Deputy Sheriffs (“State Transport Deputies”, or “State-paid Deputies”), and non-State employees (Deputy Sheriffs) that work directly for the Sheriff’s local department as either permanent or per diem Deputies. These non-State employees assist the Sheriff with the many, and wide-ranging, statutory duties that the Sheriffs have, and in fulfilling the Sheriff’s private contracts for services.

A court will generate transport orders either on its own initiative or at the request of the defense attorney. The State’s Attorneys occasionally request a transport order when an inmate is needed as a witness. The court staff contact the Sheriff’s Department in a particular county and/or send the Transport Order from the court. The Sheriffs and the court staff then manage and coordinate the movement of prisoners to and from the courts from the correctional facilities. DMH works directly with the Sheriffs regarding the movement of persons with mental illness to and from EDs and inpatient units. The court works directly with Sheriff’s regarding the needs for people with mental illness to be transported to and from civil and criminal court. The court also sends these transport orders to the DOC. The Sheriff’s staff call the correctional facilities to advise that they will need the inmates ready for transport. The Sheriff is ultimately responsible for ensuring that the inmate arrives at the proper time at the court that has been designated. In preparation for a transport, the Sheriff’s staff must inspect the secure area of the cruiser or van for any potential hazards or contraband before (and after) a transport.

The Sheriffs have no control over the number of transports or when those transports are required. For inmate transports, DOC typically transfers the inmate to the facility nearest to the court related to the transport. This is done when there is enough notice but is not always possible. While this results in both DOC and the Sheriffs conducting transports, it does create efficiency with regard to court transports. The Sheriffs are typically able to conduct a shorter transport since the inmate is at a facility nearer to where the court appearance will be. There could be delays, which do have an impact on the timeliness of the transport and arrival at court. At the correctional facility, the Deputy Sheriffs may have to wait while DOC staff address other critical tasks in the booking and holding area before the inmates being transported to court can be released.

For almost all DMH transports, DMH/the Court is only asking for Sheriff involvement when there is a need to move people to and from EDs, inpatient units, and civil or criminal court. DMH generally provides transport to patients at Vermont Psychiatric Care Hospital (VPCH) for activities such as medical appointments. However, depending on the acuity of the person, DMH may request the Sheriffs to do these transports. The other Level 1 units at the Brattleboro Retreat and Rutland Regional Medical Center may at times request that DMH pay for Sheriff transports. Non-Level 1 patients at designated hospitals are the responsibility of that hospital for the transport to medical or other appointments.

For youth in custody, DCF utilizes three modes of transportation: basic, enhanced and secure. A youth rides in a vehicle with one adult for basic transportation, and with two adults for enhanced transportation. In either of these modes of transportation, it is preferred that the adult is known to the youth. Secure transportation is used when a youth is being transported

to the Woodside facility, or for a youth already a resident at Woodside who is being transported to and from Court. The decision to use secure transportation is made by the Family Services Worker based on their assessment of the youth's risk to run or recent behavior indicating the youth may risk his or her own safety. The Family Services Worker then fills out a request for secure transportation which is faxed to the appropriate Sheriff's office. Use of soft restraints rather than hard restraints is encouraged.

The Sheriffs conduct these transports to support the courts, DOC, DMH, and DCF. A significant amount of transport orders are sent, and the cost and demands of these are considerable.

In Fiscal Years 2017 and 2018, 7,270 and 6,781 court transports were done, respectively, by the Sheriffs, State Transport Deputies, and per diem Deputy Sheriffs. These numbers include all criminal, juvenile, mental health, warrant lodgings, and mittimus lodgings.

Separately, there were also transports and other related costs such as supervision in FY2018 for each of the AHS departments, which totaled approximately \$3,370,000<sup>1</sup>

DCF:

- 215 secure transports conducted by the Sheriffs as part of the AHS contract, at a cost of \$117,813.
- 193 transports through private contract, at a cost of \$96,046.
- Local transportation for Family Services Division (FSD), at a cost of \$477,269.
- Transportation provided by FSD staff using state and private vehicles, including 35 Case Aides who spend approximately 50% of their time on transportation; while the costs for this are not available, this would include staff time, mileage reimbursements, and transport vans at Woodside.

DMH:

- 233 secure transports conducted by the Sheriffs as part of the AHS contract, at a cost of \$92,445, as well as \$781,074 for supervision services.
- 190 transports through private contract, at a cost of \$117,790.

DOC:

- 40 transports by Sheriffs (\$51,143) and 14 conducted by US Prisoner Transport (PTS) (\$14,722).
- Transports conducted by DOC staff, which include movement related to available bed space, specialized units, separations, medical appointments and emergencies, civil and family court appearances, and facilitating Sheriff transports of inmates to courts. The costs of these transports, which also includes fleet vehicles, fuel, training, equipment, staff salary and benefits, and overtime costs were estimated to be \$1,622,076 in FY18.

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<sup>1</sup> A summary of the data collected can be found in Attachments B through G at the end of this report.

## **DOC Inmate Transport Processes**

Inmate transports require planning, coordination, and resources. It is a time-consuming and costly activity for DOC. Any strategy that could be implemented to reduce the total number of inmate transports would create efficiencies, reduce costs, and have a positive impact both on those in the custody of DOC as well as the staff who conduct these statewide transports. The processes involved in conducting inmate transports are outlined below and illustrate the many challenges within the current system.

An inmate being transported, even for a single court appearance, has a minimum of two strip searches. They may spend hours in physical restraints. They may spend the night in Admissions (with reduced privileges) until a bed assignment is given. They must re-acclimate to a new institution. These are all items that an inmate will experience each time a transport is done for court appearances and could be frequent or involve more than just one facility transfer as part of the process.

There are risks involved in these transports, both for DOC staff and for the Sheriffs' staff who conduct the transports. The transports themselves take away from other security needs within each facility. The volume of transports DOC conducts accounts for a significant amount of staff time and needs in facility operations, and many staff are either directly involved or impacted by these processes. The same is true for the Sheriffs. DOC and the Sheriffs spend thousands of hours moving inmates around annually and acclimating them to their new environments. Staff time is one of the most valuable resources we have – much of the impacted departments' budgets are for staff. Transports both directly, and through all the connected functions described above, account for a large portion of staff time and overall costs.

Transport brings inmates outside of DOC walls, and sharply reduces the resources available to mitigate an escape attempt. Correctional Officers and Sheriffs conducting these transports are isolated from assistance. In a correctional facility living unit, an officer faced with an emergency will have assistance and the arrival of senior or supervisory staff just seconds later. In a transport van in a remote part of the state, this assistance could be much more delayed.

Staff that conduct these transports must be trained and prepared for risks in their transport work. There is the potential during any transport for inmates to attempt an escape or physical attack on the staff. There is also the potential of encountering medical emergencies (transport staff and/or inmates), severe weather during transport, transporting individuals who may be in crisis from mental or physical health issues, and other events. For the Sheriffs, who each own their vehicles, there is the added risk of liability under their auto policy in the event of an accident.

Typically, males and females are not transported together nor are juveniles transported with adults. There are transport vehicles outfitted with panels that provide for sight and sound separation and that have the capability to transport males and females together as an example.

DOC and one of the Sheriffs have vehicles that can accommodate this. The cost of these specialized vehicles is prohibitive for most, but does allow for increased transport efficiencies, and can prevent the need for additional vehicles and staff when there is a need to transport a mixed group (males and females and/or juveniles and adults) to or from the same part of the state. A transport should never be conducted with less than two staff, for the protection of the inmates, the courts, the public, and for the staff themselves.

### **INMATE TRANSPORTATION CHALLENGES**

Within the existing structure, the court transports conducted by the Sheriffs have been the most efficient method, but the total number of transports being done are greatly impacted by the lack of a centralized system. Inmates in the custody of DOC are housed in six correctional facilities across the state. Lack of bed space and specialized unit needs greatly reduce the ability of DOC to house inmates in the facility nearest to where the court hearings are scheduled, and these factors increase the overall transport need. An example of this was an operation that resulted in many people being incarcerated in connection with the same event. Due to separation orders, these individuals had to be housed in all six correctional facilities and all were ordered to appear in court at the same time. This meant that DOC staff needed to transport these inmates to one facility to facilitate the court transports done by the Sheriffs. The amount of transports could have been reduced, or avoided altogether, if there were a larger correctional facility and/or technology was in place to facilitate video arraignments.

Despite the best planning efforts, the Sheriffs frequently conduct long trips across the state for transports and sometimes are driving more than 12 hours in one day. While this may be inefficient, costly, and creates the potential for accidents, it is something that is unavoidable when a transport order is received and presence at the court is required. Most of the correctional facilities are not located near any of the courts. In other states, detainees are held in county lockups pretrial, which reduces transport needs. There was a time when Vermont used this system, though maintaining the county lockups was significantly more expensive than the current system.

Attempts have been made in the past to reduce the total number of transports. Some examples of this are that many courts do not require appearances for routine status conferences. However, the hearings are not uniformly named across all the county courts.

It was with these and other operational challenges in mind that the Work Group reached the recommendations that are outlined within this report.

## **RECOMMENDATIONS FOR PROCESS IMPROVEMENTS TO THE CURRENT INMATE TRANSPORT SYSTEM**

The Work Group looked at all current processes and practices and consulted with the State's Chief Performance Officer, Susan Zeller. From the current conditions they considered Lean process improvements to create the desired efficiencies. To reach these efficiencies, many obstacles need to be addressed. Many of these are difficult to control: the number of court appearances required; number of inmates with court hearings scheduled; placement within the correctional system relative to which court the hearings will be taking place; and, scheduling of these court processes to provide for sufficient planning by all involved. Given the challenges and constraints, the work group concluded reducing the total number of DOC transports would be the most practical strategy as it relates to overall efficiency and potential cost savings. This would also have the added benefit of increasing overall security by limiting movement of inmates around the state.

The Work Group developed two strategies that will result in the reduction of transport needs with minimal investment of new funds. This includes 1) standardizing the language used for pre-trial court processes across the state and 2) leveraging the video conferencing capabilities that now exist to expand the use of technology as opposed to transporting inmates whenever possible.

### **Recommendation #1 – Create uniform language/processes across county courts**

Currently, court processes do not have uniform names. The Work Group recommends that the Judiciary adopt common terminology and inmate attendance criteria for each type of court appearance. The Work Group believes this would reduce the total number of court transports being ordered and creates operational efficiencies for DOC, the Sheriffs, and the courts.

There were no statutory requirements identified that would require amended language to implement these changes. It has been reported that many of the same processes across the state are named differently based on the court and that some courts require an appearance for the same type of event that other courts don't require an appearance for. This has caused some confusion regarding when appearances are necessary. Having common terminology and expectations throughout the court system will result in clarity and should help to mitigate the total amount of transports needed.

In cases when a plea agreement is imminent or already signed, it makes sense to conduct a transport. There are some pre-trial status conferences where there is no plea agreement, and/or the defendant will not be released. The use of video could be expanded to include more of these conferences. There are many different options for video conferencing services, as outlined in the following recommendation. It should be noted that the use of video conferencing in and of itself may not result in any meaningful savings unless there is a significant reduction in the total number of transports. Personnel savings could be then realized by the reduction of DOC transports around the state and the use of per diem Transport

Deputies by the Sheriffs. This could also include potential savings on fuel and equipment maintenance. Ultimately, any savings could impact the way that services are delivered in the future, as the increased capacity may be able to be leveraged into other areas such as the state-paid contracts for transportation.

## **Recommendation #2 – Increase use of technology to reduce transport needs**

It is the recommendation of the Work Group that existing technologies be assessed and implemented wherever possible to increase efficiencies and reduce the overall costs associated with transports. Video arraignment equipment has already been installed, is in use in some correctional facilities (Chittenden Regional Correctional Facility in South Burlington and Marble Valley Regional Correctional Facility in Rutland), and is being implemented in the other correctional facilities. Similarly, the technology already exists within some of the county courts (Chittenden and Bennington). This technology, once implemented more widely, will certainly reduce the need for court transports specific to arraignments, but there are other efficiencies that can be achieved with increased use of video technology.

There are many operational issues that needed to be considered for the installation of this equipment. In correctional facilities, there are privacy concerns which require the equipment to be located where no one else can overhear the conversations. The camera device height is also a concern, as the video should only be able to show the inmate who is participating in the arraignment and not any others who may otherwise be visible in the background. DOC needed to identify and dedicate space for equipment and rooms with privacy. The existing space has been a challenge and conducting arraignments does place an additional burden on staff. Sound and image quality were issues with previous technology but have been greatly improved upon in recent years. The quality of the connection is of great import; poor attorney-client interactions could result in case delays and post-conviction litigation.

While video arraignment capabilities are not currently available in all facilities, what is important to note is that they are working in the locations that have already been set up. In Chittenden Regional Correctional Facility, for example, there is a direct line for video communication connecting the facility and Chittenden court and all arraignments are being conducted using the video conferencing equipment. Data provided by the Court Administrator's Office shows that, since January 2018, over 95% of lodgings at Chittenden Regional Correctional Facility (704 total) have opted to use this technology<sup>2</sup>. By using this

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<sup>2</sup> It is the position of the Defender General that this is a misleading statistic which has been offered by the Court and Sheriff to justify a process that was not the intent of the Legislature when the arraignment rule was clarified/modified in 2017. This is the position of the Defender General for the following reasons: Defendants have advised defense counsel that they are told at the jail that bail and conditions of release will be done by video, and they can wait to be transported for arraignment for either later in the day or the next day, if they are not released; the Courts have chosen to bifurcate what everyone always knew as an "arraignment" into two different proceedings – one to establish bail and conditions of release, and another to be "arraigned," i.e., entering a plea to the charge; this is contrary to the clear intent of the Legislature in amending the arraignment rule, requiring that all arraignments be in person on the record; the Defendants are given a choice that really is no choice at all; the

technology as much as is possible, the total transports should be reduced on a statewide level once all sites are operational.

Arraignments count for a small percentage of the court transport needs. So, while full implementation of the equipment across correctional facilities and courts will decrease some of the inmate transports, there are still a significant amount of court transports that are needed.

At times, the Sheriffs are transporting inmates who may not even be heard by the Court on the day that they are transported. This is often the result of Court scheduling; the legal process; factual or other issues that arise with another case that extend the time necessary for a given hearing, thereby delaying other cases; or, changes to the case that require attorney time with the client that impact the scheduling on any given day. This is not unusual given the fluidity of how cases move to resolution when liberty interests and serious due process rights are at stake.

Further steps can be taken to reduce the overall transport needs and create efficiencies and decrease costs where possible. As attorney and client meetings are regularly occurring as part of the court transfer process, and those meetings may impact the daily schedule of transports and hearings, using video conferencing solutions for attorney-client meetings may be a better option. This would require a secure room at the court with video capability that provides privacy for attorney-client meetings.

Also, while the video arraignment systems are being set up at multiple sites, there is currently only the ability for the direct connection from one facility to one court (example – CRCF to Chittenden Court). Since there is not the ability for an inmate housed in St Johnsbury (Northeast Correctional Complex) to participate in a video arraignment with the Chittenden Court, that inmate is often transported to accommodate the appearance. Until the service is capable of being used at any correctional facility to talk with the courts, there will still be the need to conduct transports, even for video arraignments. When conferences are scheduled out of county, scheduling of multiple transports is often needed. With these video systems being implemented statewide, the courts will soon be capable of communicating via the video system to any correctional facility. This will make it possible for an individual lodged in any of the facilities to participate by video in their home court, with a defense attorney and State's Attorney that will be involved with the initial hearing. Video processes may eliminate some of the current transport needs or could reduce the need that would be anticipated.

DCF might be interested in looking into video capabilities for non-evidentiary hearings of Woodside youth. One caveat with this is that the youth should have their attorneys with them in the same room for these hearings. Woodside is not currently set up for this now, but it may

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result is that costs are shifted to the Public Defenders who then have to locate the clients and obtain information that was routinely acquired pre-arraignment at the Court; this has resulted in the filing of more motions for bail review and modification of conditions of release based upon the information obtained after the arraignment which would have been readily available if the Public Defender had meaningful access to the client pre-arraignment.

be worth exploring as part of longer-term planning for this population. In the interim, it might be possible to do transports to the Chittenden Court (if all courts were interconnected) so that video could be used, which would reduce transport times to other locations for the juvenile population and eliminate safety concerns or other issues related to long-distance travel.

Some telemedicine is being done with those in DMH custody using tablets/laptops with a camera equipped and are conducted using GoToMeeting. However, it is not clear if this is secure enough to be used for any court or attorney-client meetings.

The cost of adding equipment that would facilitate video conferencing is estimated to be relatively low. A heat map would need to be created at each correctional facility to see where Wireless Access Points (WAPs) could go, and each facility would need to identify and then provide information on the room/location where inmates would need to go for these meetings.

The WAPs have already been implemented at some sites for wi-fi capability in administrative and training areas, and cost \$1,200 each. If a laptop or tablet (\$500-\$1,000) were also needed, the cost could be between \$1,700 and \$2,200 per site. However, there may also be the need to add an external camera, microphone, speakers, and securing the device to prevent an inmate from gaining access to the laptop/tablet, which will increase the total costs. Many of these peripherals could be added for under \$500 per set up. Any other specialized software or connection for courts were not determined but could add to the total.

## **Other**

Another observation of the Work Group, which is consistent with recent reports from AHS and DOC regarding facilities, is that a long-term strategy that would improve efficiencies and achieve cost savings is the construction of a large centralized correctional facility. Housing a large percentage of the population in one site creates opportunities to design for the current population needs and the overall requirements of a more modern correctional facility. A new facility design would include a better ability to separate inmates without housing them in multiple facilities around the state. The planning would include accounting for video processes and ensuring the availability of private rooms to conduct the proceedings. While challenges related to transports would still exist even with a larger correctional facility, the use of technology, coupled with the ability for DOC to more efficiently manage where inmates are housed would significantly reduce transports between facilities and potentially many of the court transports that are currently being done.

## **RECOMMENDATIONS FOR METHODS TO ENSURE TRANSPORT DEPUTIES ARE AVAILABLE WHEN NEEDED**

The Work Group considered methods to ensure that Transport Deputies are available when needed. The Transport Deputies are available in nearly all cases, though there are occasionally extenuating circumstances that prevent the availability of a Transport Deputy. There are some system pressures that were identified and important to note as part of this, which includes work demand, labor market, and funding:

**Demand:** The State has a 14 County Court System, and 25 Transport Deputies to service all the Transport Orders. The Sheriffs are ‘supplementing the labor supply’ with their per diem Deputies and their own Deputies. If the Sheriffs do not have enough work each week for their non-State-paid Deputies, it is difficult to keep them as employees since these workers need to have some type of steady income. It is for this reason that the contract services work is done to supplement each county Sheriff’s office. This “public-private” enterprise for the Sheriff departments was conceived and authorized by the Vermont Legislature under 24 V.S.A. § 291, 32 V.S.A. § 1591, and 32 V.S.A. § 3109. The contracts include services “with the State of Vermont, an agency of the United States, one or more towns within or without the county, or any nongovernmental entity, to provide law enforcement or other related services including security services, central dispatching for police, fire, or ambulance services, and centralized support services”. Specific salary and reimbursement rates are established for this work, including 24 V.S.A. § 291 (a) allowing the Sheriff to charge contracts up to 5% “for administration of the contract and related services”, which is like the Indirect Cost Rates charged by State departments to federal grants for the oversight, administration, review and compliance with the grant terms. This funding source helps support the operations and staffing for the Sheriff’s departments.

**Labor Market:** Vermont, like most labor markets, is having a difficult time filling vacant positions. Law enforcement agencies are struggling to recruit and retain certified law enforcement staff. According to Police Chief magazine, “a recruitment crisis is at hand for law enforcement, especially since millennials are far less likely to stay in a job until retirement. As veteran officers retire, and younger officers move between agencies or careers, a critical employee gap seems likely.” Research in 2009 showed that only 50% of adult workers surveyed at the time had been at their job for more than five years; and it is estimated that many workers will now have 10-14 jobs before they are 40 years old.

**Funding:** Funds across state government are tight. The Sheriffs’ per diem staff is critical to ensuring a full complement of staff available for transport work. Every effort should be made to ensure funding for per diem Transport Deputies who provide support when the State-paid Transport Deputies are not available.

Despite the pressures, the Work Group identified some potential strategies to ensure the availability of Transport Deputies. The Department of State’s Attorney and Sheriffs and the Sheriffs have agreed that the automated Transport Manager program needs to be used by each

Sheriff's Department. This will help with data collection and analysis, as well as budgeting, invoicing and projecting expenditures.

Transport schedules are sometimes received with ample notice from the courts, but requests can also be received on the same day that the transport is needed due to court proceedings. These situations are particularly problematic due to the time-sensitive nature of the court orders and can be exacerbated when the State Transport Deputy Sheriffs are unavailable due to illness or annual leave. In these cases, one should expect to see the per diem Deputies performing the transports. These scenarios may lead to longer trips though, as DOC would likely not be able to move an inmate to a closer facility in these instances. This takes the available resources from the Sheriffs away for longer as well.

In the case of short-notice for a transport, or when there are more transport requests than the available Transport Deputies or per diem Deputies can handle, the Sheriff may perform the transport, or may reach out to another Sheriff's Department to ask for assistance. However, currently, there is no system-wide approach or assistance to the court or the Sheriff to find staff to help with transports.

With enough notice from the courts, a county Sheriff's department can organize the work schedule for the State Transport Deputies, including supplementing the staffing with per diem Deputies if needed (e.g. in the case of transporting multiple persons). The Sheriffs and the courts should each identify and assign a Scheduling Liaison (and backup personnel) to avoid scrambling to find available staffing for transports.

The courts could examine their system to determine if certain counties are more organized and successful in their transport requests and scheduling and, if so, what makes their system work more efficiently.

### **ANALYSIS OF WHETHER TRANSPORT SHOULD BE PROVIDED BY THE JUDICIARY, THE EXECUTIVE, OR A STATEWIDE ENTITY**

The Work Group considered different options for transportation and what group, or groups, could provide these transports most efficiently from both an operational and financial perspective.

#### **Judiciary**

The Judiciary does not currently provide transports. The courts issue orders for any transports that are needed which are then handled by various other entities statewide. The Judiciary does not have staff resources or vehicles to manage transports. The Work Group concluded that creating this capacity within the Judiciary would not result in cost savings or process efficiencies. The costs would very likely increase as a result, at least initially due to the restructuring of resources that this would require. The Work Group did not conduct a formal cost analysis of this option.

## Executive

The Work Group evaluated whether a single group could provide all the necessary transports; assessed how that could possibly be done; and, what it would both look like and mean operationally.

It is important to note that the Sheriffs execute in-state inmate, mental health patient, and child transports for civil and criminal court appearances through their base appropriation. Of the total \$4.5 million appropriation to the Sheriffs, roughly \$2.5 million is spent on the 25 existing Transport Deputies who assist the Sheriffs in conducting requested transports. The 25 Transport Deputies are not able to conduct the number of requested State transports without the use of per diem staff. These per diem staff are utilized when the State Transport Deputies are already conducting transports or are otherwise not available. Given the existing structure (locations in all counties, full-time Transport Deputies, and per diem staff available to supplement the Transport Deputies whenever needed), the Sheriffs' staff are uniquely qualified to conduct these transports for the various departments. No other department is positioned to take on all these transports that the Sheriffs currently conduct, and none have staff who are properly trained, or equipment in place, to accommodate the various requirements of the different transports. It should be noted the county structure would be very difficult to replicate.

DOC has statewide transport teams in place. There are vehicles designated for inmate movement between facilities, to medical appointments, various courts, and so on. The DOC transports are conducted by a limited number of staff and the department does not have capacity to assume an additional 7,000 transports to courts, as well as the time that is spent waiting at the courts for the proceedings to take place. The most efficient method of replicating the current system that has been employed by the Sheriffs would be to utilize the DOC Probation and Parole offices around the state as additional transport teams. However, replicating the system would mean a one-to-one exchange of positions (25) that the Sheriffs currently have. The cost of these positions at DOC is estimated to be \$2,150,000. DOC does not have the ability to use per diem staff and this is not a responsibility that a temporary staff person would be able to perform. This would mean that DOC would have increased overtime needs for all transports that couldn't be completed with the 25 staff. An estimate of the cost of overtime required would be in the range of approximately 12,000 hours (2 hours per person transported, which assumes multiple passengers in one transport), or approximately \$475,000 of additional annual overtime needs. Before the costs of additional vehicles, fuel, training, equipment (Sheriffs' transport staff are all armed) are considered, the DOC estimates exceed the current costs of the Sheriffs. Another consideration is that this only considers the transports that the Sheriffs are currently conducting for those in DOC custody, and not the additional transports that are done for DCF and DMH. DOC staff would not be able to provide those transports, which would then require private contracts or Sheriffs offices for an average of more than 1,000 other transports annually, as well as the supervision services that are required.

If the court transport work currently being performed by the Sheriffs was transferred to the Department of Corrections, there would need to be positions made available to provide these additional transportation services. These staff would be entitled to overtime for hours worked (over 8 hours per day or 80 hours total per pay period), shift differential, holiday pay, uniforms, competency supplement, and all other benefits that DOC staff receive as part of the Collective Bargaining Agreement (CBA). These same benefits are not afforded to the Sheriffs or their staff, as they are not covered under the CBA. There would also be the need for additional transport vehicles and the related costs for fuel, as well as other equipment and staff training needs including those now required under Act 85 (2017) regarding those in DMH and DCF custody.

### **Statewide Entity**

There have not been any Requests for Information or Requests for Proposals conducted related to transport services which would be inclusive of all the required transports<sup>3</sup>. However, the costs paid per transport conducted by private vendors have been higher than what the Sheriffs are billing. It is for this reason that the Work Group concluded that no other entity would be able to replicate the services, provide all necessary transports, have 24/7 availability, and be able to do so in a more cost-effective manner.

Some of the aspects of having the Sheriffs perform inmate transports are: (1) the Sheriffs are supplementing the available workforce with their own Deputies and per diem Deputies for whom the Sheriff has borne the expenses of training, outfitting, and maintaining as an employee; (2) the courts benefit by having additional certified law enforcement officers in the courtroom and holding areas with those awaiting a hearing; and, (3) the Sheriffs are utilizing their own vehicles in the transports, and bear the costs of the vehicle sitting idle for hours while waiting for court proceedings to take place. In addition, having 25 State Transport Deputies across the state provides counties with back-up law enforcement officers, as these employees are authorized by 24 V.S.A. § 307 (c) to exercise law enforcement duties statewide – “(t)he powers of deputy sheriffs with respect to criminal matters and the enforcement of the law may be exercised statewide.” In summary, the Work Group found that the current system for court transports provided by the Sheriffs is functioning well, with fair and reasonable costs to the taxpayers for the court transports and overall a beneficial service to State agencies and the courts.

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<sup>3</sup> DCF intends to issue a Request for Proposals (RFP) for both enhanced and secure transportation in 2019.

## **CONSIDERATION OF WHETHER TRANSPORTED INMATES SHOULD BE PERMITTED TO BE SCHEDULED FIRST IN COURT PROCEEDINGS IN ORDER TO REDUCE TRANSPORT DEPUTY COSTS**

The Work Group considered whether transported inmates should be permitted to be scheduled first in court proceedings to reduce Transport Deputy costs and there were some challenges identified.

Once the inmate arrives at court, the Deputy Sheriffs must wait in the court's holding area/safe room for the inmate's case to be called up. If the Sheriffs have transported more than one inmate, the Deputy Sheriffs must split up duties. In this scenario, a Deputy Sheriff must escort one inmate to the Courtroom and another Deputy Sheriff must stay with the other inmate(s) in the holding area/safe room.

A Deputy Sheriff always goes into court with the inmate since the obligation of the Deputy is to ensure the safety of the inmate in his/her custody at that time.

*Note: There are 25 State-paid Transport Deputy Sheriffs. Grand Isle and Essex Counties do not have a State-paid Transport Deputy. In those counties, the Sheriff may be performing the tasks outlined above.*

There is nothing conclusive to indicate whether there would be a reduction in costs in scheduling these proceedings first, though it has been communicated to the courts that this be the practice whenever possible. The difficulty in assessing this is that there are varying lengths for each hearing, so scheduling differently may not reduce wait times. For any that could be done via video, there may be additional savings, as scheduled time versus the time that a hearing takes place would not be as great of a factor. It has been indicated that those in custody require time to meet in advance (particularly if they have not yet met with their counsel), but this can also be mitigated through expanded use of video communication solutions.

## **CONCLUSION**

The processes that are currently in place for the transport of inmates, juveniles, and those with mental illness are working well due to collaboration and effective communications between the multiple stakeholders statewide but could be made more efficient. This report provides recommendations that may have an impact on the total number of court transports required, and any efficiencies that are realized in this area may equate to a cost savings statewide.

Putting a price tag on any future cost savings is difficult to assess. The preventative actions that have been recommended and that are currently being implemented will have an impact, and the Work Group feels that this should result in a reduction of the overall volume of transports. There could be efficiencies found through a reduction of transports, but there may not be an immediate cost savings as a result. The savings may be seen in a reduction in DOC transports

between facilities, which would free up transport staff and likely result in decreased overtime costs. Any impact related to court transports could equate to a decreased need for per diem Transport Deputies which could translate to additional capacity and potentially cost savings. For the Sheriffs, any capacity that is realized through a reduction in court transports could be used to target other areas, such as the AHS contracts for transports by the Sheriffs.

There are safety risks related to transports for all who are involved in the processes. By reducing the number of transports, that risk is mitigated to a degree. There are due process rights for all defendants, and it is imperative that any video equipment used for court proceedings and all communications with defense attorneys conform to a very high standard of quality.

There is a balance that is difficult to quantify. By using video processes though, there is no need to be searched, shackled, transported, or wait at the court before being heard. If the available data is an indication of future potential, an increased utilization of video processes could result in a reduction of transports statewide but may not result in actual cost savings.

**Attachment A:  
Policy on Use of Restraints for Involuntary Transport  
of Individuals in the Care and Custody of the  
Commissioner of the Department of Mental Health**

Effective:

**Policy Statement**

The transport and escort for individuals in the custody of the Commissioner of Mental Health (“Commissioner”) shall be done in a manner which prevents physical and psychological trauma, respects the privacy of the individual, and represents the least restrictive means necessary for the safety of the individual while ensuring the safety and security of deputies, transport specialists, healthcare staff, and the public

Individuals under the care and custody of the Commissioner need specialized treatment for mental illness or trauma. As such, they should be treated as individuals and not as criminals. Even if an individual has a criminal charge or conviction, the Contractor can keep everyone safe, including themselves, while transporting in a way that is consistent with a medical/patient approach. However, DMH recognizes there may be times under very specific circumstances it will be necessary to utilize restraint techniques and equipment which are restrictive and controlling.

**Adult Involuntary Transportation**

It is the policy of the Department of Mental Health that the primary and default restraints for transporting mental health crisis patients will be **SOFT/NYLON RESTRAINTS**.

The Contractor shall also make it a priority to utilize an unmarked vehicle, wearing civilian clothing, when conducting mental health transports.

Please refer to the Department of Mental Health’s Involuntary Transportation Manual and Standards for more detailed information.

**Children and Youth Transportation**

It is the policy of the Department of Mental Health that all involuntary transports of children and youth are to be done whenever possible by parents, guardians, ambulance teams, mental health transport staff in safe vehicles, or specially designated-Sheriff alternative vans in plain clothes.

Should a restraint be necessary by Contractor, it is the policy of the Department of Mental Health that the primary and default restraints for transporting mental health crisis patients will be **SOFT/NYLON RESTRAINTS**.

When a child under the age of ten (10) in the custody of the Commissioner of Mental Health (Involuntary Status) is transported by Sheriffs and it is proposed that this child will be transported with any restraint, approval from the Commissioner of Mental Health or his/her designee is required.

Contractor must call the Vermont Psychiatric Care Hospital (VPCH) Admissions Department to request Commissioner/designee approval. VPCH Admissions is available 24-hours a day at 802-828-2799. Please refer to the Department of Mental Health's Involuntary Transportation Manual and Standards for more detailed information.

### **EXCEPTIONS**

On a case-by-case basis, the Sheriff can make exceptions to the soft restraint restriction. The authority to waive the soft restraint requirement and allow the use of metal/hard restraints shall be retained only by the Sheriff and shall not be delegated.

The Sheriff shall only waive the soft/nylon restraint requirement under very limited circumstances which must be documented in writing. If a transport team determines that metal/hard restraints are indicated, they shall call the Sheriff and articulate in detail why the transport should be conducted in metal restraints. Exemption requests must be based on a recent and/or demonstrated history or known propensity for violence, reporting or information from a clinical staff risk analysis, or other credible sources.

A waiver will not be granted because soft-restraints are not immediately available.

**Attachment B:  
DCF Transport Data**

DCF	FY17 total	FY17 cost	FY18 total	FY18 cost	notes
Secure Transports - AHS contracts with Sheriffs	256	\$147,718.00	215	\$117,813.00	Rate - \$38.50/hour, 2 Deputies plus mileage; new rate may be \$65/hr. but not mileage reimbursement; FSD anticipates that the number of these secure transports may decline.
Enhanced Transportation FSD contract with Youth Transit Authority (YTA)	24	\$7,291.00	193	\$96,046.00	\$25/hr. plus \$5,500 per month; plan to issue RFP which would include secure transports.
Non-secure (basic) transportation FSD local transportation contracts	n/a	n/a	n/a	\$477,269.00	\$17/hr. plus mileage; 21 contracts at District level, # of transports are not tracked.
Transportation by FSD staff using private or state vehicle	n/a	n/a	n/a	n/a	Costs, beside staff time, include mileage reimbursement, 2 Woodside transport vans, DCF is unable to track these transport costs.

Additional Notes: Supervision - caseworkers are used to sit with youth
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**Attachment C:  
DMH Transport Data**

DMH	FY17 total	FY17 cost	FY18 total	FY18 cost	notes
Secure Transports - AHS contracts with Sheriffs	197	\$81,727.03	233	\$92,445.35	
DMH contracted	171	\$100,794.50	190	\$117,789.50	
Other (includes MS transport contracts at HCRS and CS)	27	\$10,087.50	1	\$675.00	

Additional Notes: Supervision costs not included above; these costs are paid to the Sheriffs. Costs for this supervision of those in DMH custody totaled \$1,034,062.17 for FY17 and \$781,073.52 in FY18.

**Attachment D:  
DOC Transport Data**

DOC	FY17 total	FY17 cost	FY18 total	FY18 cost	notes
Secure Transports - AHS contracts with Sheriffs	18	\$10,812.31	40	\$51,142.69	these are for extradition transport services.
Other transport contracts (US Prison Transport)	37	\$34,808.00	14	\$14,721.60	these are for extradition transport services.
OT costs	23,162	\$404,956.19	22,582	\$401,439.86	this represents total staff hours and costs.

Additional Notes: transports conducted by DOC staff totaled \$1,227,532.78 in FY2018, which is inclusive of vehicles, fuel, staff, OT. Total transport costs incurred by DOC amounted to \$1,293,397.07 in FY18.

**Attachment E:  
Sheriff Transport Data**

Sheriffs - by County, FY18	Total	Criminal	Juvenile	Mental Health	Warrant Lodgings	Mitt Lodgings	Staff	Mileage	Per Diem	Total
Addison	148	107	9	0	11	21	159	\$10,767	\$10,083	\$20,850
Bennington	673	554	3	0	27	89	506	\$38,419	\$50,201	\$88,620
Caledonia	469	445	0	0	5	19	427	\$6,792	\$2,750	\$9,542
Chittenden	1166	920	79	3	161	3	1239	\$21,613	\$35,918	\$57,531
Essex	50	50	0	0	0	0	71	\$6,021	\$9,302	\$15,323
Franklin	637	583	20	0	7	27	546	\$9,445	\$27,402	\$36,847
Grand Isle	30	27	3	0	0	0	31	\$1,495	\$5,421	\$6,916
Lamoille	157	124	9	0	14	10	253	\$14,623	\$29,172	\$43,795
Orange	88	75	4	0	2	7	134	\$10,266	\$15,964	\$26,230
Orleans	481	473	1	0	5	2	510	\$3,353	\$16,775	\$20,128
Rutland	981	811	0	22	52	96	412	\$5,384	\$4,508	\$9,892
Washington	511	344	8	0	59	100	620	\$23,130	\$38,337	\$61,467
Windham	762	533	0	39	181	9	428	\$28,151	\$15,745	\$43,896
Windsor	628	582	1	0	9	36	656	\$21,525	\$14,106	\$35,631
Total	6781	5628	137	64	533	419	5992	\$200,985	\$275,683	\$476,668

**Attachment F:  
Defender General Transport Data**

Office of the Defender General	FY17		
Provider	Number of Transports	Total Expenditure	Rate
Washington County Sheriff's Department	7	\$5,688.74	\$38.50 for per diem Hours plus mileage; State Paid Deputy Transporting Prisoners, some State Paid Hours not billed.
Windham County Sheriff's Department	21	\$20,025.64	\$36.50, \$37.50, and \$38.50 per hour plus mileage; Transport Unit or Sheriffs Unit.
Total	28	\$25,714.38	

Additional Notes: FY 2017 transports were all for pro se defendant who was transported to the courthouse to conduct depositions; no transport expenditures in FY 2018.

**Attachment G:  
Video Arraignments Conducted between Chittenden Regional Correctional Facility and  
Chittenden Court**

CRCF video arraignments	# of defendants	# consent to video	# will not consent to video	# of transports	# cond. To report
July 2017 through Oct 19, 2018	1373	1196	127	51	41
January 2018 through Oct 19, 2018	759	704	38	20	3

% overall - consent to video	87%
% overall - consent to video (CY2018)	93%

after removing transports from total # of defendants	
% overall - consent to video	90%
% overall - consent to video (CY2018)	95%