



Vermont Dept. of State's Attorneys and Sheriffs
110 State Street, Montpelier, Vermont 05633

Memorandum

To: House and Senate Committees on Judiciary and Appropriations

From: John F. Campbell, Esq., Executive Director

Date: 1/14/19

Re: Legislative report required in 2017 Budget Act

In accordance with 2017 Act 85 (H542) the Dept. of State's Attorneys and Sheriffs (SAS) is required to submit a report by January 15, 2019, to wit:

Sec. E.207 SHERIFFS' HOURLY PAYMENT PILOT

(a)(1) Notwithstanding any provision of 32 V.S.A. § 1591(2)(A) to the contrary, during fiscal years 2018 and 2019 the Executive Director of the Dept. of State's Attorneys and Sheriffs shall set rates not to exceed \$22 per hour for deputy sheriffs that provide necessary assistance in arresting or transporting prisoners, juveniles, or persons with mental illness. In addition to the rate established in this subdivision, a sheriff's Dept. shall be reimbursed for the actual costs for Social Security and Medicare taxes, workers' compensation premiums, unemployment contributions, and other reasonable expenses, provided the costs are attributable to the services provided, documented in a manner required by the Executive Director, and approved by the Executive Director.

(2) A law enforcement officer shall not receive compensation pursuant to this subsection if otherwise compensated for the hours during which transportation services are performed.

(3) The amounts paid pursuant to this subsection shall not exceed \$441,688 in fiscal year 2018 or 2019.

(b) On or before January 15, 2019, the Executive Director of the Department of State's Attorneys and Sheriffs shall submit a written report to the House and Senate Committees on Judiciary and on Appropriations as to the actual monies spent pursuant to this section, the impact on prison transport and the Departmental budget, and any specific recommendations for statutory changes and budget expenditures for the following fiscal years.

This report provides information on the following: (I) Overview of the statutory language relating to sheriffs and transportation work; (II) Actual monies spent and Impact to Department budget pursuant to this section; (III) Impact on Prison Transport; (IV) Specific recommendations for statutory change and budget expenditures for the following FYs.

I: Overview:

The Sheriffs' positions, created by the Vermont Constitution, are elected by the county voters to a 4-year term. The statute also sanctions the establishment of sheriff departments, 24 VSA § 290: "A sheriff's Dept. is established in each county consist(ing) of the elected sheriff in each county, and such deputy sheriffs and supporting staff as may be appointed by the sheriff"; 24 VSA §290: "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 Dept. 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"; and 24 VSA 296: "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."

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II: Actual Monies Spent: The State General Fund positions are: 14 Sheriffs, 25 Transport Deputies and 1 Executive Staff Assistant. The Department of State's Attorneys and Sheriffs, under 24 V.S.A. § 367, provides the administrative and budgetary oversight and structure for the Sheriffs for the transportation and extradition work. Sheriffs may not bill the Department for work performed on private contracts. By statute, the Sheriffs provide professional law enforcement services, including transport of prisoners, mentally ill persons, and juveniles who are in the custody of the State of Vermont. Transport work is conducted primarily through the 25 State-employee Deputy Sheriffs; supplemented by non-State employee Per Diem Deputies.

The FY18 and FY19 budget allocation for Sheriffs is as follows:

Total Sheriff Budget by FY					
FY17 Authorized	FY17 Expended	FY18 Authorized	FY18 Expended	FY19 Authorized	FY19 Expended YTD
4,315,633	4,373,403	4,494,407	4,367,942	4,507,362	2,140,441

In FY17, the Sheriffs' Carry-Forward covered the budget shortfall under expended.

The statutory Pilot for Per Diem Deputies was established for FY18 and FY19, at a rate not to exceed \$441,688 for each fiscal year. The actual costs, (including FY17 for annual cost prediction), without mileage costs, are as follows:

These figures do not include Mileage Costs			Partial Year: FY19 July 1 - Jan 10, 2019	Total, without full FY 19	Estimated full year expense for FY19	Estimated FY17-19 expense	Average 3-yr costs FY17-19
	FY17	FY18	FY19 partial				
County	Amount	Amount	Amount	Expended			
Addison	10,262	9,802	3,616	23,680			
Bennington	28,003	52,343	16,603	96,949			
Caledonia	3,189	2,829	2,399	8,417			
Chittenden	48,898	35,180	22,971	107,049			
Essex	13,100	9,298	2,913	25,310			
Franklin	38,431	28,037	12,178	78,647			
Grand Isle	3,012	5,617	1,853	10,483			
Lamoille	21,159	28,882	14,725	64,765			
Orange	14,985	16,713	2,635	34,333			
Orleans	14,670	17,278	7,196	39,144			
Rutland	7,822	4,700	1,371	13,892			
Washington	31,888	38,245	18,380	88,512			
Windham	16,283	18,436	4,249	38,968			
Windsor	16,501	14,637	4,807	35,946			
TOTAL	268,201	281,997	115,897	666,096	231,794	781,993	260,664

Mileage:

Transportation mileage costs over the year years averages \$213,000. As such, the annual per diem and mileage costs for transports is estimated at \$473,664; however, due to some authorized carry forward funding, and savings in other line items of the Sheriffs' budget, the Department has been able to manage the costs within the total budget allotment.

The statute also establishes a ‘not to exceed’ rate of \$22/hr. for per diem billing, but allows for the sheriff to be reimbursed for “Social Security and Medicare taxes, workers’ comp, unemployment contributions, and other reasonable expenses, provided the costs are attributable to the services provided, documented in a manner required by the Executive Director and approved by the Executive Director”. The Sheriffs are annually required to submit their worksheet with costs for review and approval. Their rates, as approved by the SAS Executive Director for FY18 and FY19 are as follows (FY17 included for historical reference):

	FY17 rate	FY18 rate	FY19 rate
ADDISON	\$20.20	\$24.85	\$24.85
BENNINGTON	\$20.28	\$24.79	\$24.79
CALEDONIA	\$20.74	\$25.39	\$25.39
CHITTENDEN	\$20.32	\$24.85	\$24.86
ESSEX	\$18.00	\$23.68	\$25.07
FRANKLIN	\$20.83	\$25.01	\$25.03
GRAND ISLE	\$20.56	\$24.97	\$26.16
LAMOILLE	\$20.18	\$24.66	\$24.66
ORANGE	\$20.82	\$24.86	\$24.68
ORLEANS	\$20.87	\$25.14	\$25.14
RUTLAND	\$20.65	\$24.81	\$24.81
WASHINGTON	\$20.29	\$24.90	\$25.71
WINDHAM	\$20.71	\$26.23	\$26.42
WINDSOR	\$20.45	\$24.90	\$24.78

24 VSA §367 (c)(1) allows the Department to monitor the sheriff’s transport budget: “The Executive Director shall monitor the sheriff’s transport budget and report to the sheriffs on a monthly basis the status of the budget. He or she shall provide centralized support services for the State’s Attorneys and sheriffs with respect to budgetary planning, training, and office management, and perform such other duties as the Executive Committee directs. The Executive Director may employ clerical staff as needed to carry out the functions of the Department”.

III. Impact on Prisoner Transport:

This November 2018, the Inmate Transportation Study Report was submitted to the House and Senate from Matt D’Agostino of the Vermont Dept. of Corrections. The study committee consisted of representatives from the key stakeholder groups:

Matt D’Agostino, Financial Director, Dept. of Corrections; Karen Godnick Barber, General Counsel, Dept. of Mental Health; Cullen Bullard, Director of Classification, Dept. of Corrections; John Campbell, Executive Director, Dept. of State’s Attorneys and Sheriffs; Candace Elmquist, Budget Analyst, Dept. of Finance and Management; Lora Evans, Administrative Services Manager, Office of the Defender General; Judge Brian Grearson, Chief Superior Judge; Adam Greshin, Commissioner, Dept. of Finance and Management; Kirk Martin, Orleans County Sheriff; Kevin McLaughlin, Chittenden County Sheriff; Lisa Menard, Commissioner, Dept. of Corrections; Matt Nault, Director of Facility Operations, Dept. of Corrections; Annie Noonan, Labor Relations Manager, Dept. of State’s Attorneys and Sheriffs; Judith Rex, Director of Policy and Planning, Dept. for Children and Families; Tari Scott, Chief of Trial Court Operations; Dean Shatney, Caledonia County Sheriff; Mike Touchette, Deputy Commissioner, Dept. of Corrections; Susan Zeller, State’s Chief Performance Officer, who assisted with process improvement strategies.

A copy of this report was filed to the Legislature on 11/15/18 by Matt D’Agostino of Vermont DOC. It can be found at: <https://aoa.vermont.gov/sites/aoa/files/InfoReportReleases/Act%2011%20Inmate%20Transportation%20Study%20Report%2011-1-18.pdf>

(continued from page 3):

Note that the Work Group report supported the utilization of the Sheriffs for transportation:

“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”.

IV. Specific Recommendations for Statutory Changes and Budget Expenditures for the following fiscal years, as requested by the language in Act 85, Sec.E207 (3)(b):

1. The Department believes that the recommendations outlined in the Inmate Transportation Work Group Study should be adopted, i.e.,
 - a. Create uniform language/processes across county courts;
 - b. Increase use of technology to reduce transport needs;
 - c. Require all 14 sheriffs to utilize the Transport Manager IT program;
 - d. The courts should examine their system to determine if certain counties are more organized and successful in their transport requests and scheduling and, if so, examine what makes their system work more efficiently.
 - e. Consider whether transported inmates should be permitted to be scheduled first in court proceedings in order to reduce Transport Deputy Costs.
2. The current rate paid to the Sheriffs for the per diem costs of \$22 per hour should be increased to \$24 per hour for the next two fiscal years (FY20 and FY21). This will allow the Sheriffs to recoup some of the costs of having their vehicles idled during court time, as well as helping with the expenses they bear for equipped vehicles, uniforms and firearms, staff training and certification.
3. Fully fund the costs for Per Diem deputies and prisoner-transport mileage costs at a rate of \$473,000 annually (see page 2).
4. Provide one additional position to the Department to assign as the Transport Coordinator to work with the Courts (and/or with other state agencies) to ensure adequate and timely response from all 14 Sheriffs' offices to the court schedule, as well as to assistance for mental health or juvenile transports. This concept was discussed and widely supported in the Work Group meetings.

Notes: The data, below, outlines the FY18 full year, and the FY19 Year-to-Date for Transports. Note that Essex and Grand Isle Counties have no State Deputies, so they are fully reliant on Per Diems. Lamoille has experienced significant turnover in the State Deputy position with attrition to other departments that offer better retirement systems, and in FY19, (currently), the State Deputy is at the Training Academy for law enforcement certification.

Sheriffs Transport Data												
FY18 (July 1, 2017-June 30, 2018)												
County	Total number of Transports	# Criminal Transports	# Juvenile Transports	# Mental Health Transports	Warrant Lodging	Mitt Lodging	# of State Deputies by Co.	Utilization of State Deputies	Utilization of Per Diem Deputies	Per Diem Costs	Mileage Costs	
Addison	148	107	9	0	11	21	1	50.94%	49.06%	\$10,082.92	\$10,766.71	
Bennington	674	554	3	0	27	89	2	22.13%	77.87%	\$50,200.75	\$38,419.24	
Caledonia	469	445	0	0	5	19	2	88.06%	11.94%	\$2,749.57	\$6,792.22	
Chittenden	1204	920	79	3	161	3	6	81.19%	18.81%	\$35,918.38	\$21,612.71	
Essex	50	50	0	0	0	0	0	1.41%	98.59%	\$9,301.93	\$6,021.04	
Franklin	638	583	20	0	7	27	2	45.05%	54.95%	\$27,401.90	\$9,444.95	
Grand Isle	30	27	3	0	0	0	0	0.00%	100.00%	\$5,420.68	\$1,495.34	
Lamoille	156	124	9	0	14	10	1	28.06%	71.94%	\$29,172.00	\$14,622.58	
Orange	88	75	4	0	2	7	1	25.37%	74.63%	\$15,964.10	\$10,265.85	
Orleans	481	473	1	0	5	2	2	65.29%	34.71%	\$16,774.79	\$3,352.90	
Rutland	982	811	0	22	52	96	2	91.50%	8.50%	\$4,508.03	\$5,384.33	
Washington	524	344	8	0	59	100	2	45.65%	54.35%	\$38,337.19	\$23,130.13	
Windham	762	533	0	39	181	9	2	78.04%	21.96%	\$15,744.58	\$28,151.36	
Windsor	628	582	1	0	9	36	2	81.40%	18.60%	\$14,106.18	\$21,525.22	
	6834									\$275,683.00	\$200,984.58	
FY19 (July 1, 2018-June 30, 2019)												
County	Total # Transports	# Criminal Transports	# Juvenile Transports	# Mental Health Transports	Warrant Lodging	Mitt Lodging	#State Deputies by County	% Use State Deputies	% Use Per Diems	Per Diem Costs	Mileage Costs	
Addison	77	52	3	0	6	16	1	67.93%	32.07%	\$3,578.43	\$5,453.79	
Bennington	311	233	1	1	24	52	2	53.25%	46.75%	\$17,427.43	\$17,275.86	
Caledonia	204	188	0	0	8	8	2	86.70%	13.30%	\$2,208.96	\$4,672.47	
Chittenden	527	423	37	1	43	23	6	72.62%	27.38%	\$23,334.15	\$7,304.92	
Essex	13	10	1	0	0	2	0	0.00%	100.00%	\$2,675.84	\$876.35	
Franklin	291	266	4	0	3	18	2	46.33%	53.67%	\$12,979.18	\$4,569.09	
Grand Isle	13	12	0	0	0	1	0	0.00%	100.00%	\$1,749.73	\$602.76	
Lamoille	62	41	0	0	13	8	1	12.78%	87.22%	\$14,005.01	\$5,979.91	
Orange	10	10	0	0	0	0	1	45.36%	54.61%	\$1,435.67	\$1,177.51	
Orleans	215	198	1	0	15	1	2	68.22%	31.78%	\$7,466.60	\$1,900.45	
Rutland	414	305	3	7	39	60	2	93.17%	6.83%	\$2,201.91	\$3,028.41	
Washington	381	277	2	0	39	61	2	55.12%	44.88%	\$22,041.00	\$15,323.37	
Windham	366	299	0	17	48	2	2	88.65%	11.35%	\$4,144.36	\$12,417.59	
Windsor	356	333	0	0	9	14	2	88.42%	11.58%	\$4,856.88	\$10,804.57	
1/2 Yr Totals	3240									\$120,105.15	\$91,387.05	

Respectfully Submitted,
 John F. Campbell, Esq.
 Department of State's Attorneys and Sheriffs