



STATE OF VERMONT
GENERAL ASSEMBLY
JOINT LEGISLATIVE JUSTICE
OVERSIGHT COMMITTEE

MEMORANDUM

To: The Senate and House Committees on Appropriations
The Senate and House Committees on Government Operations
The Senate and House Committees on Judiciary

From: Joint Legislative Justice Oversight Committee

Date: November 15, 2021

Subject: Deputy Sheriffs (Transport Deputies)

Background

This memo addresses the full-time deputy sheriffs whose primary responsibility is the transportation of prisoners and persons with a mental condition or psychiatric disability. Pursuant to [24 V.S.A. § 290\(b\)](#), these full-time deputy sheriffs (transport deputies) are paid by the State. The appointment of transport deputies and their salary is approved by the Governor or the Governor's designee.¹ The Executive Committee of the Vermont Sheriffs' Association and the Executive Director of the Department of State's Attorneys and Sheriffs jointly have authority for the assignment of position locations in the counties of transport deputies and review the county location assignments periodically for the efficient use of resources.²

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 who provide for the

¹ 24 V.S.A. § 290(b)

² *Id.*

required transport services, and DOC and DCF also utilize private vendors.³ The Sheriffs' Offices in each county provide transports to criminal court.⁴ In addition, AHS contracts with the Sheriffs' Offices for supplemental transportation services.⁵

In [Act 74 \(2021\), Sec. E.207](#), the General Assembly charged the Joint Legislative Justice Oversight Committee with examining “the current system for transporting prisoners and persons with a mental condition or psychiatric disability who are in the custody of the State, including transports provided by deputy sheriffs who are paid by the State pursuant to 24 V.S.A. § 290(b) and transports provided pursuant to contracts that certain State agencies have entered into with county sheriff’s departments” and reporting its findings and any recommendations for legislative action to the House and Senate Committees on Appropriations, on Government Operations, and on Judiciary.

Act 74, Sec. E.207(c) specifies that in conducting its review, the Committee shall review audits prepared by the Auditor of Accounts regarding the use of deputies who are paid by the State pursuant to 24 V.S.A. § 290(b) during the state of emergency declared pursuant to Executive Order 01-20, as amended, and the Inmate Transportation Study Report prepared pursuant to 2018 (Sp. Sess.) Acts and Resolves No. 11, Sec. E.207.

Committee Review of Transport Deputies

The Committee took up the topic of transport deputies at its meetings on October 15, November 5, and November 12, 2021. Agendas for these meetings can be found here: <https://legislature.vermont.gov/committee/meeting-history/2022/40>. As part of its review, the Committee heard testimony on the following topics:

Billing practices for transport deputies. The Office of the State Auditor testified concerning an audit on the use of transport deputies and the billing practices associated

³ Inmate Transportation Study Report (Nov. 1, 2018), 3. <https://legislature.vermont.gov/Documents/2022/WorkGroups/Justice%20Oversight/Prison%20Transports/W~Annie%20Noonan~Inmate%20Transportation%20Study%20Report%20to%20the%20Vermont%20Legislature~10-15-2021.pdf>

⁴ *Id.*

⁵ *Id.*

with their use during the state of emergency.⁶ The accompanying memo⁷ from the State Auditor notes that the audit recommendation is that consistent time sheet procedures and practices be used across Sheriff Departments and at the State level that detail, at a minimum, the time of hours worked, number of hours worked, detailed description of job and duties performed, and the signature of the employee and supervisor. The Department of State's Attorneys and Sheriffs "strongly supports the Auditor's recommendation for a consistent timesheet procedures and practices."⁸

Transport deputy duties and organizational structure. The Lamoille County Sheriff testified as to transport deputy duties, salary and benefits, costs of and payment for transport deputy vehicles and equipment, and concerns with the structure of State/Sheriff joint support of the transport deputies. In written testimony, the Lamoille County Sheriff notes that the State does not have control over the Sheriffs or enough control over the transport deputies when they are not engaged in court transports; when the State has a need, there is no statutory language compelling a transport deputy to assist; and there is no funding to assist with the true cost of the program.⁹

The Department of State's Attorneys and Sheriffs testified regarding the Department's oversight of payment for the transport deputies' transport work and the Inmate Transportation Study Report prepared pursuant to 2018 (Sp. Sess.) Acts and Resolves No. 11, Sec. E.207.¹⁰ In written testimony, the Department of State's Attorneys

⁶ See County Sheriff's Transport Deputies Report of Procedures and Findings for the Period March 13, 2020 to March 13, 2021, McSoley McCoy & Co. (July 31, 2021).
<https://auditor.vermont.gov/sites/auditor/files/documents/Transport%20Deputies%20AUP%20Report%20final.pdf>

⁷ Memo from Doug Hoffer, Office of the State Auditor (Aug. 31, 2021).
<https://auditor.vermont.gov/sites/auditor/files/documents/Transport%20Deputy%20Transmittal%20letter.pdf>

⁸ *Id.*

⁹ Testimony of Sheriff Roger Marcoux (Oct. 15, 2021).
<https://legislature.vermont.gov/Documents/2022/WorkGroups/Justice%20Oversight/State's%20Attorney%20and%20Sheriffs/W~Roger%20Marcoux~Testimony%20re-%20Prison%20Transports~10-15-2021.pdf>

¹⁰ Memo from Annie Noonan, Department of State's Attorney's and Sheriffs (Oct. 15, 2021).
<https://legislature.vermont.gov/Documents/2022/WorkGroups/Justice%20Oversight/Prison%20Transports/W~Annie%20Noonan~Memo%20from%20the%20State's%20Attorney's%20Office%20on%20Transports%20Program~10-15-2021.pdf>; see also Inmate Transportation Study Report (Nov. 1, 2018).
<https://legislature.vermont.gov/Documents/2022/WorkGroups/Justice%20Oversight/Prison%20Transports/W~Annie%20Noonan~Inmate%20Transportation%20Study%20Report%20to%20the%20Vermont%20Legislature~10-15-2021.pdf>

and Sheriffs noted that “[o]ne of the key problems is determining what other tasks not specifically outlined in Title 24 can a [transport deputy] perform while on the State payroll. It would be tremendously helpful if the Legislature, Auditor, Sheriffs and the Department had an understanding of agreed-upon ‘other’ tasks for the [transport deputies], and which ones can be charged to the Department versus other entities.... the Department also supports a review with other State agencies and departments as to their transport and other needs to determine if the [transport deputies] could be assigned to help out with those tasks. At this time, the Department cannot direct the Sheriff to have a [transport deputy] perform ‘other’ tasks, even though the work schedule could accommodate requests for help by other State agencies and departments.”^{11 12}

Training for sheriffs and deputy sheriffs. The Department of State’s Attorneys and Sheriffs provided written information regarding training for sheriffs and deputies who are supervising or interacting with juveniles while on duty.¹³

Costs of contract transportation services. The Joint Fiscal Office provided testimony on DMH and DCF hourly rates and annual spending on transport deputies; noting that DMH spends approximately \$200k–215k per year on transports, and DCF has budgeted approximately \$61,100 for FY 2022.¹⁴

¹¹ Memo from Annie Noonan, Department of State’s Attorney’s and Sheriffs (Oct. 15, 2021). <https://legislature.vermont.gov/Documents/2022/WorkGroups/Justice%20Oversight/Prison%20Transports/W~Annie%20Noonan~Memo%20from%20the%20State's%20Attorney's%20Office%20on%20Transports%20Program~10-15-2021.pdf>

¹² The Committee also heard from the following additional witnesses: Capt. Mark Anderson, President, Sheriff’s Association; Honorable Brian Grearson, Chief Superior Judge, Vermont Judiciary; and Steve Howard, Executive Director, Vermont State Employees Association.

¹³ Letter from John Campbell, Department of State’s Attorneys and Sheriffs (July 13, 2021). <https://legislature.vermont.gov/Documents/2022/WorkGroups/Justice%20Oversight/State's%20Attorney%20and%20Sheriffs/W~John%20Campbell~Letter%20Regarding%20Sheriffs~6-30-2021.pdf>

¹⁴ Presentation of Stephanie Barrett, Joint Fiscal Office (Nov. 5, 2021). <https://legislature.vermont.gov/Documents/2022/WorkGroups/Justice%20Oversight/Prison%20Transports/W~Stephanie%20Barrett~DMH%20and%20DCF%20Rates%20on%20Transports%20for%20State%20Paid%20Deputies%20and%20Court-DOC%20Transports~11-5-2021.pdf>

Recommendations

Following its review, the Committee believes that it is most appropriate for it to provide guidance to the Senate and House Committees on Appropriations, on Government Operations, and on Judiciary on the issues identified in Act 74 and to allow those standing committees to develop the details of legislation due to the very complex and detailed decisions that must be made in developing a statewide solution for the efficient use of transport deputies in Vermont. To this end, the Committee recommends these committees evaluate the following issues that have come up during the Committee's review:

(1) Clarification in statute of transport deputies' duties when not actively transporting individuals. It has become clear that there may be instances where transport deputies could serve additional law enforcement duties when not actively involved with transportation needs. Clarification in statute on this issue would aid the Department of State's Attorneys and Sheriffs and the Sheriffs' Offices in determining appropriate activities for transport deputies and may increase the services that transport deputies are able to provide to the State.

(2) Consider whether a change in the organizational structure of transport deputies would benefit the State and individuals transported by transport deputies. Several witnesses discussed the difficulties created by the present hybrid organizational structure of transport deputies whereby transport deputies have salary and benefits paid by the State, but day-to-day management is through the Sheriffs' Offices. Witness testimony brought up several suggested scenarios for consideration, including making transport deputies State employees, transferring management of transport deputies to a State entity (for example, the Vermont Courts, AHS, or the Department of State's Attorneys and Sheriffs), or keeping the current structure in place but providing more detailed parameters around transport deputies' duties in statute as noted in item 1 above. Witnesses also noted in testimony that the cost of transportation vehicles and equipment is paid by the Sheriffs' Offices and this would be an aspect to consider when evaluating the best organizational structure for transport deputies.

(3) *Examine the reimbursement rate for non-State-paid deputies (per diem deputies) who are providing transportation services.* In addition to the State transport deputies, the Sheriffs' Offices provide per diem deputies for transport needs beyond what can be provided by the State's transport deputies.¹⁵ The Committee recommends this issue be reviewed to determine whether the rate of reimbursement is sufficient and explore whether a different organizational structure for transport deputies would affect the cost and use of per diem deputies for State transportation needs.

(4) *Examine ways to improve the transport services for court appearances.* The Committee heard testimony that there are instances when the State has two deputies transporting an individual for a court appearance and spending hours longer at the courthouse than what should be needed for transportation to/from a court hearing due to how the transport times are scheduled. The Committee recommends a closer examination of how the time transport deputies spend waiting in courthouses can be shortened and how the transport deputies' time can be used more efficiently.

(5) *Training and recruitment of transport deputies.* The Committee recommends that training and recruitment concerns are included in the analysis of whether the current organizational structure of transport deputies should be maintained or altered.

Conclusion

The Committee finds that there are significant concerns with the State's ability to efficiently and effectively use transport deputies to meet the State's needs. The Committee recommends the above issues be further examined from both a fiscal and policy viewpoint by committees of jurisdiction and that the role and duties of transport deputies be clarified.

¹⁵ See Testimony of Sheriff Roger Marcoux (Oct. 15, 2021), App'x C.
<https://legislature.vermont.gov/Documents/2022/WorkGroups/Justice%20Oversight/State's%20Attorney%20and%20Sheriffs/W~Roger%20Marcoux~Testimony%20re-%20Prison%20Transports~10-15-2021.pdf>