



Vermont Department of State's Attorneys and Sheriffs
110 State Street, Montpelier, VT 05633

Memorandum

To: Joint Justice Oversight Committee
From: Annie Noonan, Labor Relations & Operations Manager
Date: 10/15/2021

Re: State Transport Deputies / Transport Program

Thank you for the opportunity to address the Committee members on the topic of the State Transport Deputies and their work. In my job as Labor Relations & Operations Manager, I oversee the work of our staff who collect the data and pay the bills for the State Deputies' transport work including mileage and payment for per-diem deputies (employed directly by the Sheriffs), and personnel issues such as job postings, determining hiring rates, and advising on disciplinary actions.

Our Department is authorized up to 25 State position numbers for State Deputies, of which 21 are currently filled. Due to COVID, the Judiciary moved to remote hearings, which eliminated and/or greatly reduced the movement of correctional facility residents to the courthouses. As you can see from the Auditor's report, the sampling of just five Sheriffs' offices shows that transports went from 2,356 (period ending March 2020) to 281 (period ending March 2021).

The primary duties of the State Transport Deputies is outlined in 24 VSA § 290 (b):

"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."

There was some confusion in the early weeks of the State's COVID shutdown as to how and when the various "COVID NO WORK" options should be utilized. Some of the Sheriffs quickly came up with proposals for utilizing their State Deputies, and communicated with the Department about those ideas. The Department relied upon the 2008 State-paid Transport Deputies' job specification that included "general law enforcement duties" as a permitted task when no transport work was scheduled.

As a note, all but one of the State Transport Deputies are Level 3 Vermont-certified law enforcement officers.

Some Sheriffs utilized their State Deputies to patrol local communities to increase visibility of law enforcement, as Vermont DOC was releasing inmates from the facilities to reduce the potential for COVID outbreaks. Some Sheriffs were utilizing their State Deputies for law enforcement presence at the motels housing homeless individuals. Some Sheriffs assisted the Judiciary and Corrections by transporting in-custody persons back to their local town after remote court proceedings. Some Sheriffs offered assistance to their local Special Investigations Unit and their county restorative justice programs.

One of the key problems is determining what other tasks not specifically outlined in Title 24 can a State 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 State Deputies, and which ones can be charged to the Department versus other entities.

There have been many questions raised about the oversight and authority over the State Deputies. These employees are in State positions assigned to our Department. They are paid by the State, with State benefits (health, dental, life, LTD, holidays, leave time, etc.), and are in the law enforcement/Group C Retirement. Their hiring rate is determined by our Department. The direct supervisor is the Sheriff. They received their deputization from the Sheriff, who also assigns their work schedule, approves leave time requests, evaluates performance, and can issue disciplinary action--preferably in consultation with the Department. This public-private "oversight" is unique in State government, and can lend itself to unique problems, particularly in areas such as work-hours assignments, accountability and time-recording as noted by the State Auditor's report.

The Department strongly supports the Auditor's recommendation for a consistent timesheet procedures and practices.

“We recommend consistent time sheet procedures and practices be used across the 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. All hours worked, regardless if for the State or for the Sheriff Department should be tracked.” (July 30, 2021)

Lastly, the Department also supports a review with other State agencies and departments as to their transport and other needs to determine if the State Deputies could be assigned to help out with those tasks. At this time, the Department cannot direct the Sheriff to have a State Deputy perform “other” tasks, even though the work schedule could accommodate requests for help by other State agencies and departments.

Thank you for your time and consideration of these recommendations.