



**Vermont Department of State's Attorneys and Sheriffs
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Sent via Email to legislativereports@leg.state.vt.us

Memorandum

To: Senate Government Operations Committee and House Government Operations Committee

From: Vermont Department of State's Attorneys and Sheriffs

Date: 11/15/2023

Re: S.17 / Act 30 Legislative report

Due Date: November 15, 2023

Introduction

During the 2023 Legislative session, S.17 was passed as a bill to institute reform measures for the county elected Sheriffs' and their office operations. As outlined in the established Act 30, the key points were:

1. Act 30 imposes additional oversight on a Sheriff, by the side judges, Department of SAS, and State Auditor, when disbursing or transferring any sheriff's department assets (aggregate of \$10,000 or more) during a transition between sheriffs.
2. The Sheriff must notify the State Auditor and SAS of any establishment or participation in non-profit organization that has a mission or purpose of supplementing the efforts of the sheriff's department.
3. Sheriffs and deputy sheriffs are held to requirements of 3 V.S.A. § 1202(1). If conflict or appearance of conflict arises, the sheriff or deputy shall disclose that to the Sheriffs' Executive Committee, and recuse themselves from the matter until review is completed. SAS is required to establish procedures to forward ethics complaints on a sheriff or deputy to the State Ethics Commission
4. Requires an annual financial disclosure from sheriffs by January 15, per 3 VSA §1211, 1212, and 17 VSA §2414.
5. By January 1, 2024, requires SAS, with input from the sheriffs and the State Auditor, to develop a Compensation and Benefits Model Policy for Sheriffs and submit it for review and approval to VTDHR and VCJC which may alter or update the policy after consulting with SAS. The policy shall address acceptable uses of 5% contract administration fees, including structure and use of funds for compensation, bonuses, salary supplements, retirement contributions, and employment benefits for sheriffs, sheriff's deputies, and other departmental employees. Willful failure to comply will constitute a Category B violation under 20 VSA § 2401(2).

Prior to adopting the policy, a sheriff's department may use contract administrative fees to make supplemental salary payments to a sheriff of not more than 50 percent of the annual compensation for a sheriff, provided that the sheriff has been in office at least two years, and to any employee of a sheriff's department or a sheriff that has been in office less than two years of not more than 10 percent of the annual compensation for the employee. Funds shall not be used for any other bonus or supplemental employment benefit payment.

6. Requires the Department of State's Attorneys and Sheriffs to create a new position of SAS Director of Sheriffs' Operations to provide centralized support for the sheriffs with respect to sheriffs' responsibilities, budgetary planning, policy development and ethics compliance, training, office management, and other duties assigned by the SAS Executive Director.

7. Requires each sheriff to maintain a record of their work schedule, including if working outside of their district for more than 3 days.

8. Requires the Sheriff departments to provide law enforcement and security services to county and State courthouses under a single, statewide contract.

9. Requires the Sheriffs to provide assistance to individuals with a relief from abuse order under 15 VSA § 1103 to retrieve personal belongings if asked and if the person resides within the sheriff's county.

The report was assembled by Sheriff Mark Anderson, Chair of the Sheriffs' Executive Committee, Vice-Chair Sheriff Roger Marcoux, Deputy Sheriff Gary Taylor, SAS Labor Relations and Operations Director Annie Noonan. Electronic transmission of the draft was shared with State Auditor Doug Hoffer, Commissioner of Human Resources Beth Fastiggi, Vermont Criminal Justice Council members and staff including Director Heather Simons, Attorney Kim McManus and Deputy Director Chris Brickell, the Court Administrator, the Chief Administrative Judge, the 14 elected Sheriffs, management staff at the Department of SAS. A request for comments was made and many comments received, a presentation of the draft was made to the VCJC members, subsequent calls were held with VCJC staff, and discussions were held with State Auditor Doug Hoffer. In this Report, each section of S.17 is highlighted with a summary of recommendations following each section.

In order to best consider the information and recommendations outlined herein, it may be of help to understand the duties of a Sheriff.

Duties of the Sheriff: Law Enforcement and Administration

Each of the fourteen Vermont Sheriffs are responsible in varying degrees for the following work tasks:

- Direct the development and implementation of goals, policies, and procedures for the department.
- Represent the Sheriff's Department in government meetings and coordinate with other public services.
- Coordinate with other law enforcement agencies on the county, State and federal level.
- Represent the Sheriff's Department with community organizations and the media.
- Oversee all law enforcement functions in their agencies jurisdiction.
- Develop and manage effective recruitment, interviewing, selection and training of all personnel.
- Oversee all business management and accounting to include payroll, employee benefits, retirement and earned holiday, overtime, sick and vacation time.
- Prepare and manage budgets and funds from the county for their department.
- Help Vermont courthouse security by contract with the Judiciary, and by providing support from State Transport Deputies when they are available to assist.
- Monitor and manage the transportation of prisoners, juveniles, and persons with mental health problems.
- Help AHS by monitoring juveniles in DCF custody while awaiting transport or placement.
- Oversee the property maintenance and management of sheriff's department, county lockups and other sheriff's department properties.
- Provide law enforcement services to local communities.
- Complete required VCJC certification training and department training.
- Negotiate and manage all contracted services and projects and all related funds and personnel.
- Purchase and manage vehicles, uniforms and equipment.

- Manage local and regional emergency communications sites, PSAP's, equipment, personnel and mandatory training and certification(s).
- Responsible for implementing and overseeing state and federal mandates applicable to their department.
- Respond to Legislative questions and concerns, and provide testimony at legislative committee hearings.
- Conduct public education, engage with schools, churches, community and social service programs.
- Assist with needs of the community members particularly those who are victims of crime, struggling with addiction, food insecurity, homelessness, mental health issues, or other problems that may bring the person or their families in contact with the Sheriff department staff.
- As an elected official, must communicate in a timely manner to constituents.
- Must be available to assist the State of Vermont, the Governor, other law enforcement agencies and first responders during any calls for assistance during emergencies.

In addition, a statutory review of the assignments given to the Sheriffs includes the following:

- 12 VSA 691: serving civil or criminal process
- 12 VSA 696: receive, executive and return writs or precept
- 13 VSA 4948: serving warrants
- 13 VSA 7554: electronic monitoring
- 15 VSA 800: child support enforcement
- 16 VSA 1125: ex officio truant officers
- 18 VSA 617: assistance to local health officer
- 20 VSA 27: auxiliary State police in emergencies
- 20 VSA 1847: assistance in missing persons and search and rescue missions
- 20 VSA 2053: assistance in supporting uniform criminal recordkeeping and checks
- 20 VSA 2221: governor-called assistance for preservation of public peace
- 21 VSA 225: serve VOSHA citations or WC misclassification citations
- 24 VSA 299: general reference to peace officer
- 24 VSA 296: transportation of prisoners
- 24 VSA 307: employment of deputy sheriffs

In addition, the Sheriffs are included in statutorily-established councils, boards and panels:

- Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel
- Governor's Opioid Council
- Vermont Communications Board
- Governor's Emergency Preparedness Advisory Council
- Vermont Criminal Justice Council
- Governor's Snowmobile Council
- Law Enforcement Advisory Board
- Animal Cruelty Investigation Advisory Board
- Vermont Enhanced E-911 Board

24 VSA §290 outlines the Sheriffs' Transport Program Work:

Full-time State 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 positions and their funding shall be assigned to the Department of State's Attorneys and Sheriffs. The Executive Director shall have the authority to determine job duties for the position, assignment of positions to county, regular and temporary work locations, assistance to other State agencies and departments, timesheet systems, daily work logs, and to have final approval of personnel matters including, but not limited to, approval for hiring, paygrade assignment, hiring rate, discipline, and termination. The Sheriffs shall have an Executive Committee of not more than five current Sheriffs, elected for a two-year term by a vote of the Sheriffs held not later than January 15, for a

term starting February 1. The Executive Committee shall have a Chair, Vice-Chair, Secretary-Treasurer, and two members at large. The Executive Committee shall meet at least quarterly to provide input to the Department of State's Attorneys and Sheriffs regarding budget, legislation, personnel and policies, and the assignment of positions, when vacancies arise, for efficient use of resources.

24 VSA § 307 Deputy Sheriff's; appointments and revocation

(a) A sheriff may appoint deputies who need not be legal residents of the State, one or more of whom shall be a woman. The duties of deputy sheriffs shall be the same as those imposed by law on sheriffs and other peace officers in the enforcement of the criminal law. A deputy shall not perform an official act until his or her deputation and oath are filed for record in the office of the county clerk. A sheriff may dismiss a deputy and revoke his or her deputation. Such revocation shall be recorded in the office of the county clerk and shall take effect from the day of such record.

(b) A sheriff may appoint persons as deputy sheriffs to serve civil process, including child support enforcement as provided in 15 V.S.A. § 800, whom the sheriff shall train and supervise. Such deputies need not be qualified law enforcement officers, but if not so qualified shall not have arrest powers, and shall not carry firearms in performance of their duties in serving civil process.

(c) The powers of deputy sheriffs with respect to criminal matters and the enforcement of the law may be exercised statewide.

Recommended policies to be included in standard operating procedures and policy manuals

S.17 recommended the standardization of policies across the Sheriffs' departments. To that end, a list of policies are listed herein to serve as existing models for a starting point for the work of the Sheriffs' Policy Committee. These policies listed are currently utilized by the Lamoille County Sheriff's Department.

First, we recommend that a Sheriffs' Policy Committee be established to include:

Four (4) Sheriffs appointed jointly by the Sheriffs' Executive Committee and the Executive Director of State's Attorneys and Sheriffs, to represent a large Sheriff's department (more than 30 employees), a medium sized Sheriff's Department (between 20-30 employees), a small sized Sheriff's Department (under 20 employees), and one Sheriff "at large".

The Director of Sheriffs' Operations.

The Executive Director of State's Attorneys and Sheriffs or designee.

One attorney from each of the following organizations: Vt. Department of State's Attorneys and Sheriffs, Vermont Attorney General's Office, and the Vermont Criminal Justice Council, appointed by their respective appointing authority.

The Policy Committee will collaborate and work to review, and modify as necessary, the identified policies with the goal of recommending them as models and/or best practice, for adoption by the Sheriffs. Interested stakeholders will be identified and invited to present and share information and comments on policies that may impact their work, clients and/or constituencies.

The policies issued by the Vermont Criminal Justice Council for law enforcement officers' certification will be adopted. Other policies by VCJC may likely serve as recommended policies and procedures for the Sheriffs.

Mandatory federal or State policies, such as FMLA, PFMLA, FLSA, USSERRA, and others, cannot be modified, and, as such, will be adopted in whole by the Sheriffs.

Policies will be recommended by the Sheriffs' Policy Committee for adoption by the Sheriffs' departments within six months of issuance by the Committee. The goal will be to have uniform policies – to the greatest extent possible – which was a recommendation of the State Auditor and the VCJC staff.

Phase 1 of Policies Rollout will include the following model policies, in collaboration with the agencies and organizations with subject matter expertise and/or legal jurisdiction

- Fair and Impartial Policing
- Use of Force
- Duty to Intervene, Duty to Care
- Firearms
- Domestic Violence Response
- Conducted Electrical Weapons, Tasers
- Body Worn Cameras
- Internal Affairs
- Sexual Harassment/No Discrimination
- Officer Involved Shooting (Statewide policy: Use of Force)
- Lost or Missing Person
- Act 56
- Ethics and Conflicts of Interest
- Public Information and Records Requests
- Mission Statement and Core Values
- Limits of Authority
- Jurisdiction and Mutual Aid
- Color of Authority
- Firearms Maintenance
- Domestic Violence Involving a Law Enforcement Officer
- Vehicle Pursuit
- Stinger Spikes
- Code of Conduct
- Eyewitness Identification
- Criminal Investigations and Major Crimes
- Major Crimes Scene Checklist
- Death Investigations
- Overdose Incidents
- Prisoners and Detainees
- Transports
- Court Security
- Civil Process
- Juveniles
- Charitable Contributions
- Search Warrants
- De-Confliction Targeting
- Cooperating Individuals
- Evidence and Found Property and Evidence Collection
- Evidence Audit
- Disposal of Criminal Drug Evidence

- Abandoned Property
- Baton and Impact Weapons
- OC Spray
- Valcour User Agreement
- NCIC and NCIC User Agreement

Phase II of the Policy Rollout will include the following policies, with guidance from SAS, VTDHR and other agencies

- Hiring
- Promotional Process
- Job descriptions
- Work Schedules and Time Sheets
- Employee Training and Certification
- Professional Development
- Employee Assistance
- Death or Injury of Employee
- Employee Notice of Investigation
- Garrity
- Loudermill
- Sign On and Retention Bonus
- Performance Evaluations
- Grievances
- Personal Appearance-Uniforms
- Employee Fraternalization-Nepotism
- Employee Discipline
- Social Media
- Media Relations
- Records Management
- Records Retention

Operations

- Patrol Operations
- Alarm Response
- Traffic Enforcement
- Traffic Stops
- Roadside Data Collection
- Vehicle Use and Maintenance
- Operation of Department Vehicles
- Traffic Crash Investigations
- Critical Incident and Disaster Response
- Bomb Threat
- Biological Threats
- Investigative Reports
- Blood Borne Pathogens
- Welfare Checks
- Vehicle Searches Conducted on Roadside
- Special Details Assignments]
- School Resource Officer
- Mental Health Response
- Hazardous Road Conditions

- Canine and Canine Handlers
- Mobil Video Recorders
- Body Armor
- Use of Mobil Devices
- Cell Phones and Cell Phone Use
- Automated External Defibrillator
- Lost or Damaged Property
- Radio, Telephones and Computers
- Electronic Mail and Internet (with policy guidance from SAS)
- Audio Video Monitoring and Recording
- Ride Along Waiver
- Purchase Orders
- Fee Schedule

All of the policies will be formatted so that a Sheriff may incorporate them into their department's policy and training manuals. Mandatory State and federal policies will be disseminated by the Sheriffs' Policy Committee and the Director of Sheriffs' Operations.

Statewide adoption of these policies and operating procedures should result in increased accountability and transparency, with the end goal of making the Vermont Sheriffs' departments more professional and efficient, and a model of excellence in law enforcement in Vermont.

Training on Statewide Policies, Operations, Fiscal and Personnel Matters

The second step to improving the Sheriffs' departments is to ensure that there is training on the new policies. We will be consulting and working with the VCJC regarding training. The Sheriffs are aware of, and supportive of, the job task analysis and law enforcement curriculum review that has begun at VCJC. The suggested training model below will be modified as the curriculum review provides further insight into the necessary competencies required to perform the role of Sheriff. We will work collaboratively with the VCJC so that our proposed training for Sheriffs aligns with VCJC's efforts to move toward a tiered training model based on job descriptions and necessary competencies. As VCJC proceeds with their three year review, some of the trainings to policies listed herein may fall under required curriculum for Sheriffs by the VCJC.

We will continue to hold fiscal and accounting trainings from the State Auditor and staff. We will also assign the Director of Sheriffs' Operations to identify and secure trainers and training programs on a variety of topics – managerial, leadership, staff development, community justice, non-discrimination, etc., for the Sheriffs and their staff.

Training for Sheriffs would be mandated at least twice each year, and also within 45 days following any regular election or any transition from a Sheriff stepping down and a new individual taking office either on an interim basis or following a special election or the Governor's appointment to fill the seat. This initial training will be scheduled by the SAS Director of Sheriffs' Operations and will include, at a minimum, representative from the Department of SAS, the Sheriffs' Executive Committee, the VCJC, the State Auditor, and other partner agencies and organizations. The introduction will include segments on the Sheriff's Role and Responsibilities; State Law and Statutory Requirements; Uniform Accounting, Budgeting, Contracts and Bookkeeping; Act 56; Act 30; Personnel policies; Internal investigations; Hiring and background checks; Engaging with community organizations and partners; Non-Discrimination/Harassment; Fair and impartial policing. We anticipate in-person and remote training on the policies, and to solicit with subject matter expertise, including from within the sheriffs' department, other federal and state agencies, partner agencies, and other professionals.

In addition, the National Sheriffs' Institute - Leadership Development program has course offerings in public sector/law enforcement agency management including developing an executive team; professional ethics; building trust and engagement in the community; leading an agency through a crisis; leading staff during conflict; rationale and unbiased decision-making; developing external partnerships; and other helpful programs that would improve the competencies and skills of the Sheriffs.

Recommendations for compensation, comparable salary structure for Sheriffs, Deputies and Administrative staff, including recommendations for retirement changes

Current Salary Provisions:

As elected officials, the Sheriffs' salaries are established by the legislature every two years – see 32 VSA § 1182 which states:

(a) The sheriffs of all counties except Chittenden shall be entitled to receive salaries in the amount of \$94,085.00 as of July 3, 2022 and \$97,754.00 as of July 2, 2023. The Sheriff of Chittenden County shall be entitled to an annual salary in the amount of \$99,566.00 as of July 3, 2022 and \$103,449.00 as of July 2, 2023.

(b) Compensation under subsection (a) of this section shall be reduced by 10 percent for any sheriff who has not obtained Level III law enforcement officer certification under 20 V.S.A. § 2358.

Recommendations:

With regard to statutory provision 32 VSA §1182 (b), the statute reduces by 10% the salary of any Sheriff who is only Level II certified. Current incumbent Sheriffs at Level II certification should be grandfathered, and their 10% salary reduction should remain in the statute.

However, the statute is silent on any salary reduction for a Sheriff who does not possess any law enforcement certification. We suspect that this was overlooked years ago when the Legislature considered salary reductions for a Sheriff not possessing a “full” (Level III) law enforcement certification. At a minimum, we believe the reduction should be at least 30% of the salary.

We recommend that the Legislature revise the statutes or Constitution to require an individual serving as a Vermont Sheriff to possess a Level III certification or a Level III law enforcement certifiable certification. Note that the VCJC may change the level certification system as a result of their curriculum review.

Further, we recommend that a sheriff's compensation be reduced by an additional percentage amount for each year that a sheriff fails to come into compliance with the mandatory provisions in Act 30, after written notice of non-compliance by the Sheriffs' Executive Committee.

Considerations in Assessing Sheriffs Compensation

Vermont Sheriffs, as county-wide elected officials, have a distinct and unique role in the law enforcement system in Vermont. Collectively Vermont Sheriffs are managing 300+ sworn law enforcement officers, and must manage all aspects of their department, as noted herein, above. Vermont Sheriffs are tasked with raising their own operating budget; managing an entire department budget; overseeing all recruitment, hiring and performance management; soliciting bids and purchasing all equipment, cruisers, uniforms; and having the additional stress and pressure of an elected officer based upon a voting constituency.

Based upon the wide-range of managerial and law enforcement duties, equitable salary comparisons are difficult to assess given the broad range of a sheriff's duties, responsibilities and legal obligations. Independently elected, running a department statutorily crafted to be a mix of public and private funding, they have a complex and multi-

faceted role to perform. They must work within the confines of county and state budget systems, but also need to (essentially) fund-raise through contracted services to pay for a large number of their staff, their equipment and other operational expenses that are not paid for by either the county or State.

Sheriffs perform law enforcement work themselves, with the physical and emotional stresses associated with police work. They perform duties and responsibilities not required of other Vermont law enforcement managers. They have the pressure and headaches of recruiting, hiring, training, supervising, establishing career pathways, performance monitoring, corrective action and discipline, etc. of their staff. They have layers of additional oversight from elected county judges, State agencies (SAS, VCJC, Auditor), and legislative committees. They have more personal liability for staff and equipment, and less or no liability protections or support afforded to State law enforcement agencies in Vermont, such as from the AG's Office of State Risk Management.

Recommendation:

Based upon the language under Vermont Statute, we believe the Sheriffs' salary/compensation should be based upon " internal position alignment and ... a scale ... against which job evaluations of individual positions are compared". In considering the full scope of authority and responsibilities that constitute the job of a Sheriff, we believe that the Sheriffs most closely align with the VSP Major, and that the Sheriff positions should reflect a total compensation similar to that of the VSP Major.

- Average Vermont Sheriffs' Total Annual Compensation and Benefits: \$148,000.00
- Average VSP Majors' Total Annual Compensation and Benefits: \$254,560

(Note: Based on Total Compensation and Expenses FY2020 - 2023, Vermont State employee salary, benefits and expense reimbursement information; source: Vermont Department of Human Resources website).

Recommendations for Salary for (non-State) Deputies and Administrative Staff of the Sheriffs

Sheriffs employ both full-time and part-time deputies (certified) and civilian deputies. They also employ civilian support staff. The Sheriffs' departments must pay competitive salaries and benefits to other law enforcement agencies in Vermont or they will be unable to recruit or retain staff.

Deputy Sheriff Pay Comparison

The closest position comparison for a Sheriff's Deputy is the SAS State Transport Deputy at State of Vermont Classified Pay Plan, currently at PG21 (but currently under a classification review by VT DHR). Sheriffs may adjust their salary offer based upon the individual's relevant work history, skills, certifications, and education.

Civilian Support Staff

Depending upon the position and supervisory responsibilities, the position may, as an example, be comparable to these positions in State government: State Dispatcher; Administrative Assistants A or B; Financial Services Tech or Administrator; or other positions in the State's classified system.

These positions operate with significant independence and are expected to handle emergency situations on a regular basis.

Retirement for Sheriffs and (non-State) Staff compared to other law enforcement agencies in Vermont

The current retirement system for the Sheriffs and their (non-State employee) Deputies is State Group F, and that requires them to work an additional 10 or more years longer than their law enforcement colleagues in Vermont, including those in State Group C, (State Police, State Transport Deputies, Game Wardens, State Investigators at various departments), DOC Officers in newly-created State Group G, and nearly every municipal police force who are in Municipal System Plan D.

In order to provide a retirement benefit for Sheriffs and their staff which is comparable to other law enforcement agencies in Vermont a Vermont Sheriff must invest their department funds into supplemental retirement programs, often with the income from the 5% contract administration fees.

State of Vermont Retirement Group G Plan is the newest retirement plan, created for Vermont DOC employees. with a 20-year retirement option. State Group G would meet the needs of the Sheriffs' department in their attempt to provide a comparable retirement option for Sheriffs and their staff. The Vermont Sheriffs are working with the State Treasurer and staff who are supportive of the State Group G option, noting that the option to join must be cost-neutral for the State of Vermont. who is supportive and agreed to bring their request before the Retirement Board for consideration.

Recommendation: Vermont Sheriffs and non-State Deputies should be permitted to join the State of Vermont Retirement "Group G" - the retirement plan recently created for Vermont Department of Corrections employees.

The 5% Contract Administration Fee

Historically, the Vermont Statute has allowed a Vermont Sheriff to retain up to 5% of the value of a contract for administration, per 24 V.S.A. § 291a (c). This administrative oversight fee is the same type of fee that State government builds into its grants with the federal government, (i.e. indirect cost rate), and which State government allows the many non-profits and designated agencies to charge to the State of Vermont.

This 5% administrative fee is received by the Sheriff's department, and a Sheriff has been able to utilize this to increase their compensation and that of their employees. It has often been used to support the operational expenses of a Sheriff's department, such as for purchasing cars, equipment, training and other necessary expenses that are not paid for by the county or State. The 5% has provided compensation for the added work of administering the contracts (hiring and managing the staff to execute the contract work, providing the cars, equipment, and training to properly perform the contract, and assuming the liability for the work done under the contract).

Allowing a Sheriff to use the fee to benefit their department's operations and increase compensation has served to motivate many of the Sheriffs to take on this added work. This in turn helps both the private and public entities which seek out the Sheriffs for assistance, particularly since these entities often do not have the required law enforcement credentials to do this work. Examples of the Sheriffs' contracts include traffic control for construction and utility work on public highways; security and police services for special events and activities; homeless shelter security such as that provided during COVID; police and public safety services to small communities; assistance to State agencies such as DCF, DMH, DOC and the Judiciary (note the Judiciary's S.17-related proposal on Court security which will rely heavily on contracts with the Sheriffs); and the federal government for a variety of programs relating to traffic and public safety.

The revenue stream generated by these contracts ultimately saves the State of Vermont money and in most cases contributes to the creation of additional employment opportunities for Vermonters which benefits the local economy and supports the hiring of additional staff for the Sheriffs to serve public and private requests for services. The revenues from contracts support Sheriffs' unreimbursed costs for cruisers, equipment, insurances (general,

liability and worker's comp, for example), and additional, per diem staff needed for fill-in work for transports, restraining orders, civil process, etc.

We believe the Sheriffs' departments substantially contribute to the creation of jobs (over 300 positions) in Vermont and boost the local economies. As one example, in 2022 the Lamoille County Sheriff's Department's payroll was \$2.2 million dollars.

The 300+ full and part time staff members of the Vermont Sheriffs' departments, plus their vehicles and equipment, add critical resources to the State of Vermont towns and municipalities, on a daily basis, and importantly in emergencies. The Sheriffs infrastructure is key to public safety in much the same way as the Vermont National Guard and Reserve Units. The Sheriffs have pre-trained and pre-equipped personnel and resources that can be accessed and deployed, and help other law enforcement and front-line responders during public safety or health crisis, rescue needs, criminal events. Sheriffs were key participants during Vermont's need for support, such as weather events/flooding, health crisis such as COVID, public safety in criminal events, support to the State such as assisting DCF in security the hotel program for homeless persons, or supervising detained youth while DCF finds placement options, etc.

Vermont Sheriffs are required to generate and raise the majority of their own budgets, other than the Sheriffs' base salary and benefits and funding for the State Transport Deputy positions – funded by the State General Fund. Some of the difficulties associated with developing, implementing and managing their budget are unfunded mandates and unreimbursed cost associated with providing some of the services required of them. The Sheriff's diligence in securing contracts and, to a lesser extent, grants, fund these unfunded costs. Examples include:

Unfunded State Transport Expenses; Unfunded Civil Service Expenses; Dispatching; RFA Property Retrievals

Only the State Transport Deputy salaries and benefits are paid by the State of Vermont. The other necessary costs to support the programs (per diem staff, cars, liability and car insurance, uniforms, guns, training, etc.) are paid by the Sheriff. The (non-State deputies are only reimbursed by the State if they are working on a State Transport. The per diem staff is otherwise paid completely by the Sheriff's other revenue sources from contracts or through another program or grant. Sheriffs are responsible for the cost of recruitment, hiring, pre-employment background investigations, the police academy and in-service training for all sworn personnel. Some Sheriffs provide dispatch services for law enforcement and other first responders. In the event of a lawsuit or allegation of impropriety the Sheriff does not receive and legal advice or legal aid from the Attorney General's Office. A Sheriff must pay for legal assistance from private legal counsel, from their own budget.

Unfunded Administration and Bookkeeping Expenses

Although each county covers a portion of the cost for some expenses in a Sheriff's department's, the remainder of costs for personnel are covered by the Sheriff in each county. Some of those duties are payroll, bookkeeping, secretarial duties, personnel files, accounting, etc.

Based on all of the above information on the 5% contract administration fees, we recommend the following:

Recommendation on the use of the 5%: While there should be a reasonable cap and restrictions on the use of the 5% Contract Administration fee, any restrictions should be examined vis-à-vis a goal of fair and comparable salary, benefit and retirement compensation for the Sheriff and their staff (see salary and retirement compensation information on pages 9 and 10), and to allow the Sheriff to support the necessary infrastructure for their department, as noted above on "unfunded expenses", page 11.

All law enforcement agencies in Vermont were required to adopt a mandatory internal investigation policy modeled by the VCJC. All Sheriffs must now be in compliance with the adoption of such a policy.

Per the VCJC website:

“In 2017, Act No. 56 of the Vermont Legislature required each law enforcement agency adopt an effective internal affairs program by July 1, 2018. See VCJC Police Complaints and Internal Investigations Policy. The policy must accomplish the following: (1) accept complaints against law enforcement officers from any source; (2) assign an investigator to determine whether there was a violation of agency rule or policy, or State or federal law; (3) if not outlined in a collective bargaining agreement, outline expectations of employment and/or prohibited acts, including a code of conduct and a corresponding range of discipline, and provide due process rights for officers; (4) treat accused officers fairly and decide officer discipline based on just cause, a set range of discipline for offenses, consideration of mitigating and aggravating circumstances and due process rights; and (5) provide for civilian review of officer discipline at least for conduct that must, by law, be reported to the Vermont Criminal Justice Council. The CJTC model policy has been approved by the Council as sufficient to meet the above requirements. Please note, an agency may adopt all or a portion of this model policy, or even a policy of its own, provided the above requirements are met. (A model complaint form is included for use as the agency deems appropriate). Prior to adopting any internal affairs program policy, even one based on the Council’s model policy, each agency should review 2017 Act No. 56 (available at the below link) and consult with its own legal counsel.

Recommendation on Addressing Complaints about a Sheriff or Sheriff’s Department

In the case of a complaint about a Sheriff’s department, the following procedures are recommended:

Complaints about the Sheriff’s staff member: It shall be immediately brought to the attention of the Sheriff who shall review the complaint to determine if it is:

- (1) An internal policy violation and determined to be a minor infraction (such as failure to clean the cruiser) at which time the Sheriff can address the infraction; or
- (2) A violation that meets the definition of a professional misconduct complaint per 20 VSA § 2401, serious violation and/or a potential violation of law, at which time the Sheriff, or assigned, qualified investigator, will conduct the internal investigation (ensuring that no conflict exists with either the Sheriff or designee conducting the investigation). The Sheriff must report the complaint to the VCJC, and must work in collaboration with the VCJC as required by law.
- (3) A violation of law that would require the Sheriff to notify the State’s Attorney and/or VSP, as well as reporting to VCJC as noted above.

Complaints about the Sheriff: If an individual or an employee file a complaint about a Sheriff, it shall be referred to the Sheriffs’ Executive Committee and the SAS Director of Sheriffs Operations. The Sheriffs’ Executive Committee and Director of Sheriffs Operations will review the complaint, determine if further investigation is warranted (and by whom), and assess whether it is:

- (1) An internal policy violation and determined to be a minor infraction (such as failure to clean the cruiser) at which time the Sheriff can address the infraction; or
- (2) A violation that meets the definition of a professional misconduct complaint per 20 VSA § 2401, serious violation and/or a potential violation of law, at which time the Sheriff, or assigned, qualified investigator, will conduct the internal investigation (ensuring that no conflict exists with either the Sheriff or designee conducting the

investigation). The Sheriffs' Executive Committee must report the complaint to the VCJC, and must work in collaboration with the VCJC as required by law.

(3) A violation of law that would require the Sheriff to notify the State's Attorney and/or VSP, as well as reporting to VCJC as noted above.

Complaints from or about SAS State Transport Deputies: The Sheriff must immediately notify the SAS Director of Sheriffs' Operations and the SAS Labor Relations and Operations Director of any complaints from or about a State Transport Deputy. The Sheriff shall review the complaint to determine if it is an internal policy violation, violation of SAS or State of Vermont policy, or a professional misconduct issue. If a professional misconduct issue, the Sheriff must report the complaint to the VCJC and collaborate with the VCJC as required by law. The SAS Director of Sheriffs' Operations and SAS Labor Relations Director must be notified to ensure that the provisions of the collective bargaining agreement are upheld. Any additional reporting requirements of complaints to the Director of Sheriffs' Operations will not eliminate an agency's reporting requirements under Title 20, Subchapter 156 nor run contrary to Act 56 requirements for internal investigations of professional misconduct complaints.

In all situations noted above, if the complaint meets the definition of potential professional misconduct as defined in 20 VSA § 2401, the complaint must be sent to the VCJC.

Creation of the Sheriffs' Advisory Commission and Duties

The legislation directed that a Sheriffs' Advisory Commission be created to provide advice and counsel to the Sheriffs, the Vermont Department of State's Attorneys and Sheriffs and the newly authorized Director and the SAS Director of Sheriffs Operations.

The Sheriffs' Executive Committee needs additional time to fully research the construct and role of the Sheriffs' Advisory Commission, and will seek input from the VCJC, VSP, and other law enforcement agencies, as well as other interested stakeholders and community partners, before offering a recommendation. It is expected that this Commission will include members from the Sheriffs and other state and federal partner agencies; SAS; statewide advocacy organizations representing victims, persons with disabilities; Vermonters from historically marginalized racial, ethnic, other disadvantaged communities; LGBTQ+; and other potentially interested stakeholders.

Creation of a Sustainable Funding model for Sheriff's Departments

The Constitution calls for a Sheriff's department in each county, and the Sheriffs are independently elected by each county's voters. As such, the Legislature and SAS are limited in control except as statutorily prescribed such as appropriations for salaries and benefits, some operating expenses; and VCJC has law enforcement certification and Act 56 authority.

The funding model for the Sheriffs requires better information sharing among those entities providing funds to the Sheriffs' departments and aligning those funds to the proper program support structure. For example, the Sheriffs receive some county funds, federal grants, state grants, State General Funds, Asset forfeiture funds, etc. In addition, the Sheriffs have their contracts with public and private entities. The Sheriffs, with the help of the Director of Sheriffs Operations, and perhaps JFO and State economists, can help create a forecast model to allow the Sheriffs, and the State to look at the issue of sustainable funding. At this time, without the research, a recommendation is limited. However, areas where efficiencies can be enacted might include the following:

- a. Standardizing and centralizing mutually-agreed upon aspects of Vermont Sheriff's departments with the goal of creating savings, efficiencies and supporting modernization.

- b. Streamlining and adopting standardized policies and procedures statewide.
- c. Requiring increased professional training for all Vermont Sheriffs.
- d. Providing leadership and management development programs.
- e. Developing a statewide job description for Sheriffs with performance measures for new and incumbent Sheriffs.
- f. Creating incentives and disincentives for various levels of law enforcement certification(s).
- g. Creating financial incentives for compliance with statewide reforms and reorganization efforts and requirements.
- h. Ensuring organizational transparency and accountability through many of the recommendations listed above, with oversight (relative to statutory authority) from the SAS, the VCJC, the Sheriffs Executive Committee, the State Auditor, including advice from the Sheriffs' Advisory Commission.

We recommend a-h, above, but these may need to occur over a period of time due to financial constraints and/or geographic restrictions.

Increasing efficiency in the delivery of public safety services offered by the Sheriffs' departments

- Standardize policies, procedures and rates of pay for similar services.
- Standardize employment applications, pre-employment background checks and hiring procedures.
- Standardize and centralize the sheriffs' department's internal reviews and investigations.
- Standardize uniform, vehicle, equipment and office supply acquisition(s) to leverage vendor pricing. This may be financially challenging for some Sheriffs' departments and may have to be phased in, and funding may need to be provided.

Recommendation for SAS to Better Provide Oversight and Support for Sheriffs

Creating a position of Director of Sheriffs' Operations was the first step in providing more oversight and support to the Sheriffs. Next steps would include standardization and centralization of aspects of Sheriff's departments and creating incentives for compliance with reforms, reorganization and reconfiguration plans. Collaboration with the Department of SAS, the Sheriffs' Association, the VCJC, and interested stakeholders will further this goal.

We also recommend an annual report from the SAS Director of Sheriffs' Operations about progress under the requirements, recommendations presented herein, and ongoing tasks outlined in Act 30.

Respectfully submitted this 14th day of November, 2023