



Roger Marcoux, Jr.
Sheriff



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Testimony of Sheriff Roger Marcoux for the October 15, 2021 Joint Legislative Justice Oversight Committee Study Report.

My name is Roger Marcoux and I have been the Lamoille County Sheriff since February of 2001. I am the 1st Vice President of the Vermont Sheriff's Association, but today I offer testimony only as the Lamoille County Sheriff.

The Vermont Sheriffs derive their statutory authority through Title 24 Sections 290 through 312.

Section 290 (a) states "A sheriff's department is established in each county. It shall consist of the elected sheriff in each county, and such deputy sheriffs and supporting staff as may be appointed by the sheriff. Full-time employees of the sheriff's department, paid by the county, shall be county employees for all purposes but shall be eligible to join the State Employees Retirement System, provided the county shall pay the employer's share. The sheriff's department shall be entitled to utilize all State services available to a town within the county.

Section 290 (b) 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.

Section 307 speaks to Deputy Sheriff's appointments and revocations saying that a "sheriff may dismiss a deputy and revoke his or her deputization." Under the current circumstances there is a certain amount of confusion and inefficiency in the way that State paid deputies are utilized.

The State pays for the deputy's salary and benefits but it does not pay for the deputy's vehicles and does not usually pay for equipment except when requested through available Carry Forward monies. Some Sheriffs supplement the State paid deputy's hourly rate. Sometimes the extra compensation is because the Sheriff is using the State paid deputy on other work projects. State paid transport assignments do differ with other law enforcement officers in the State in that State paid Deputies do not work shift work, weekends or respond to dangerous calls for service. However, the State transportation of this State's most dangerous offenders should be recognized. Any other police work that State paid deputies conduct is done so voluntarily and is not considered as a primary transport responsibility which 24 VSA 290 (b) speaks to.

The fact that the Sheriff's Department pays for a vehicle and other equipment necessary for the deputy to perform their assignment should be understood by the Committee. A Law Enforcement vehicle can cost \$35,000 to \$50,000. The cost of radios, lights and siren package, safety barrier, etc. drives the cost up another approximately \$8,000 to \$10,000. The Sheriffs can charge the government mileage rate of approximately .61 per mile. This cost does not cover the cost of the car, fuel, and maintenance. These cars do not bring in any supporting revenue when they are sitting idle during court hearings. Often cars are in the Courthouse parking lot for several hours every transport. Sheriffs have traditionally utilized State paid deputies for some contracted work as a way to help pay for the cars and equipment. For that reason the term "double dipping" does not truly reflect the situation. Earning extra money to help support the purchase of the equipment is necessary. However, I believe that working contracted details should not supersede the primary transportation responsibility. My belief is that State paid deputies, when not transporting prisoners for court should be made available to assist other State Agencies with both transportation and security needs. Addendum A reflects the total number of prisoners transported in the last 5 fiscal years by county as well

as the assigned State paid positions for each county. The 3 vacancies are open until the post covid needs of the courts are decided.

Sheriffs also contribute **non State paid deputies** to the transportation program. There is no possible way where 25 State paid deputies can transport several thousand prisoners yearly. At least 2 deputies are needed to safely transport an individual. Whenever possible, 2 deputies may utilize a van to transport multiple prisoners. Sheriffs have several other non State paid deputies trained and equipped to assist the State paid deputies with transports. The statutorily established base rate for the State per diem rate to reimburse the Sheriff's Department is currently at \$22.00 per hour plus FICA, worker's comp and unemployment insurance payment for a total of \$24.66 (see Addendum B). An entry level part time employee is being paid approximately \$20.00 per hour with no benefits. The rate of pay after taxes for a \$20.00 employee is \$22.90. This is wholly inadequate to pay an entry level deputy at \$20 per hour when considering the cost of benefits, overtime and equipment. The State Court transportation program is subsidized by each Sheriff's Department. A breakdown of the per diem vs. state paid deputies utilization is found in Addendum C.

The predominant problem with the State/Sheriffs joint support of the State paid deputies is the lack of statutory governance that takes into account the financial contributions of both the State and the Sheriffs. The State pays their salary, benefits to include inclusion into the State's Group C retirement plan. The Sheriffs on the other hand, hire, fire and manage the deputies. The majority of the Sheriffs assigned their State paid deputies tasks during COVID shutdown while some Sheriffs did not. The Sheriffs who were working their State paid deputies on different types of projects most often did so after consultation and approval of SAS HQ, to best ensure that the employee's time was not being double-charged. The compassionate transportation of children for the Department of Children and Families and the transportation of people in the custody of the Department of Mental Health could be performed by the State paid deputies in many instances. Providing security for motels so that homeless people could have a safe place to stay during Covid should have been done with available State paid deputies that were being paid and had no other assignments.

Lamoille County Sheriff's Department provided security at motel sites in Chittenden County currently at 12,038 hours starting from March, 2020. Lamoille County Sheriff's Department provided security at motel sites in Washington County currently at 3,000 since March, 2020. LCSD did this predominantly through a Contract with the State and with non-paid State deputies.

Some possible options for the Committee's consideration:

- 1) Stay the same – continuing as is presently.

Pro's – Sheriffs have done a very good job through the years with prisoner transports with only 1 or 2 attempted escapes. Minimal use of force issues. Sheriff's subsidized the transport program providing cars and equipment, and also by having the Sheriff's cars sitting idle at the court for long periods of time. Sheriff's deal with all staffing/scheduling issues related to Court ordered state transports. Many Sheriff's departments assist various State agencies or departments with their needs.

Con's – The State does not have control over the Sheriffs or enough control over the State paid deputies when they are not engaged in court transports. When the state has a need there is no statutory language compelling a state paid deputy to assist. There is no funding to assist the true cost of the program.

- 2) Stay the same but with legislative language detailing the manner in which the State/Sheriffs shall utilize state paid deputies.

- 3) Transfer all State paid deputies to a State Agency or Department.

- a) State's Attorney's and Sheriffs – In this scenario the State paid deputies would be managed by the Department of State's Attorneys and Sheriffs while working together with the Sheriffs. The Sheriffs would still provide the equipment and day to day operational supervision. When there was no State related work then the State paid deputies would be available for contract work to assist off setting the cost of the Sheriff's cars and equipment.

Pro's – Central management of State paid deputies with focus on primarily on State's needs. There would not be any significant change in current operations. No learning curve.

Con's – Need the buy in from the Sheriffs because of equipment, training, operational supervision and most importantly the Sheriff's appointment of the deputies. Sheriffs have little input into the Department which is mostly centered around State's Attorneys. The Department should employ a dedicated coordinator with the authority to manage, direct and oversee the program and its employees.

b) Transfer to the Courts –

Pro's – perhaps better management of the court schedules since the deputies are under the direct control of the Courts.

Con's – The Courts would need to organize a system of management, there would have to be a mechanism for the new employees to become sworn, trained and managed. There would need to be an injection of money for cars and equipment. There would have to be more than 25 transport employees. The ability to contract with the Sheriffs would be dependent on each Sheriff.

c) Transfer to Agency of Human Services

Pro's – Employees could serve corrections, DCF and DMH when not needed by the Courts. The need by these agencies is great and there would be savings in contracted services. Department of Corrections has experience in the management of security related personnel. Perhaps there could be mutual aid with other AHS employees to assist with the extra people needed to transport prisoners from correctional facilities to the Courts. A significant pro would be that the operational control of the employees could possibly occur within corrections who have experience in security related management issues.

Con's – There would need to be a mechanism to have the employees sworn - perhaps through a willing Sheriff. There still

are equipment needs, LE training, and assistance with transports. AHS may not want the added work and responsibility. Additional support needed for Court transports.

The Vermont Sheriffs are also struggling with recruiting deputies and the retention of existing deputies. Nearly every Sheriff's Department is reporting staffing shortages. In Lamoille County, we are short 3 full time deputies and need to hire several Level II part time deputies. Before the Covid emergency, we had 45 deputies and we now have 29. People are not applying for law enforcement positions in general. A Vermont State Police report indicates that Vermont lost 91 officers (municipal and State) in 2020 and only graduated 51 recruits from the Vermont Police Academy. The situation is predicted to be worse in the foreseeable future. Wherever the State paid deputies may be governed in the future, the same dire recruiting and retention situation will exist.

My testimony on this subject may or may not reflect the views of the other Sheriffs. I have been as open minded as I could be sharing what I see to be both sides of the issue. I appreciate the committee's time and consideration. Thank you.

Roger M. Marcoux, Jr.
Lamoille County Sheriff

A

NV

County	Total # of Prisoners Transported					State Paid Deputies Assigned.
	FY17	FY18	FY19	FY20	FY21	
Addison	179	148	120	90	28	1
Bennington	701	674	678	455	74	2
Caledonia	448	469	468	297	6	2
Chittenden	1550	1204	1099	714	51	6
Essex	54	50	38	34	5	0
Franklin	641	638	626	376	20	2 - both positions are vacant
Grand Isle	18	30	35	28	0	0
Lamoille	155	156	131	120	31	1 - position is vacant
Orange	66	88	76	36	0	1
Orleans	479	481	447	350	40	2 - 1 position is vacant
Rutland	1129	982	845	547	39	2
Washington	509	524	766	488	185	2
Windham	688	762	804	481	145	2
Windsor	653	628	651	477	47	2
Total	7270	6834	6784	4493	671	25 w/ 3 not currently filled

B



Vermont Department of State's Attorneys and Sheriffs

FY22 Vermont Sheriffs Worksheet
for
Per Diem Rates for Prisoner Transports

Return completed worksheet by JULY 23, 2021 to Ashley Perry at
Ashley.perry@vermont.gov

County: Lamoille

Fiscal Year: 2022 (July 1, 2021 – June 30, 2022) – Statutorily Established Base Rate = \$22.00

List your average hourly costs for the following expenses:

- FICA (Social Security and Medicare): \$ 1.68
- Worker's Compensation: \$.98
- Quarterly UI Payment: \$ 2.66

Note: You may claim the Quarterly UI Costs only if you are a UI-Taxed Employer, (i.e. you are paying Quarterly UI Taxes to Vermont DOL on a C101 form).

Total Costs = \$22.00 Plus \$ 2.66 per hour, for a Total Hourly Per Diem Cost of \$ 24.66

Other Reasonable Costs:

The statute and Department allow a sheriff to request payment for "other reasonable costs" directly related to the Transport Program services. If payment is requested, these costs and a full written explanation must be submitted separately, within the month the expense was incurred, for review and consideration by the SAS Executive Director.

Important note: The Sheriffs' Executive Committee determined that "other reasonable costs" cannot include per-diem retirement, equipment or uniforms.

If "other reasonable costs" are not approved for payment by the Executive Director, the Sheriff may request a joint review from the Executive Director and the Sheriffs' Executive Committee; however, if the payment is not permissible under State finance rules, it cannot be authorized. The Executive Director has the final decision on any request.

Return completed worksheet by **JULY 23, 2021** to Ashley Perry at Ashley.perry@vermont.gov

Addendum C

Breakdown of the per diem vs. state paid deputies utilization

<u>FY</u>	<u>Per Diem Deputies</u>	<u>State Paid Deputies</u>	<u># of Prisoners</u>
2017	31.15%	60.85%	7,270
2018	36.78%	63.22%	6,834
2019	27.82%	72.18%	6,784
2020	23.40%	76.60%	4,493
2021	34.78%	65.22%	671