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STATE AUDITOR



STATE OF VERMONT
OFFICE OF THE STATE AUDITOR

August 31, 2021

The Honorable Richard Sears, Jr.
Chair
Senate Committee on Judiciary

The Honorable Maxine Grad
Chair
House Committee on Judiciary

Dear Colleagues:

[Act 154](#) (2020) directed my office to review the utilization of State-paid deputy sheriffs during the COVID-19 state of emergency and the Sheriff Departments' bills for their usage. In response to this requirement, we contracted with McSoley McCoy & Co. to perform an agreed-upon procedures engagement in accordance with generally accepted government auditing standards (GAGAS) and American Institute of Certified Public Accountants (AICPA) requirements.¹ Attached is the report by McSoley McCoy dated July 30, 2021.

State-paid deputies are commonly called transport deputies because 24 V.S.A. §290(b) lists transporting prisoners and persons with a mental condition or psychiatric disability as their primary responsibility. These transports are most commonly between correctional facilities and the courts both within and outside of Vermont. As to be expected, such transports have been significantly reduced during the pandemic.

The statute does not list any other duties of the transport deputies, but the job specifications issued by the State's Department of Human Resources in 2008 lists additional duties they can perform, including the service of criminal process delivered to the Sheriff department, coordination and delivery of community information and education programs, and general law enforcement services, such as criminal investigations and traffic enforcement.

Transport deputies work under the supervision of the County Sheriff and all counties except Essex and Grand Isle have these positions. As shown in the table to the right, as of August 11, 2021 there were 25 authorized transport deputy positions of which 21 were filled.²

[24 V.S.A. §290\(b\)](#) directs that transport deputies be paid by the State. Thus, transport deputies submit bi-weekly timesheets (approved by the sheriff) and are paid through the State's payroll system. Transport deputies may also be paid separately by the County Sheriff if he or she is performing work for the sheriff that is not part of their State duties and is not during the time in which they are being paid by the State. In addition, a sheriff may have contracts or grant agreements with the State, such as performing security or preventing driving under the influence initiatives.

County	# of Transport Deputies
Addison	1
Bennington	2
Caledonia	2
Chittenden	6
Franklin	2 vacant
Lamoille	1 vacant
Orange	1
Orleans	1 filled, 1 vacant
Rutland	2
Washington	2
Windham	2
Windsor	2

¹ This type of engagement consists of the auditor performing specific procedures on a subject matter or assertion and reporting findings without providing an opinion or conclusion.

² During the period covered by this agreed-upon procedure engagement, 23 transport deputy positions were filled, including two in Franklin County, which are now vacant.

In January 2019, the Vermont Labor Relations Board ([35-19 Gr. of Welch](#)) concluded that a transport deputy was jointly employed by the State and a county and that the part of the employment relationship involving compensation and benefits was controlled by the State. In December 2019, the Vermont Supreme Court upheld this [decision](#).

In response to the COVID-19 public health emergency, the State established paid leave codes for employees who were unable to work for reasons related to the pandemic. Transport deputies used these COVID-19 leave codes to cover circumstances such as when a deputy was quarantined or when a deputy reported for duty and management determined that there was no work available.

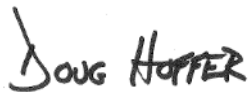
The legislature might find the following findings to procedures #5 and #6 in the McSoley McCoy report of interest. McSoley McCoy arrived at these findings after inspecting time sheets for fifteen pay periods between March 13, 2020 and March 13, 2021 at five sheriff departments (Bennington, Chittenden, Franklin, Orleans, and Rutland).

#	Procedure	Finding
5	To what extent was there overlap between the hours paid to the transport deputies by the State in VTHR and hours paid by the Sheriff Departments for performing non-state work?	There were thirty-three instances at three Sheriff Departments in which the transport deputies received partial COVID-19 pay and also submitted and received pay for non-state work hours on the same day. In 32 of these instances at two Sheriff Departments, none of the hours overlapped. In one instance at a third department, there was not enough detail in the timesheet to determine if overlap occurred.
6	Did the State pay the Sheriff Departments for any work performed under State contracts that was conducted by transport deputies?	There were fourteen instances at two Sheriff Departments in which the transport Deputies received partial COVID-19 pay and submitted and received pay for State contract work hours on the same day. For thirteen of these instances at one Sheriff Department, none of the hours overlapped. In one instance at a second department, there was not enough detail in the timesheet to determine if overlap occurred. At a third Sheriff Department, McSoley McCoy could not determine whether there was overlap related to a transport deputy who provided court security on a State contract. The hours worked were not maintained on the deputy's time sheets and the Sheriff Department billed for the total hours provided under the contract.

McSoley McCoy recommends 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.

I can be reached at (802) 828-1629 if you would like to discuss this topic in more detail.

Sincerely,



Doug Hoffer
State Auditor