

# Review of the Court Security and Prisoner Transportation Program

## Final Report

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Ontario

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## List of Acronyms

|         |                                                                                          |
|---------|------------------------------------------------------------------------------------------|
| CAOs    | Chief Administrative Officers                                                            |
| CSPT    | Court security and prisoner transportation                                               |
| CSPT TP | Court Security and Prisoner Transportation Transfer Payment                              |
| GGI     | Goss Gilroy Inc.                                                                         |
| IPCO    | Indigenous Police Chiefs of Ontario                                                      |
| JVN     | Justice Video Network                                                                    |
| MAG     | Ministry of the Attorney General                                                         |
| MPS     | Municipal Police Service3ws                                                              |
| OACP    | Ontario Association of Chiefs of Police                                                  |
| OAPSB   | Ontario Association of Police Service Boards                                             |
| OPP     | Ontario Provincial Police                                                                |
| OPP OTP | Ontario Provincial Police Offender Transportation Program (centralized unit)             |
| OPP OTU | Ontario Provincial Police Offender Transportation Units, located throughout the province |
| SOLGEN  | Ministry of the Solicitor General                                                        |
| TPAD    | Transfer Payment Accountability Directive                                                |
| WASH    | Weekend and Statutory Holidays – a reference to special courts on these dates            |

# Executive Summary

Police services, whether municipal police services, the Ontario Provincial Police or First Nations police services, provide court security and prisoner transportation services across the province of Ontario. While police services provide court security and prisoner transportation services, municipalities are responsible for the costs, as they are for other policing costs.

As part of the 2008 Provincial-Municipal Fiscal and Service Delivery Review, the Ontario government committed to alleviating some court security and prisoner transportation costs from municipalities, beginning in 2012, to a maximum of \$125 million annually. The Ontario Government created the Court Security and Prisoner Transportation Transfer Payment (CSPT TP) Program in order to administer the \$125M payment. The program reached the maximum subsidy rate in 2018.

The purpose of this review was to conduct an assessment of how court security and prisoner transportation are done in Ontario, with a particular focus on CSPT TP Program in order to:

1. Improve the design of the CSPT TP Program to deliver it in a fiscally constrained environment, and to align with accountability requirements in the Transfer Payment Accountability Directive;
2. Identify potential ways to make court security and inmate transportation more efficient in Ontario, in the short-term (within the current model) and in the long-term (considering potential structural changes to the model); and,
3. Identify efficiencies to reduce the costs incurred by police services and reduce costs incurred by Ontario.

## Performance

### Impact of COVID-19

Both court security and prison transportation have been dramatically impacted by the COVID-19 pandemic, in Ontario, and in all other jurisdictions included in this review. The most immediate impact has been the need to substantially increase the use of virtual appearances for court hearings in order to comply with social distancing measures and the closure of public spaces, while still ensuring the functioning of the justice system.

The use of virtual appearances has reduced the need for prison transportation and the need to handle prisoners within courthouses during the performance of court security duties. The study found that police services experienced as much as a 90% reduction in transportation volumes and a reduction in the number of staff assigned to court security. While it is expected that prisoner transportation volumes and court security needs will increase in some way after the COVID-19

pandemic is stabilized and a “new normal” emerges, the study has identified cost savings associated with encouraging and supporting the virtual model. Maintaining as much of the virtual model as possible is in line with the existing Justice Video Strategy that aims to have 90% of pre-trial in-custody appearances at the Ontario Court of Justice take place using video. The virtual model is also in line with approaches taken in other Canadian provinces, as well as other jurisdictions internationally, namely Australia and New Zealand. The province will need to continue its programs to improve video capacity, police services will need to expand video capacity at police stations and the court system will need to be engaged such that policies to encourage use of these improvements are created and adopted.

### **Use of Sworn Officers**

Municipal police services and the Ontario Provincial Police use a mix of staff classifications to carry out prisoner transportation and court security duties. Evidence collected through the review indicates that the use of Special Constables for prisoner transportation and the emerging use of contractors for court security screening, perimeter security and alarm monitoring functions are best practices that are not currently fully utilized. While there will always be circumstances where an armed officer is needed, in many cases the use of special constables is appropriate with limited armed police officers available when required. These approaches have proven effective in a number of Ontario locations as well as in other jurisdictions where specific training has been provided. In turn, this can reduce the costs for police services of jurisdiction and provide adequate levels of security if properly implemented. Contracting out for court security screening, perimeter security and alarm monitoring functions may also reduce the cost of introducing screening at new locations, which may make it easier to expand screening in response to stakeholder concerns.

### **Transport Routes**

Prisoner transportation is a very complex system. Police services transport individuals from holding cells at police headquarters to courthouses, to correctional facilities and between courthouses and correctional facilities. With so many police services involved in prisoner transportation, and the Ontario Provincial Police involved in two distinct ways, there is significant duplication of service within the prisoner transportation network. Reducing inefficient manual processes in place now and implementing a structure that would achieve economies of scale are two new practices that can achieve efficiencies. An information management system for use in route optimization, data sharing, scheduling and reduction of manual processes will contribute to reducing travel requirements, administrative support and potential errors.

### **Transfer Payment Delivery**

When the grant was initially designed, stakeholders considered a range of alternative ways to allocate funds – by population, by numbers of prisoners transported or number of courthouses, etc. All these options have flaws and all stakeholders, municipalities, police services and representatives of the Ministries involved selected the approach based on actual expenditures instead. A change in the approach to allocating funding is not recommended at this time, other than the limited incentives to encourage adoption of more efficient approaches. However, the

program is currently not fully compliant with the Transfer Payment Accountability Directive and a performance measurement strategy and regular risk reviews have been recommended.

## Ongoing Needs

The province of Ontario continues to upgrade or replace courthouses, addressing security issues as part of the process. Municipal police services and Ontario Provincial Police have greater confidence in their ability to address security risks where infrastructure and equipment improvements had been made. However, many police services report that infrastructure issues remain and, sometimes, a lack of adequate security equipment can hinder court security. This includes challenges due to the number, design, age or characteristics of courthouse buildings. Additionally, there are varying expectations and demands from the Judiciary with respect to how court security is provided, and court security expectations and requests have increased over time. Police services and courthouse stakeholders identify a lack of consistent standards for court security as an issue but there are a number of factors that can influence needs and make it difficult to set common standards province-wide. There is a need to balance resource investments while ensuring court stakeholders have the means to ensure security requests are met.

Northern Ontario experiences many unique challenges that are not experienced in the more populated areas of the province. There are a number of smaller remote and fly-in communities with smaller police stations and irregular court sittings, long travel distances both for prisoners and court stakeholders, and a number of First Nations communities. In many instances, northern communities have traveling courts that spend short periods in communities resulting in demands on local police services and the disruption of regular policing resources. In relation to the distinctive needs identified for the north, a separate Northern Justice Strategy is needed that could lead to the development of a common prisoner transportation network, the development of a court security capability that would travel with the courts, the need to transport prisoners less frequently and better responsiveness to Indigenous community needs.

## Future Considerations – An Independent Agency

The key finding from the Jurisdictional Review is that none of the other jurisdictions make the police service of jurisdiction responsible for prisoner transportation or court security, except in particular circumstances. Responsibility is generally assumed by an agency independent of the police, typically a Sherriff's Office or other government agency. A frequent recommendation for improvement from workshop participants was also the transfer of the responsibility for prisoner transportation from police services to another entity.

A number of advantages are associated with this model including consistent security standards as one entity administers all courthouses, greater flexibility in the movement of staff to different courts, elimination of duplication of efforts, municipalities with courthouses do not subsidize those without them, and economies of scale to promote efficient operations, among others. This could be carried out on a regional basis with co-operation between police services but would be better set up province-wide. A review of the legislation will be required to determine what, if any,

changes would be required as well as the advantages of creating a new organization versus the advantages of expanding the role of an existing organization

## Summary of Recommendations

- The Ministry of the Solicitor General (SOLGEN) should work with all justice stakeholders (justices, crowns, defense counsel, court administrators, police services) to ensure the “new normal” that emerges after COVID-19 minimizes the transport of prisoners, and maximizes the use of virtual appearances for pre-trial hearings.
- Costs of CSPT can be reduced by:
  - Eliminating duplication, particularly in prisoner transport;
  - Improving economies of scale so special constables can be used more, and fewer police officers are pulled from front-line policing;
  - Using primarily contracted personnel for entrance screening to reduce costs and allow screening to occur in more locations; and,
  - Replacing manual administrative processes.
- Creating regional entities would help achieve these goals, but a provincial operation would add certainty of direction and be easier to establish.
- Improve the CSPT TP Program with performance measures and limited changes to provide incentives for cost reduction.
- A Northern Justice Strategy would address unique issues, and the funding of Indigenous police services needs to consider court security and prisoner transportation responsibilities.

## Financial Implications

Assuming inflation is the prime driver of program costs, the provincial share of total costs is estimated to increase modestly, 1.0% for SOLGEN and about 8% for the Ministry of Children, Community and Social Services (MCCSS) over the implementation period. On the other hand, municipalities will see a 37.6% increase as they are responsible for most cost increases due to the SOLGEN contribution limit of \$125M towards the CSPT TP Program.

However, if the province effectively promotes virtual hearings and carries out the specific improvements to achieve the efficiencies that are outlined in the report, costs can be reduced significantly for both SOLGEN and municipalities. There is considerable uncertainty over the way the courts will work post-COVID-19, and the number of prisoners that will need to be transported to and from courts, so the forecasts show a range between low impact and high impact outcomes. The forecasts below indicate SOLGEN can achieve cost reductions, and can maximize the reductions by either encouraging police services to create regional entities to gain economies of scale and eliminate duplication, or by giving the role to a province-wide entity, which provides a greater certainty the economies will be achieved.

### Summary of Financial Implications for SOLGEN (000s)<sup>1</sup>

|             | Pre-<br>COVID-19 | Short<br>Term | Medium<br>Term | Long Term /<br>Entities | Long Term/<br>Provincial |
|-------------|------------------|---------------|----------------|-------------------------|--------------------------|
| No Change   | 142,267          | 142,965       | 143,324        | 143,691                 |                          |
| Low Impact  |                  | 139,372       | 139,659        | 139,333                 | 140,278                  |
| High Impact |                  | 137,575       | 135,968        | 135,055                 | 125,800                  |

Police services and the municipalities that fund them are in a challenging position, responsible to deliver a program and absorb all the increase in costs involved, whether inflationary or as a result of higher standards and expectations. The dramatic changes brought on by COVID-19 provide a one-time opportunity to recast responsibilities in the best manner possible without medium to long term financial impacts. Police services can certainly play a logical role and do so for less cost than they incurred before COVID-19

### Summary of Financial Implications for Municipalities (000s)

|             | Pre-<br>COVID-19 | Short<br>Term | Medium<br>Term | Long Term<br>/Entities | Long Term/<br>Provincial |
|-------------|------------------|---------------|----------------|------------------------|--------------------------|
| No Change   | 47,857           | 56,546        | 62,106         | 65,848                 |                          |
| Low Impact  |                  | 40,891        | 37,452         | 39,220                 | 38,275                   |
| High Impact |                  | 28,727        | 17,420         | 17,596                 | 26,851                   |

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<sup>1</sup> See the main report for discussion of the assumptions used for this analysis.



## 1.0 Introduction

This report presents the findings of an independent review conducted on court security and prisoner transportation in Ontario. Consultants from the private firm Goss Gilroy Inc. (GGI) conducted this review between October, 2020 and February, 2021 on behalf of, and with the support of, the Ministry of the Solicitor General (SOLGEN). The review involved extensive consultation with the police services that conduct court security and prisoner transportation, stakeholders within SOLGEN and other ministries within the Province of Ontario, and other stakeholders within the court environment and the municipalities that help fund court security and prisoner transportation. The purpose of the review was to examine how the services are provided, how they are financed and how they could be improved, in terms of compliance with provincial requirements and the efficiency of service delivery.

The first section of the report provides background and contextual information about court security and prisoner transportation in Ontario, and about the Court Security and Prisoner Transportation Transfer Payment (CSPT TP) Program administered by SOLGEN. The second part of this report describes the purpose of the review and data collection methods used. The findings section draws upon the data collected to describe how court security and prisoner transportation and the transfer payment can be improved. The final section sets out an implementation plan for these improvements.

## 2.0 Background

### 2.1 Court Security and Prisoner Transportation in Ontario

Court security and prisoner transportation services are provided by Municipal Police Services (MPSs) in all large and mid-sized municipalities in Ontario and some of the smaller municipalities. Most smaller municipalities receive police services from the Ontario Provincial Police (OPP), who are in charge of court security and prisoner transportation for those municipalities.

#### Court Security Responsibilities

The *Police Services Act* states that police services are responsible for the security of courthouses within their jurisdiction. Section 137 of the Act states that the police services board of jurisdiction or the OPP Commissioner is responsible for court security by:

1. Ensuring the security of judges and of persons taking part in or attending proceedings;
2. Ensuring the security of the premises during the hours when judges and members of the public are normally present;
3. Ensuring the secure custody of persons in custody who are on or about the premises including persons taken into custody at proceedings; and,
4. Determining appropriate levels of security to fulfill the obligations listed above.

Where Section 137 applies, Section 16 of the regulation on Adequacy and Effectiveness of Police Services requires that Chiefs of Police prepare a court security plan, establish procedures on court security that address supervision and training, and ensure that court security personnel have the knowledge, skills and abilities to perform court security functions. Section 29 requires Police Services Boards with court security responsibilities to establish policies with respect to court security. The Act also provides special powers for anyone carrying out court security duties on behalf of the police services board or OPP Commissioner, including the right to require persons to identify themselves, to search a person or vehicle entering the premises, the right to search prisoners, the right to refuse entry to the premises, or require a person to leave, and the right to arrest persons in certain circumstances. The current Policing Standards Manual section on Court Security includes a Court Security Assessment Tool to identify security needs in each individual courthouse for which a police service is responsible. This assessment covers critical incidents, the nature of cases, personnel and procedures, emergency planning and physical assessment.

SOLGEN indicates there are approximately 156 court locations in Ontario. Approximately 45% are base locations, 35% are satellite locations, and 20% are fly-in courts. SOLGEN estimates that 45% of

courthouses are secured by the OPP, and 55% by MPSs or self-administered First Nations Police Services.

Under court security, police services are responsible for:

- **Perimeter security** – The goal generally is to control all access points and only have one public access point. This is generally difficult to achieve in older courthouses, courthouses that share space with other uses, and temporary courts (e.g., an arena or legion hall).
- **Security screening at courthouse entrances** (i.e., persons and packages) – The trend has been towards screening at access points, using magnetometers, walk through or wand instruments and package inspection. This is employed at major courthouses throughout the province. Though the interviews and workshops reported screening equipment has been sent to some courthouses but not installed, or not used by the MPS responsible. Screening is generally not used at *Provincial Offences Act* (POA) courthouses and is not in place for courthouses that lack access control, or many smaller or temporary courthouses.
- **Security in common areas** is generally provided through a combination of cameras and active patrolling. Most courthouses have some form of “presence” by uniformed staff, who may be armed, or not armed, depending upon the location.
- **Security within courtrooms** is generally provided by having uniformed staff present in the courtroom during proceedings. This is provided in many courtrooms, and always when there is a prisoner in custody within the courtroom. Police services report demands from judges and occasionally crowns to have an officer in the courtroom even when there are no prisoners present, as a provision in case an event occurs (Family Courts and conflict between partners was used as an example). There is often resistance from police services to supply uniformed staff on all occasions based on availability and cost of staff.
- **Security during prisoner movement** generally involves meeting the prisoner transportation vehicle, escorting the prisoner to cells within the courthouse, and escorting the prisoner to and from the courtroom when required. It also includes feeding and monitoring the prisoner while in the cells, and returning prisoners to the transportation vehicle.
- **Security system monitoring** (e.g., camera room). Security systems are always monitored electronically. In some cases, generally larger courthouses, the cameras (and other alarms) are monitored by a staff member throughout the day, whether by a dedicated individual in a dedicated room, or by having TV monitors and alarms at a station staffed for other purposes (e.g., near the screening facility or cells).

## Prisoner Transportation Responsibilities

Under the *Municipal Act, 2001* and the *City of Toronto Act 2006*, municipalities are responsible for transporting prisoners between correctional facilities and the courts for the purpose of attending hearings or proceedings. Section 29 of the *Adequacy Standards Regulation* requires a police services board to have a policy on prisoner transportation, and section 13(1)(m) requires the Chief of Police to

establish procedures and processes for prisoner transportation. Section 53 of the *Police Services Act* clarifies that the use of special constables by police services to escort and convey persons in custody on a permanent basis is not prohibited by other provisions.

Police services transport individuals from holding cells at police headquarters to courthouses, to correctional facilities and between courthouses and correctional facilities. For instance, a person held at a police station may be transported to court for a bail hearing, or a person in police custody remanded during a video or audio hearing at a police station may be transported to a correctional facility. Additionally, police services are responsible for transporting in-custody prisoners between correctional institutions and courthouses. This may be to accommodate new bail or procedural hearings or it may involve prisoners participating in a trial. The correctional institutions are in charge of transporting prisoners between institutions<sup>2</sup> and from institutions to medical facilities or other appointments.

Note that prisoner transportation generally has two components. The initial transfer from the police station to a court or custodial institution is the transfer of a prisoner in the custody of the police service who arrested the individual. For subsequent transfers from the courthouse to a correctional institution or for transfers from a correctional institution to a courthouse the prisoner is in custody on account of a court order, and the police service is acting as a service provider to the courts.

The *Police Services Act* will be replaced in the near future with the *Community Safety and Policing Act, 2019* (CSPA) which has received Royal Assent but has not yet been proclaimed into force. Under the CSPA, responsibility for court security will remain with police service boards, which in turn, are largely funded by municipalities. The CSPA will allow First Nations to opt into the legislation in which case their boards will also be responsible (they are not subject to the current *Police Services Act*).

The new CSPA identifies what is a policing function and limits who may perform such functions. However, court security is not a designated policing function (but still a responsibility), with the result that it can be carried out by any individuals appointed for the purpose by a police service board. Appointments could be a sworn police officer, a special constable, or any other civilian appointed for the purpose, including contractors. Similar provisions will apply to the OPP.

Prisoner transportation may be considered by the CSPA as a policing function, at least as it relates to the transportation of prisoners to and from the police station, requiring the task be carried out by “members of the police service”, but regulations under Section 14 could permit this function to be outsourced (e.g., to the OPP Offender Transport Program (OTP), to another police service, to a joint or common service provider or to a contractor).

Thus, MPSs and OPP detachments will continue to be responsible to implement court security and prisoner transport (to the extent prisoner transport is a policing function) under the new CSPA,

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<sup>2</sup> The Bailiff Program used to provide transport between correctional institutions, but was disbanded in 2019. Transportation between correctional facilities is now the responsibility of correctional officers.

although there will be options with respect to how they deliver the services and who they use for that purpose.

## Funding Model

While police services (either MPS or the OPP, whichever is the police service of jurisdiction in the municipality) provide the court security and prisoner transportation services, municipalities are responsible for the costs of court security and prisoner transportation (and other policing costs), although they do receive a subsidy from the Province of Ontario, under the CSPT TP Program. The net costs after provincial contributions are charged against the municipal property tax base as part of the police services budget. The OPP OTP carries out some prisoner transportation for those municipalities that were impacted by the centralization of correctional institutions and does not charge the costs back to the municipalities. The costs of the OPP OTP are recovered from the province’s consolidated revenue fund by SOLGEN and are not part of the CSPT TP Program.

Since 2015, CSPT TP Program funding for municipalities policed by the OPP is paid directly to the OPP rather than to the municipalities that purchase policing from the OPP. The OPP bills municipalities for the police services it provides to those municipalities. It passes the grant on to municipalities by providing the municipality a credit against their municipal policing bills.

## CSPT Transfer Payment Program

As part of the 2008 Provincial-Municipal Fiscal and Service Delivery Review, the Ontario government committed to alleviating some court security and prisoner transportation costs from municipalities, beginning in 2012, to a maximum of \$125 million annually by 2018. The CSPT TP Program is administered by SOLGEN’s Public Safety Division. Table 1 identifies annual program allocations since 2012.

Table 1: CSPT TP Program Funding by Year

| (000’s rounded)      | 2012    | 2013    | 2014    | 2015    | 2016    | 2017   | 2018   | 2019   | 2020   |
|----------------------|---------|---------|---------|---------|---------|--------|--------|--------|--------|
| <b>Total Funding</b> | \$17.9M | \$35.7M | \$53.6M | \$71.4M | \$89.3M | \$107M | \$125M | \$125M | \$125M |

When the CSPT TP Program was announced, it committed to a maximum subsidy of \$125M per year to support municipalities in the implementation of court security and prisoner transportation services. The program reached the maximum subsidy rate in 2018. The \$125M cap was established based on estimates by the Association of Municipalities of Ontario (AMO) and the City of Toronto in the Provincial-Municipal Fiscal and Service Delivery Review, when it was assessed that police services were spending about \$125M per year on court security and prisoner transportation at that time (2008). Municipalities policed by MPSs receive a share of the funding envelope each year, pro-rated to their actual eligible court security and prisoner transportation costs as most recently reported. For

example, funding for 2020 was allocated based on each recipients' relative share of the total provincial CSPT expenditures for 2018. The OPP determines the allocations for OPP-policed municipalities based on their relative share of the projected CSPT costs.

Municipalities that have MPSs receive payment installments quarterly from SOLGEN, based on calendar year to align to the municipal fiscal year. The first quarter payment is made after the municipality and the province have signed a transfer payment agreement, and the recipient has provided adequate proof of insurance. The second installment is paid on the condition that the recipient has provided the previous year's Annual Financial Report. The OPP-policed municipalities receive their CSPT TP Program funding in the form of credits on their municipal policing bills twice a year (25% in February or March, and the remaining 75% in September or October).

This expenditure-based model was selected following consultations with stakeholders. Two other models - funding based on caseload and funding based on population - were considered when the program was designed but deemed ineffective. The two alternative models were rejected mainly because of the difficulty of tracking the necessary information (e.g., prisoner transport traffic, deeper understanding of catchment areas for courts), and because the first model would have been inequitable to smaller municipalities or others with longer distances to transport prisoners.

The CSPT TP Program serves as a subsidy program to support municipalities. Court security and prisoner transportation costs eligible under the CSPT TP Program include court security and prisoner transportation activities, training, equipment and recruitment. It excludes expenditures associated with court administration (e.g., schedule of staff, service of legal documents, data entry, etc.). Annual Financial Reports do not require a detailed breakdown of the costs between court security and prisoner transportation and some jurisdictions do not distinguish between the two categories of expenditures in their financial management systems. The Public Safety Division estimates that 70% of CSPT TP Program funds are used for court security, and 30% for prisoner transportation, based on municipal reports submitted for 2017.

In 2018, approximately 95% of the \$125M was provided to support municipalities policed by MPSs, and about 5% to municipalities policed by the OPP, reflecting their relative levels of expenditure, as identified in Table 2.

| (000's rounded)                                 | 2015          | 2016          | 2017           | 2018           | 2019           | 2020 (budget)  |
|-------------------------------------------------|---------------|---------------|----------------|----------------|----------------|----------------|
| <b>Total CSPT TP Allocation</b>                 | <b>71,432</b> | <b>89,289</b> | <b>107,143</b> | <b>125,326</b> | <b>125,000</b> | <b>125,000</b> |
| CSPT TP Allocation – MPS-policed municipalities | 69,124        | 86,404        | 102,520        | 119,527        | 118,844        | 119,494        |
| CSPT TP Allocation – OPP-policed municipalities | 2,308         | 2,885         | 4,623          | 5,799          | 6,156          | 5,506          |

In 2018, the allocation provided through the CSPT TP Program covered about 76% of the reported court security and prisoner transportation expenditures for MPS-policed municipalities<sup>3</sup> and 81% of costs for OPP-policed municipalities. This left a shortfall of about \$37.8M to be covered by MPS-policed municipalities and about \$1.3M for OPP-policed municipalities.

While the \$125M represented the estimated level of municipal expenditures in 2008, police services report that their expenditure levels have risen (Table 3), partly as a result of inflation (e.g., wage and salary increases), partly as a result of increased volumes (of prisoners and courthouses and courtrooms) and partly as a result of higher standards. For instance, the requirement to keep various categories of prisoners separate from each other, and the introduction of improvements in court security, such as screening at more courthouse entrances.

**Table 3: Reported Expenditures and CSPT TP Program Allocations for MPSs and OPP policed municipalities<sup>4</sup>**

| (000's)       | MPS CSPT costs | CSPT TP Allocation to MPS municipalities | % of MPS costs covered by CSPT TP | OPP CSPT costs | CSPT TP Allocation to OPP municipalities | % of OPP costs covered by CSPT TP |
|---------------|----------------|------------------------------------------|-----------------------------------|----------------|------------------------------------------|-----------------------------------|
| 2015          | 144,263        | 69,124                                   | 48%                               | 6,409          | 2,308                                    | 36%                               |
| 2016          | 148,822        | 86,404                                   | 58%                               | 6,766          | 2,885                                    | 43%                               |
| 2017          | 151,941        | 102,520                                  | 67%                               | 7,337          | 4,623                                    | 63%                               |
| 2018          | 157,332        | 119,527                                  | 76%                               | 7,067          | 5,799                                    | 82%                               |
| 2019          | 165,674        | 118,844                                  | 72%                               | 7,583          | 6,156                                    | 81%                               |
| 2020 (budget) |                | 119,494                                  |                                   |                | 5,506                                    |                                   |

### The Ontario Provincial Police Offender Transportation Program

As part of the province's program to restructure and consolidate correctional institutions, the province expanded OPP service in 2008 to assist municipalities faced with longer cross-municipal boundary transfers as a result of a local correctional institution being closed. The OPP established its OTP to conduct prisoner transportation for some municipalities.

This funding was approximately \$24 million in fiscal year 2019-2020 (ends March 31, 2020), \$17.3M of this was for the transportation of adult prisoners and \$6.7M related to the transport of youth. Municipalities are required to sign Memoranda of Understanding (MOU) with the OPP outlining specific services to be provided (which may, for example, only include certain types of prisoners housed at a centralized institution) and the terms and conditions related to OPP services. The OPP OTP funds transportation 'loops' across municipal boundaries, between police facilities, courthouses and

<sup>3</sup> This is based on costs reported through the Annual Financial Reports for that year.

<sup>4</sup> This table is based on Annual Financial Reports data compiled by the CSPT TP Program, and OPP data on costs and CSPT program allocation.

correctional institutions. The OTP currently operates 63 Memoranda of Understanding (MOU) with different municipalities, and transports approximately 90,000 prisoners a year (pre-COVID-19 pandemic) between correctional facilities and courthouses, using approximately 60 transportation vehicles. The entire costs of the OTP are charged to, and covered by, SOLGEN (for adult inmates) and the Ministry of Children, Community and Social Services (for Youth).

The OPP OTP is a centrally administered program out of the OPP office in Orillia, Ontario. It is comprised of 150 Offender Transport Officers that make up 10 Offender Transport Units (OTUs) across the province. The OTUs are located in Ottawa, North Bay, Lindsay, Cobourg, Penetanguishene, Milton, Burlington, Simcoe, Windsor, and London. A further 43 employees (civilians and sworn officers) make up the operational support and administration of the OTP. The OTP operates independently from OPP detachments and regions throughout the province that are responsible for prisoner transport in their role as a police service of jurisdiction. However, the OTP does provide service to support some OPP detachments when the municipality they serve has been impacted by a correctional institution closure and the municipality has signed an MOU.

There is no formal distance threshold to trigger a new MOU and hence service by the OTP to a new municipality. All prisoner transport across municipal boundaries, and all prisoner transport for long distances do not qualify, only those that result from the consolidation of correctional institutions. Of note, the OPP OTP does not operate in Northern regions, where no institutional centralization has occurred, but where transport distances are also the longest. The North West Region (NWR) Offender Transport Unit (OTU) provides support to OPP detachments in the Region but the costs of these services are charged back to the municipalities responsible.

## First Nations Policing

First Nations police services are funded under the First Nations Policing Program (FNPP), with federal and provincial governments sharing the costs. First Nations police services are excluded from the CSPT TP Program.

However, First Nations police services currently carry out offender transport, and some services have established Memoranda of Understanding (MOU) with the OPP to coordinate offender transport between the organizations. Some First Nations police services are also required to contract air transportation for prisoners, which is a significant cost.

First Nations police services also provide court security when courts convene in the communities they serve. This generally requires reassigning an officer who otherwise would be deployed to frontline policing duties.

The Indigenous Police Chiefs of Ontario (IPCO), who participated in a workshop session supporting this study, indicated they are only funded to provide front-line police services, and court security and prisoner transportation are not eligible expenditures under the current funding arrangement. They argue they should be eligible for the CSPT TP Program on the basis of fairness. Other police services in



Ontario receive funding under the CSPT TP Program, and they believe they should receive it as well, which would allow them to provide court security and prisoner transportation services without taking officers off the front-line. They also note that they should be providing services in their communities to ensure cultural appropriateness, both in handling prisoners and relating to community members.

## 3.0 Purpose, Scope and Methodology

The review was overseen by a Director-level management committee and a Steering Committee of Assistant Deputy Ministers (ADMs) from stakeholder ministries (SOLGEN and the Ministry of the Attorney General (MAG)). Members of the committees also communicated with their Treasury Board counterparts for input.

The purpose of the review was to conduct an end-to-end assessment of how court security and prisoner transportation are done in Ontario, with a particular focus on SOLGEN's CSPT TP Program. The objective of the study was to develop recommendations towards:

1. Improving the design of the CSPT TP Program to deliver it in a fiscally constrained environment, and to align with accountability requirements in the Transfer Payment Accountability Directive (TPAD); and,
2. Identifying potential ways to make court security and prisoner transportation more efficient in Ontario, in the short-term (within the current model) and in the long-term (considering potential structural changes to the model). More specifically, the consultants sought to identify efficiencies to reduce the costs incurred by police services and reduce costs incurred by SOLGEN, including costs associated with the OPP OTP.

The review focussed on prisoner transportation and court security carried out by police services within the **current legislative framework**. The scope of work excluded the following:

- Related activities connected to correctional institutions.
- First Nations policing agreements.
- Increasing the funding envelope of the CSPT TP Program.

### 3.1 Review Methodology

The review was conducted using multiple lines of evidence to collect factual information from different sources, including gathering the perspective of the stakeholder community. The methodology used is described in the sections below.

#### Interviews with Stakeholders

The review team conducted interviews with a range of court security and prisoner transportation stakeholders. The interviews had a dual purpose: 1) scoping the exercise and understanding what stakeholders were hoping to see as a result of the review, and 2) to collect information to answer the review's questions about how to generate effectiveness and efficiency. Interviews were led by GGI consultants and attended by a SOLGEN representative. Most interviews were with representatives of

the Ontario government Ministries involved. Others included representatives of AMO, IPCO, the OPP OTP and Parry Sound Police Service. The list of interviews conducted for the review can be found in Appendix 1.

## Survey of Police Services and Feedback Forms

The review team administered a survey to MPSs and a survey of OPP detachments to collect information on the way they deliver court security and prisoner transportation, and to collect their general input for the review. Two questionnaires were distributed to MPSs: one to capture qualitative descriptions and feedback on court security and prisoner transportation operations, the other to collect financial and staffing information. The OPP detachments were sent a single questionnaire to collect the qualitative information. Quantitative data about the OPP’s CSPT activities were collected from central OPP.

Overall, the purpose of the surveys was to give the reviewers a better understanding of the way CSPT activities are conducted, what strengths and challenges may exist in the current model, and what areas could be examined for improvements towards greater efficiency. The response rate for both surveys was high as outlined in the following table.

**Table 4: Police Survey Participation Rates**

| Category | Responses | Response rate | % of respondents performing both CS and PT |
|----------|-----------|---------------|--------------------------------------------|
| MPS      | 32        | 71%           | 81%                                        |
| OPP      | 62        | 86%           | 50%                                        |

The review team also made available an online feedback form to municipal Chief Administrative Officers (CAOs) (n=345) and members of Ontario Police Service Boards (via a link circulated by the Ontario Association of Police Service Boards). This instrument allowed these two groups of respondents to provide input to the review on a voluntary basis. A total of 22 CAOs and 28 members of Police Service Boards provided their input through this mechanism.

## Workshops

The review team conducted a series of workshops with MPSs and OPP detachments. Workshops were held following the surveys to delve deeper into areas identified as challenges and to explore avenues for improvement in more detail with participants. Workshop sessions were held with the following groups:

- Representatives of the Toronto Police Service;
- Representatives of the remaining “Big 10” MPS;

- Representatives of OPP detachments;
- Representatives of small and medium-size MPSs; and,
- Representatives of Indigenous Police Chiefs of Ontario.

Participants in the workshops are listed in Appendix 2

## Jurisdictional Review

The review team conducted a jurisdictional review to compare Ontario's court security and prisoner transportation model with what is done in other jurisdictions in Canada and abroad. The review covered: Alberta, British Columbia, Quebec, Australia and New Zealand. The findings are reported in detail in Appendix 3 and discussed in relevant sections throughout this report.

## 3.2 Limitations and Methodological Notes

- Although the review had a strong stakeholder engagement framework, it did focus heavily on the perspective of police services as implementers of the court security and prisoner transport activities covered in the review. The judiciary, Crown, and defense counsel provided input in writing and through interviews, but participation was limited. Corrections were engaged through interviews with the Ministry, but operations at Institutions was not part of the scope of this review.
- While the response rates to the surveys were high, they did not provide full coverage of the population, especially regarding financial information (i.e., quantitative questionnaire of the Municipal Police Survey).
- COVID-19 has introduced significant uncertainty, making forecasts less precise than they may be otherwise. In particular there is some uncertainty over the extent to which video and audio hearings will continue post COVID-19 and over the volume of prisoner transportation that will be required in the "new normal". All estimates are based on current knowledge and a reasonable understanding of the processes and may, or may not, come to fruition.

## 4.0 Potential Improvements to Efficiency and Effectiveness

### 4.1 COVID-19 and the Evolution of Virtual Appearances

#### Current Situation – Impact of COVID-19

Both court security and prison transportation have been dramatically impacted by the COVID-19 pandemic, in Ontario, and in all other jurisdictions included in our review (Appendix 3). The most immediate impact was the “closure” of courts. With the courts closed, there was still a need for police to bring accused persons before a Justice of the Peace for bail hearings.

As a result, court hearings proceeded, generally through virtual appearances in order to reduce the likelihood of COVID-19 infection for participants. Virtual hearings have tended to be by video whenever possible, but in some cases, particularly in the north, internet bandwidth or facilities have not been adequate to support video, and purely audio hearings have occurred. With courtrooms closed, the virtual appearance was often not just by a prisoner, but also by the judge, crown, defence counsel and even witnesses and agency representatives.

During the pandemic, a prisoner’s first appearance generally occurred at the police station, taking place either from the cells or a nearby room. According to interviewees and focus group participants, police stations have generally been constructed with the expectation that prisoners would be taken to court. Hence there is typically no dedicated space or equipment for virtual appearances. Most police services have accommodated video appearances by repurposing rooms and facilities, and using cell phones and tablets to equip makeshift video facilities.

Additionally, subsequent appearances often have had to occur by video and/or audio from the correctional institution during the pandemic. The substantial increase in the use of video appearances has caused a number of effects. Interviewees indicated that correctional facilities were not built to accommodate video appearance they too have repurposed some spaces and used whatever technical capacity was available to accommodate the needs.

Trials were generally postponed early in the pandemic, but some trials eventually had to proceed to ensure the accused’s rights to be tried within a reasonable time under the Charter of Rights and Freedoms. Interviewees and workshop participants indicated most court appearances still occurred using virtual (video and/or audio) connections, and the data available for prisoner transportation volumes substantiates this (see Figure 1 and Table 5).

Video hearing capacity has also been exceeded at courthouses where judges, crowns and defence counsel are using video or audio for virtual hearings. Interviewees and workshop participants indicated that in many cases, court stakeholders use personal computers, phones and tablets from

home or office, however some use courthouses when they have better video facilities. As courthouses have been opening up, more parties are attending the courthouse and using facilities there. However, in many cases, the video capacity remains insufficient, especially with the need for social distancing between the parties appearing from the same courthouse.

## The Justice Video Strategy

Although the COVID-19 requirements strained virtual appearance capacity, there have been steps in the past to build this capacity. The Government of Ontario began a Video Remand and Bail project in 2000, to ease the transportation burden of accused persons from Ontario correctional facilities to and from court appearances. This led to the creation of the Justice Video Network (JVN), which provides some capacity for remote appearances. However, the JVN was difficult to put in place, complex to use, and adoption was limited.

As part of further efforts to modernize the justice system, the province began larger scale pilots for video appearances and remote defense attorney access in correctional facilities in 2016. A “Justice Video Strategy” (JVS) was developed – before COVID-19 – to increase the capacity for doing court hearings by video from correctional institutions and at courthouses. The strategy aims to have 90% of pre-trial in-custody appearances at the Ontario Court of Justice (excluding the Superior Court) take place using video. The JVS reports that in 2018, about 57% of pre-trial appearances were done remotely, although about half of those were audio appearances, not video. Police services indicated even lower video appearance rates before COVID-19 in their survey responses, although they were reporting on all appearances, not just Ontario Court of Justice Appearances.

At the time of this review, there are about 150 video suites in correctional institutions, and the JVS has plans for another 270 which are targeted for implementation by March of 2023. About 200 of over 850 courtrooms in the province are equipped with video conference equipment. In addition to the units to be provided under the JVS, new video suites are being implemented as part of new courthouse construction or renovation, including at the new major courthouse being built in downtown Toronto. While there is not enough video capacity in courthouses and correctional institutions to meet current requirements, there is more than there would have been without these initiatives, and there will be substantially more by March, 2023.

Perhaps as important, the virtual first appearance is often from a police station shortly after arrest. The hearing is required within 24 hours of arrest and can lead to the release of the prisoner without the need to transport to a courthouse or correctional facility. The JVS reports that 120 video units can be found in police facilities at present. Stakeholders and survey respondents indicate that many more are required. Improvements in the video capacity of police stations will also be required.

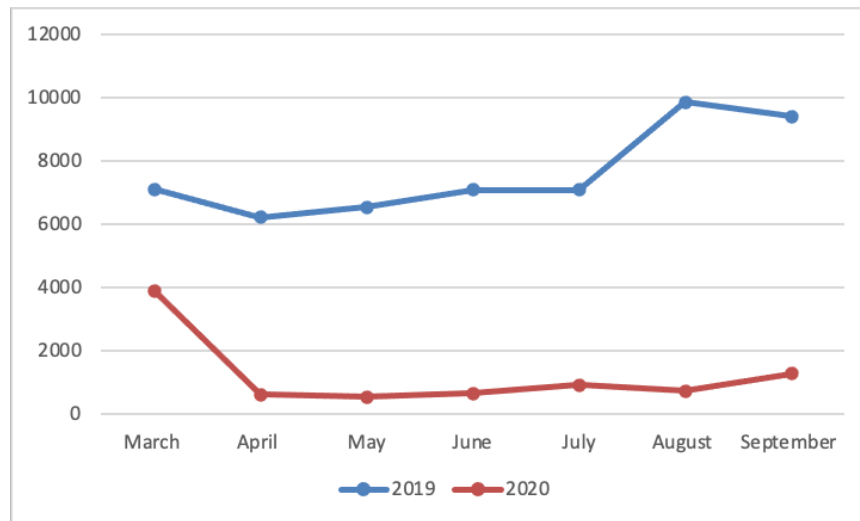
## Drivers for Change – Lessons from COVID-19

Up until the pandemic, there was substantial inertia to overcome and resistance to adopting video technology as an approach to court appearances. Doing virtual court appearances by video rather than

in person is a transformative idea that reduces the need for prisoner transportation and lowers security risks from transport and at courthouses. Stakeholder interviews indicated that with the COVID-19 pandemic, video appearances have become vital to the functioning of the justice system, and the survey, interviews and workshops all indicate video appearances have received much wider take-up than in pre-pandemic times.

This decrease is reflected in OPP OTU numbers when comparing the number of prisoners transported monthly in 2019 with the corresponding 2020 month. On average a 90% reduction is seen from April to September 2020 (Figure 1).

**Figure 1: OPP OTP Prisoner Volumes by Month**



According to the results of the surveys, COVID-19 has reduced prisoner transportation volumes by about 75% for MPS and OPP detachments (Table 5). Most of those reporting “no effect” have the OPP OTP carrying their prisoners.

**Table 5: Impact of Video Appearances on Prisoner Transportation**

|                        | MPS |          |                             | OPP |          |                             |
|------------------------|-----|----------|-----------------------------|-----|----------|-----------------------------|
|                        | N   | % of MPS | Average reduction in volume | N   | % of OPP | Average reduction in volume |
| <b>Before COVID-19</b> | 9   | 31%      | 23%                         | 17  | 32%      | 33% <sup>5</sup>            |
| <b>Since COVID-19</b>  | 27  | 93%      | 75% <sup>6</sup>            | 37  | 70%      | 78% <sup>7</sup>            |
| <b>No Impact</b>       | 2   | 7%       | -                           | 14  | 26%      | -                           |

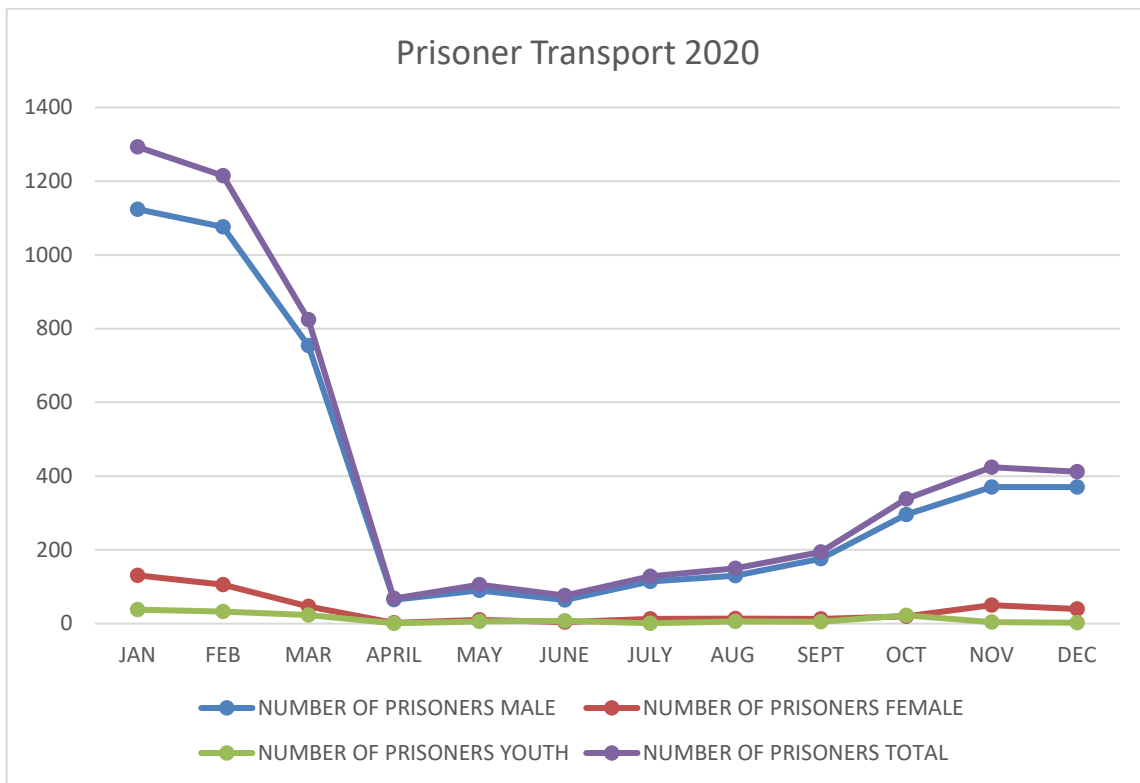
<sup>5</sup> Based on 10 respondents providing actual estimates

<sup>6</sup> Based on 23 respondents providing actual estimates

<sup>7</sup> Based on 27 respondents providing actual estimates

Given the difference between the OPP OTP data and the reports from MPSs, we contacted the Ottawa Police Service that had reported only a 50% reduction and found that the figure was based upon year over year data, without distinguishing between pre- and post COVID-19 periods. The Ottawa Police Service also provided a breakdown of prisoners transported by month which is shown in the figure below.

Figure 2 - Prisoners Transported by Month, Ottawa Police Service



This shows the total number of prisoners transported declined to about 10% of pre-COVID-19 volumes early in the pandemic, but recovered to about 33% of pre-pandemic volumes later in the year, as activity (and arrest volumes) returned closer to usual levels. The OPP data also showed a slight increase in September and may have increased as well later in the fall.

The key remaining transportation requirement in all jurisdictions during COVID-19 is that police services are still transporting prisoners from the police station to the correctional institution, when persons are remanded in custody at their initial bail hearing which is now being conducted virtually from the police station. The Ottawa data shows trips to and from the central courthouse virtually stopped in mid-March.

The table below looks at charges and the court hearings that result from them. 89% of cases were resolved without a trial date in 2019, before the COVID-19 pandemic struck. Only 11% of cases actually involved a trial date, and most of those were resolved by a guilty plea or were withdrawn at



the trial date, with only 3.5% of total cases continuing to an actual trial. This suggests that it should be possible to conduct the vast majority of these appearances virtually, with almost 90% of cases resolved without a trial.

Table 6: Court Appearances in Ontario - Cases Disposed in 2019<sup>8</sup>

| Total Cases                                                               | All Cases |       | All Cases that Began —<br>in Bail Court |       |
|---------------------------------------------------------------------------|-----------|-------|-----------------------------------------|-------|
|                                                                           | 220,548   | 100%  | 99,661                                  | 100%  |
| Cases Disposed before Trial Date                                          | 196,166   | 88.9% | 88,713                                  | 89.0% |
| Cases Disposed at Trial, without Trial (guilty plea or charges withdrawn) | 16,029    | 7.3%  | 7,453                                   | 7.5%  |
| Cases Disposed Following a Trial                                          | 8,353     | 3.8%  | 3,495                                   | 3.5%  |
| <b>Average number of appearances</b>                                      | 8.0       |       | 10.0                                    |       |

Note when looking at the table above, the “Cases that began in Bail Court” are those that involve an offender in custody, at least for part of the court process. Each such offender will appear in court an average of ten times, two of which are for bail hearings.

The significant reduction in prisoner transportation volumes has reduced the risks associated with prisoner transportation and court security (e.g., risks of accidents, escape attempts, incidents between prisoners, self-harm, contraband, etc.). These risks remain whenever a prisoner is transported. The COVID-19 experience indicates that many of the court appearances that occurred before COVID-19 could have been virtual appearances, and Table 6 indicates most could be virtual appearances in the future. However, interviewees and workshop participants indicated that even when possible pre-COVID-19, video appearances were rarely implemented, mainly due to resistance from crown, defense and/or the judiciary. Additionally, workshop participants indicated that prisoners were often transported to courthouses primarily to meet with defence counsel and/or community agencies, with purely administrative hearings scheduled to accommodate.

These stakeholders will have learned from the COVID-19 experience, and seemingly many will be more receptive to holding virtual hearings in the future. Workshop participants indicated there may now be a better understanding of the risks related to prisoner transportation and prisoner appearance in courtrooms, and a better appreciation for the potential of virtual appearances. At the same time, there is a certain level of video fatigue emerging out of the pandemic experience and this may be re-enforced by the sub-standard or make-shift facilities that have been used over the past year. The video experience must be improved or there will be a tendency to revert back to in-person appearances.

<sup>8</sup><https://www.ontariocourts.ca/ocj/files/stats/bail/2019/2019-Bail-Offence.pdf>

## Analysis

### Estimated Impacts of Virtual Hearings on Prisoner Transportation

It can be expected that prisoner transportation volumes will increase in some way after COVID-19. The volume during COVID-19 has largely been transfers from police detention facilities to correctional institutions. This volume is estimated to be 20% to 35% of pre-COVID-19 prisoner transportation volumes, based on prisoner transportation statistics during the pandemic (the low number based on the OPP data, the higher percentage based on the survey of MPSs and the more recent Ottawa data), and on the case data (Table 6) which suggests each case has an average of 10 appearances. Only one of these appearances could precede the initial transfer to a correctional institution, although some would not make that trip, having been released after the first hearing. These trips will continue post-pandemic, regardless of the extent of virtual hearings.

Many trials will continue to be in person, requiring the transport of prisoners. However, trial dates are only set in 11% of cases (based on 2019 data, Table 6), and two-thirds of these involve a guilty plea or withdrawn charges, many of which could presumably be handled virtually as many decisions to plead guilty or withdraw charges are made before the trial date. Actual trials only occur in about 3.5% of cases.

However, the majority of trips in the past were related to remand hearings, pre-trial and administrative hearings, sometimes to accommodate meetings at the courthouses, according to stakeholders and workshop participants. The intent of the Justice Video Strategy is to be able to accommodate 90% of the pre-trial hearings, and to accommodate meetings between prisoners and their counsel, the agencies involved in preparing pre-trial release plans and even family and friend visitations.

There are reports on the impact of the use of video in other locations. In the Ninth Judicial District of Minneapolis a review found that the savings on prisoner transportation alone were enough to fund the implementation of the video system, and that all court stakeholders<sup>9</sup> also saved time. Similarly, a review of the impact of video appearances in England identified both savings on prisoner transport and stakeholder time.<sup>10</sup> A study of the Justice Video Network in Ontario showed the OPP saved 294,000 km of employee travel as a result of video hearings.<sup>11</sup>

Through the jurisdictional scan, it was found that Quebec has now mandated that pre-trial appearances will be by video demonstrating that such a strategy can be implemented. Ontario does not seem ready to take this position, preferring to leave more discretion to the judiciary. Change management initiatives to encourage the continued use of virtual hearings whenever possible will be essential to minimize the surge in prisoner transportation requirements that may occur post-COVID-

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<sup>9</sup> Babcock, Emily and Johansen, Kate (2011) "Remote Justice? Expanding the Use of Interactive Video Teleconference in Minnesota Criminal Proceedings," William Mitchell Law Review: Vol. 37: Iss. 2, Article 17. Available at: <http://open.mitchellhamline.edu/wmlr/vol37/iss2/17>

<sup>10</sup> Slessor, James, Goodwin, Tim and Feggetter, Emma, Accenture Consulting, "Rewriting the Rulebook"

<sup>11</sup> <https://www.nbs.net/articles/bringing-courtrooms-online-for-speedier-justice>

19. These initiatives should be aimed at all courthouse stakeholders, the judiciary, crowns, defense attorneys, administrators and police services.

Additionally, feedback received from the OAPSB survey indicated that Ontario's new bail policy is also having an effect on the number of persons being transported for court purposes and is expected to continue to have an impact.

Prisoner transportation volumes in 2022 are therefore estimated to range from 35% to 60% of pre-COVID-19 volumes, made up of:

- 20% to 35% of trips that are from police stations to correctional institutions which will remain, as discussed above;
- 5% to 15% of trips that will relate to trial dates. This a conservative estimate as the 2019 case data indicates trials only occur in 3.5% of cases and only 11% of cases have a trial date at all (even if guilty pleas and withdrawals need to be made in person). The high estimate will leave considerable room for a potential surge as courts re-open and delayed trials are held.; and,
- 10% to allow for pre-trial hearings that could not be accommodated by video, given the ongoing JVS implementation plan.

Once the implementation of new video capacity is completed through the JVS, and the backlog of trials is resolved, the prisoner transportation volumes should decrease to 30% to 55% of pre-pandemic levels. This would be made up of:

- the 20% to 35% of trips that are from police stations to correctional institutions;
- 5% to 10% of trips that will relate to trial dates once the pent-up demand is satisfied and allowing that some guilty pleas and charge withdrawals may occur virtually, and
- 5% to 10% to allow for the pre-trial hearings that are not expected to be accommodated by the Justice Video Strategy (which set 90% of pre-trial appearances as a target), and will still not be accommodated by changing expectations as a result of the COVID-19 experience.

However, costs will not reduce as much as volumes do. Stakeholders noted that COVID-19 prevention protocols have added steps to transportation (e.g., disinfection) and can require more trips given that prisoners have to be physically distanced (e.g., each in their own compartment). The reduction in prisoner volumes has not resulted in a corresponding reduction in the trips required, partly due to reduced vehicle capacity with social distancing requirements, and partly because a trip must occur to transport a single prisoner – using the same staff resource that might have carried 10 prisoners before. The cost largely relates to the driver (and co-driver), not to the type of vehicle involved.

But there will be reductions. The SOLGEN May 2020 COVID-related survey found that 18 out of 29 police services (including OPP) who responded had reduced the number of staff assigned to prisoner transportation. The survey found that the number of officers and staff assigned to court security had decreased by roughly 40% overall. The OPP OTP have retained all their permanent staff but

significantly reduced part-time staff hours. This resulted in a 24% reduction in the cost of transporting adult prisoners, far less than the reduction in prisoner volumes because all full-time staff have been retained, but certainly an indication that costs may be reduced when prisoner volume declines. MPS report they have most frequently reassigned transport and sometimes court security staff to supervising virtual court appearances from police headquarters.

There were some runs, including flights, that currently involve individual prisoners. They can be eliminated if the trip is eliminated. Many prisoners are now transported on loops that follow a general route pattern. The loops cannot be eliminated as long as there is at least one prisoner to transport, however the loops could be combined in some cases if volume diminishes significantly, reducing the number of loops and therefore the costs of operating them. The introduction of software as discussed in another section will assist in redesigning the loops to meet changing demand levels.

In the transportation business, costs are generally considered linear, e.g., directly related to volumes. There can be situations where the costs are not linear, such as decreases in the number of trips while the geographical service area remains the same and circumstances where the level of service has to be maintained while the ridership declines. These factors are present in this situation, which will result in the savings being less than the decline in ridership. For example, the City of Ottawa found that the average number of passengers per trip declined from 4.3 in 2019 to 3.1 in December of 2020 and as low as 2 in July when only 11% of prisoner volumes were carried. However, experience working in the transportation industry, the experience of the OPP OTP (which reduced costs 24% without laying off any staff) and the MPSs (which reassigned many staff to other duties) during COVID-19 and common sense suggests there will be cost reductions of at least half the amount that ridership declines. As a consequence, there is an expectation costs will be reduced by at least 20% to 30% in the short-term (when volumes are down by 45% to 70%) and 20% to 40% in the medium and long term when full video facilities are in place (and prisoner volumes are down 55% to 70%).

### **Estimated Impacts of Virtual Hearings on Court Security**

Participants in the workshops indicated courthouse security requirements have not decreased as dramatically as prisoner transportation requirements have during the pandemic. Workshop participants and survey responses indicated the costs of providing basic security at courthouses are similar to what they were before the pandemic, with the exception of prisoner movement in most cases.

Similar to prisoner transportation, the opportunity for savings once courthouses re-open largely relate to the handling of prisoners within the courthouses. Historically most prisoners in a courthouse have been there for pre-trial hearings, and the expansion of virtual hearings would reduce the number of prisoners within the courthouse. It is not anticipated cost reductions will reach the 40% level as indicated in the May 2020 survey by virtue of at least some prisoners needing to be in the courthouses once they re-open.

Prisoner management can involve meeting the prisoners when they arrive at a courthouse, transporting them to holding cells, supervising them while in the cells, arranging for their meals,

transporting them to and from courtrooms when required and supervising them while in the courtroom, and returning them to the transport vehicles at the end of the day. These costs are a major demand on court security staff, second only to entranceway screening and may take from 20% to 40% of court security staffing.

Reduced volumes have already resulted in lower staffing levels, and can be expected to continue to some extent. In larger courthouses the number of supervisory officers will decline and in other locations where a prisoner is required for a trial but there are none to be supervised while the trial is underway, staffing can be reduced. Lower volumes in smaller courthouses may potentially eliminate the need for prisoner management altogether on some hearing dates. It is estimated that the costs of court security should decline:

- 5% to 10% in the short term, based on estimated reduced volumes identified above, and a reduction in the 20% to 40% of costs related to prisoner management and
- 10% to 15% in the longer term, as prisoner volumes reduce further due to the elimination of the trial backlog and the continued improvement of video facilities.

#### *Prisoner Impacts of Virtual Hearings*

There is also an expectation that prisoner impacts have declined as a result of more extensive use of virtual hearings. If attending a hearing in person, prisoners may be awakened early, may spend extensive time in an uncomfortable prisoner transportation vehicle, may spend hours in a courthouse lockup and then return quite late to the correctional institution. These conditions can be particularly difficult for prisoners with mental health issues. When prisoners are released as a result of a hearing, there are advantages to being released from the correctional institution, where they can retrieve their personal items (wallets, belts, phones, etc.) and they can receive assistance from a discharge planning officer, rather than at a courthouse where the personal items and services are not available.

## Maximizing Use of Virtual Hearings in the Future

Most stakeholders, whether by interview, survey or workshop saw the use of video appearances and reduction in prisoner transportation requirements as beneficial and argued it should be maintained as much as possible as courts open and the “new normal” is established.

There is a danger that as COVID-related restrictions diminish, the court system will shift back to its former model of operation, particularly if the infrastructure required to support virtual appearances remains inadequate. The province does have a process underway to expand the capacity of courthouses and correctional institutions to conduct effective virtual hearings, and to accommodate the meetings between prisoners, and their defence counsel and supportive agencies. However, these changes will not all be in place by the time COVID-19 restrictions ease. Furthermore, there is no coordinated plan for police services to accommodate virtual hearings from their detention facilities. Most have accommodated the virtual appearances to the extent necessary, but often with temporary arrangements that impact other aspects of police operations. Police services will need to make

permanent changes in their facilities in order to accommodate an adequate standard of bail hearings by prisoners in their care.

Stakeholders, by interview, survey or workshop indicated that continuing to use virtual hearings whenever possible, and adequate, will require:

- The Court system developing an understanding that in the “new normal”, pre-trial appearances will be virtual - by video whenever possible, but by audio when necessary to prevent long trips or flights, particularly in the north.
- The province needs to continue its programs to improve video capacity at courthouses and at correctional institutions. This also means ensuring that all significant projects to expand, relocate or otherwise modify courthouses and correctional institutions include adequate video facilities. It means ensuring defence counsel and support agencies can access prisoners by video.
- Police services will need to expand the video capacity at police station lockups. The province will need to adopt policies that encourage these improvements, potentially including funding.
- Courthouse stakeholders will need to accept the imperfections, even inadequacies of existing virtual capacities as modernization is addressed. The province will need to perform effective change management while this transition is ongoing.
- Capacity is not only about technology. Video appearances from an institution or police detention facility require someone to monitor the process to ensure the security of the facility, equipment, and the offender. The survey and workshops indicate that many police services have redeployed staff that would normally provide prisoner transportation and/or court security services to this role. This is more challenging for smaller services or those that use the OPP OTP as there is less opportunity to reassign staff and more of a problem providing supervision in correctional institutions and sometimes at courthouses which leads to pulling officers off of front-line services.

## Recommendation

1) *SOLGEN should work with all justice stakeholders (justices, crowns, defense counsel, court administrators, police services) to ensure the “new normal” that emerges after COVID-19 minimizes the transport of prisoners, and maximizes the use of virtual appearances for pre-trial hearings. This will require:*

- *Establishing a standard of practice for using virtual hearings for pre-trial hearings that do not have extenuating circumstances.*
- *Continuing to install video capacity in correctional institutions and courthouses with a view to accommodating both the hearings themselves and communications between prisoners and their counsel and relevant support agencies.*
- *Encouraging police services to upgrade their detention facilities to incorporate the capacity for virtual bail hearings.*

- *Improving access to virtual weekend and statutory holiday (WASH) courts throughout the province to eliminate the need to transport prisoners before a First Court Hearing.*

## Implementation Plan

SOLGEN will have to execute an effective Change Management Plan over the next year to year and a half in order to minimize the requirements of transporting prisoners to court for pre-trial appearances. While the scope of such a plan is beyond the mandate of this review, it will need to include:

- Work with all court stakeholders to review their experience in the past year, identify what went well and what problems or issues emerged with virtual appearances.
- Develop a plan to address the issues, and address them as quickly as possible. The plan may have short- and long-term elements, including the identification of “work around” solutions employed in the past year, evaluation of those means, and identifying new work arounds, or previously established best practices to deal with the issues.
- Publish the findings and best practices and encourage their use in the future. Ensure the risks related to prisoner transportation and prisoner appearances are identified and presented.
- Work with the senior judiciary to determine their expectations and encourage them to encourage other judges throughout the province to minimize the need for in-person appearances other than required for a trial.
- Work to overcome technical issues, such as internet access in the north, conducting pilots with a variety of satellite providers.

## Efficiency Estimate:

|                                                               | Rationale and Assumptions                                                                                                                                                                                                                                                                                                                                                                  | Estimated Savings                                                                                                                                                                                                                                                                                    |
|---------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>Short-term</li> </ul>  | <ul style="list-style-type: none"> <li>Prisoner transportation volumes return to 35% to 60% of pre-COVID-19 levels. (made up of trips from police stations to correctional institutions (20% to 35%), trial dates (5% to 15% including deferred trials), and other pre-trial hearings that cannot be carried out by video (10%))</li> </ul>                                                | <ul style="list-style-type: none"> <li>20% to 30% reduction of prisoner transportation costs (some trips eliminated; some loops consolidated). \$16M to \$24M reduction</li> <li>5% to 10% reduction of court security costs (reduced prisoner management costs) \$6M to \$13M reduction.</li> </ul> |
| <ul style="list-style-type: none"> <li>Medium Term</li> </ul> | <ul style="list-style-type: none"> <li>Prisoner transportation volumes decrease to 30% to 55% of pre-COVID-19 levels with elimination of trial backlog and improved video facilities, (made up of trips from police stations to correctional institutions (20% to 35%), trial dates (5% to 10%), and other pre-trial hearings that cannot be carried out by video (5% to 10%)).</li> </ul> | <ul style="list-style-type: none"> <li>20% to 40% of prisoner transportation costs. (some trips eliminated; some loops consolidated) \$16M to \$32M reduction</li> <li>10% to 15% of Court Security costs (reduced prisoner management costs) \$13M to \$20M reduction.</li> </ul>                   |
| <ul style="list-style-type: none"> <li>Long Term</li> </ul>   | <ul style="list-style-type: none"> <li>Same</li> </ul>                                                                                                                                                                                                                                                                                                                                     | <ul style="list-style-type: none"> <li>Same</li> </ul>                                                                                                                                                                                                                                               |

## 4.2 Use of Special Constables

### Current Situation

The survey results and workshop discussions confirm that most MPSs use special constables for prisoner transportation (Table 7). About half of MPSs who responded to the survey also use sworn officers at least on occasion to perform transport covered by the CPST TP Program. Workshop participants indicate this may occur due to: timing (no special constable available), the risk assessment (e.g., armed presence necessary), irregular requirements inconsistent with prisoner transport unit schedules, or occasional requirements at smaller services. There is no involvement of contract personnel in prisoner transportation other than the contracts with OPP OTP.



**Table 7: Type of Personnel Used for PT by MPSs**

| Prisoner transportation Tasks<br>(% of MPS that use category for each task) | Sworn<br>Officers | Special<br>Constables | Contractor<br>(OPP OTP) | Not<br>applicable |
|-----------------------------------------------------------------------------|-------------------|-----------------------|-------------------------|-------------------|
| From police station to correctional institution                             | 69%               | 93%                   | 10%                     | 0%                |
| From police station to court                                                | 79%               | 93%                   | 3%                      | 0%                |
| From correctional institution to court                                      | 48%               | 86%                   | 14%                     | 14%               |
| From court to correctional institution                                      | 55%               | 93%                   | 14%                     | 7%                |

About half of OPP detachments (Table 8) also use special constables for prisoner transport<sup>12</sup>. Most OPP detachment respondents and certain MPS respondents with an OPP OTP MOU, indicated that OPP OTP handles most of their prisoner transport, but that they still have to use their own personnel under some circumstances. Workshop participants indicated this may be because the OPP OTP cannot handle the prisoner (higher risk or requirement outside court order) or the requirement does not meet the OPP OTP program schedule, usually a requirement on weekends. The OPP detachments are more likely to use sworn officers than MPS because they are generally smaller, have lower transportation needs, or rely on the OPP OTP for the majority of prisoner transports. They use sworn officers for specialized occasional needs.

**Table 8: Types of Personnel Used for PT by OPP Detachments**

| Prisoner Transportation Tasks<br>(% of OPP detachments that use category for each task) | Sworn<br>Officers | Special<br>Constables | Contract<br>Personnel | Other<br>Civilians | Not<br>applicable |
|-----------------------------------------------------------------------------------------|-------------------|-----------------------|-----------------------|--------------------|-------------------|
| From detachment to correctional institution                                             | 91%               | 57%                   | 4%                    | 0%                 | 0%                |
| From detachment to court                                                                | 94%               | 51%                   | 4%                    | 0%                 | 0%                |
| From correctional institution to court                                                  | 66%               | 58%                   | 6%                    | 0%                 | 11%               |
| From court to correctional institution                                                  | 70%               | 55%                   | 6%                    | 0%                 | 15%               |

All MPSs use special constables for court security as indicated in Table 9, and most have them perform nearly all functions within the courthouse. For example, Toronto, with the largest Courthouse security operation, is staffed entirely by special constables as a routine, with sworn officers included when a risk assessment requires it. However, most services do have sworn police officers present to respond to security calls and alarms and supervise the work of special constables or contractors. Eleven MPSs indicated they have officers in courthouses performing administrative duties who are not included in the Court Security costs. Eighteen MPSs indicated they do not have such officers.

A few MPS survey respondents indicated that although it is incumbent on sworn officers to respond to emergencies, on-duty special constables are often involved in crisis response as well. Stakeholders

<sup>12</sup> A few respondents noted that sworn officers are involved only to transport youth offenders.

mentioned retired sworn officers are hired part-time to provide additional security, and cadets can also be mobilized for court security. Discussions during the workshops revealed that court security arrangements can vary significantly between court locations within a given jurisdiction (e.g., special constables only in the main courthouse, but sworn officer assigned to POA court).

**Table 9: Type of Staff That Perform Court Security Tasks for MPSs**

| Court security tasks performed at the courthouse(s)<br>(% of MPS who use each staff category) | Special Constables | Sworn Officers | Contract Personnel | Other Civilians | Not applicable |
|-----------------------------------------------------------------------------------------------|--------------------|----------------|--------------------|-----------------|----------------|
| Prisoner movement with the courthouse                                                         | 100%               | 48%            | 3%                 | 0%              | 0%             |
| Security in the courtroom                                                                     | 100%               | 59%            | 3%                 | 0%              | 0%             |
| Prisoner feeding                                                                              | 97%                | 31%            | 3%                 | 0%              | 0%             |
| Managing in-custody facilities                                                                | 97%                | 55%            | 3%                 | 0%              | 0%             |
| General visibility in common areas                                                            | 93%                | 62%            | 17%                | 0%              | 0%             |
| Security at access points                                                                     | 83%                | 52%            | 28%                | 0%              | 7%             |
| Respond to alarms and other calls                                                             | 76%                | 79%            | 10%                | 3%              | 0%             |
| Facility perimeter security                                                                   | 66%                | 41%            | 28%                | 3%              | 10%            |
| COVID-19 responsibilities (e.g., health screening)                                            | 38%                | 31%            | 52%                | 24%             | 10%            |

OPP detachments use special constables to a lesser extent than MPS as shown in Table 10. In the majority of OPP detachments, sworn officers conduct prisoner movement, safety in the courtrooms, and general visibility in common areas. This is especially true in smaller communities and part-time courthouses. Some OPP officers play a dual role at smaller courthouses, providing administration support and being available to respond to security duties as required. Among OPP detachments who do court security and responded to the survey, 40% indicated they have such officers conducting administrative duties at the courthouses, but these expenditures are not covered in the costs submitted for reimbursement under the CSPT TP Program.

**Table 10: Type of Staff That Perform Court Security Tasks for OPP**

| Court security tasks performed at the courthouse(s)<br>(% of detachments who use each category) | Special Constables | Sworn Officers | Contract Personnel | Other Civilians | Not applicable |
|-------------------------------------------------------------------------------------------------|--------------------|----------------|--------------------|-----------------|----------------|
| Prisoner movement within the courthouse                                                         | 48%                | 73%            | 0%                 | 0%              | 8%             |
| Safety and security in the courtroom                                                            | 45%                | 88%            | 5%                 | 0%              | 0%             |
| Prisoner feeding                                                                                | 45%                | 58%            | 8%                 | 20%             | 10%            |
| Manage in-custody facilities                                                                    | 43%                | 53%            | 5%                 | 8%              | 20%            |
| General visibility in common areas                                                              | 43%                | 78%            | 8%                 | 5%              | 5%             |
| Facility perimeter security                                                                     | 35%                | 58%            | 3%                 | 0%              | 25%            |
| Respond to alarms and other calls                                                               | 33%                | 78%            | 3%                 | 0%              | 13%            |
| Security at access points                                                                       | 30%                | 45%            | 8%                 | 5%              | 33%            |
| COVID-19 responsibilities (e.g., health screening)                                              | 13%                | 30%            | 20%                | 10%             | 40%            |

Special constables working within the OPP OTP do not formally assist with court security. However, there are instances in which the police service providing security in the courthouse assists in bringing the prisoner from the truck to the courthouse cells. In some cases, the transporting officers or special constables experience downtime between the last drop off and the first pick-up.

## Drivers for Change

In the majority of cases, survey respondents indicate that armed presence is needed only in high-risk cases and that the use of special constables is appropriate and sufficient, especially if the vehicles and equipment are adequate. However, 45% of MPS and 26% of OPP detachments who responded to the survey and do prisoner transportation indicated that armed presence is necessary for this service. On the other hand, Toronto, the largest MPS, uses special constables exclusively for prisoner transportation. The OPP OTP also uses special constables exclusively for transportation. There are very few mid-sized to larger services that use sworn officers exclusively.

The Jurisdictional Review indicates that the other jurisdictions surveyed generally use personnel other than sworn police officers to conduct both prisoner transportation and court security. The name of the position varies, but these staff generally receive specific training focused on the court security and/or prisoner transportation areas, are often not armed (although in one case they are), and are generally paid less than sworn police officers.

Among smaller services there is more use of sworn police officers, generally because the need varies from day to day (e.g., courts move from town to town, they are open for limited periods, prisoner attendance is intermittent). This makes it more difficult to hire special constables and deploy them on a full-time basis unless additional tasks can be assigned. This is a particular challenge for Indigenous services which rely on the OPP to appoint special constables and we understand that the OPP appointments are for limited tasks (tasks can be varied by appointment based on needs).

Many smaller municipalities (and some mid-sized), as well as many OPP Detachments rely on the OPP OTP to handle prisoner transport. When the OTP cannot transport prisoners, these services must pull their sworn police officers off regular duties in order to carry out the prisoner transport. The same situation emerges when smaller services and detachments must provide court security on an occasional basis. They are required to pull sworn police officers off regular duties. First Nations police services also noted this as a problem.

The OPP OTP is a unique service that provides the economies of scale to justify use of special constables, but a few survey respondents and workshop participants spoke about instances where the OPP OTP will not accommodate the transport, and the local police service must carry out the transport, usually using sworn police officers withdrawn from front-line duty.

The OPP OTP Standard Operating Conditions (SOC) indicate the OPP OTP may refuse to transport:

- An offender exhibiting self-harming behaviour;
- An offender exhibiting/indicating a medical problem without appropriate authorization from a medical practitioner;
- An offender testing positive on an institutional body scan without appropriate authorization from a medical practitioner;
- An offender confirmed to be more than five months pregnant;
- An offender who is not ambulatory;
- An offender on a suicide watch;
- An offender in an insecure location and there is no armed officer present.

A decision on whether to transport in these cases can be made by the Senior Offender Transport Officer. The SOCs also indicate that when a police service of jurisdiction determines there is a threat related to a high-risk offender (e.g., potential for assisted escape or hijacking), the OTP will not carry the prisoner. In addition, the OPP OTP will only transport prisoners pursuant to a court order. Where court orders indicate prisoners will be taken to a particular place (e.g., a custodial institution) the OTP will not take the prisoner to any other place, even to a hospital or medical facility if the prisoner is thought to have a medical issue. Diverting from the court order requires clearance.

If the OPP refuses to transport for any of these reasons, the police service of jurisdiction is then required to provide the transport, and this usually occurs using a sworn police officer and a squad car. As a consequence of the comments from MPSs the OPP OTP has indicated that it is reviewing its practices in such refusals and eliminating the refusals whenever possible.

## Analysis

There is some opportunity to expand the use of special constables in Ontario.

The evidence indicates that the use of special constables for court security and prisoner transportation is a best practice. The survey identified that all mid-sized to large forces in the province use special constables for both court security and prisoner transportation. The OPP OTP uses special constables for prisoner transportation as well and the jurisdictional review found that generally, personnel other than sworn police officers are used to conduct both prisoner transportation and court security.

We know from the survey that there are a number of MPS using sworn officers exclusively for court security and/or prisoner transportation. It was found that the difference in cost between a sworn officer and a special constable, including benefits, is generally in the \$30,000 to \$40,000 range

annually.<sup>13</sup> Based on the survey data, there are at least two MPS that would be candidates for expanding the use of special constables.

Expanding the use of special constables in smaller services or detachments would require some approach to allow sharing the special constable resource among services. The best approach would seem to be to attach the court security, and where appropriate prisoner transportation mandate, to an entity that could work with the courts, so the same special constable(s) could travel with the court as hearings are arranged to provide court security at each location. Where the logistics are appropriate (e.g., the court is based in a location with a correctional institution), the special constables moving to the rotating court locations could also facilitate the prisoner transportation.

This kind of arrangement would likely require the transfer of responsibility from local police services to some common entity, whether by agreement with the services or through a provincial action. Options to achieve this are discussed in later sections of this report.

## Recommendations

- 2) *The MPS that use full-time sworn police officers rather than special constables for prisoner transportation and/or court security should convert to use of special constables.*
- 3) *In 2024 Implement \$40,000 CSTP PT grant reductions per FTE for police services that only use sworn police officers for prisoner transportation or courthouse entrance screening (should not apply to police services who use a limited number of sworn officers as well as special constables).*
- 4) *The OPP OTP continue to reduce its “refusals” to transport prisoners whenever possible.*

## Implementation Plan

Point out the alternatives to the MPSs still using sworn officers exclusively and invite them to contact other MPSs which use special constables more extensively. This implementation process can be combined with that for contracting of courthouse entrance screening (discussed in the next section), and the savings are additive.

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<sup>13</sup> An article “The Civilianization of Police in Canada” reported at <https://www.publicsafety.gc.ca/cnt/rsracs/pblctns/2015-r042/index-en.aspx#a10-1> provides an example of the replacement of sworn officers with civilians as Court Service Officers. Court services were provided by seven members: one sergeant at an annual salary of \$132,429, two constables at annual salaries of \$121,859, two special civilian constables at annual salaries \$105,076, and two part-time special constables at annual salaries of \$41,046. This amounted to \$400,410 in salaries and benefits. After an analysis of salaries and benefits, court security became the responsibility of one special constable at an annual salary of \$53,538, and six part-time special constables at annual salaries totalling \$123,138. This amounted to \$176,676, amounting to overall savings of \$223,734. The article notes that resources saved were deployed elsewhere within the police service rather than resulting in a net reduction to the budget.

Note that sworn officers cannot be replaced with special constables in smaller forces, without implementing the structural change addressed later in this report.

## Efficiency Estimate

|                                                               | Rationale and Assumptions                                                                                                                                                                                                                                                                                           | Estimated Savings                                                  |
|---------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>Short-term</li> </ul>  | <ul style="list-style-type: none"> <li>Replace 1-4 sworn police officers with special constables with a saving of \$30-40,000 per position</li> <li>Assumes two MPS currently using sworn officers will convert to best practice</li> </ul>                                                                         | <ul style="list-style-type: none"> <li>\$30K to \$160K</li> </ul>  |
| <ul style="list-style-type: none"> <li>Medium Term</li> </ul> | <ul style="list-style-type: none"> <li>Replace 4-8 sworn police officers with special constables with a saving of \$30-40,000 per position</li> <li>Assumes MPSs currently using sworn officers will convert to best practice, and potential for some conversions based on co-operation between services</li> </ul> | <ul style="list-style-type: none"> <li>\$120K to \$320K</li> </ul> |
| <ul style="list-style-type: none"> <li>Long Term</li> </ul>   | <ul style="list-style-type: none"> <li>Replace 4-15 sworn police officers with special constables with a saving of \$30-40,000 per position</li> <li>Assumes all MPSs involved and some regional entities involved in prisoner transportation as well as court security</li> </ul>                                  | <ul style="list-style-type: none"> <li>\$240K to \$600</li> </ul>  |

## 4.3 The Use of Contractors for Court Security

### Current Situation

As part of the CSPT TP Program review, MPSs and OPP were asked to identify how they staffed various court security activities. Breakdowns of the mix of staff for securing access points, conducting facility perimeter security and undertaking COVID-19 screening activities were requested.

According to the survey results, 19 MPS have special constables screening at access points, nine of which also have sworn police officers involved. Ten OPP detachments have special constables (with or without sworn police officers) carrying out screening, and another ten have sworn police officers doing the screening.

Screening is usually only conducted at the major courthouse in each location, although in Toronto, with 13 courthouses, screening is done by special constables and there is screening equipment at all courthouses. Some OPP detachments use sworn police officers because they secure a courthouse that does not sit every day. Many police services indicate they have sworn police officers in the courthouses performing other duties, ranging from providing visible presence, courtroom security, or court administrative duties, resources that may be available if an incident at the screening station occurs.

The survey results indicate there is some contracting out for security at access points, facility perimeters and for the conduct of COVID-19 screening. During the workshops, a few police services did describe their use of contract personnel to oversee access points. The percentage of MPS and OPP locations that are using contract personnel for these functions are highlighted in the table below.

**Table 11: Type of Staff That Perform Court Security Tasks for MPS and OPP**

| Court security tasks performed at the courthouse(s)<br>(% of MPS who use each staff category) | Special Constables |     | Sworn Officers |     | Contract Personnel |            | Other Civilians |     | Not applicable |     |
|-----------------------------------------------------------------------------------------------|--------------------|-----|----------------|-----|--------------------|------------|-----------------|-----|----------------|-----|
|                                                                                               | MPS                | OPP | MPS            | OPP | MPS                | OPP        | MPS             | OPP | MPS            | OPP |
| Security at access points                                                                     | 83%                | 30% | 52%            | 45% | <b>28%</b>         | <b>8%</b>  | 0%              | 5%  | 7%             | 33% |
| Facility perimeter security                                                                   | 66%                | 35% | 41%            | 58% | <b>28%</b>         | <b>3%</b>  | 3%              | 0%  | 10%            | 25% |
| COVID-19 responsibilities (e.g., health screening)                                            | 38%                | 13% | 31%            | 30% | <b>52%</b>         | <b>20%</b> | 24%             | 10% | 10%            | 40% |

During the workshops, a few MPS representatives identified there are substantial cost savings available from contracting service delivery in the area of court security, particularly in perimeter security, screening and alarm monitoring.

## Drivers for Change

Workshop attendees indicated that by contracting out access point and perimeter security activities, significant cost savings have been achieved, and they were satisfied with contractors’ performance and the resulting security level. In those cases, contractors and court security police staff work in close collaboration (e.g., a sworn police officer is also in the area near the screening, or sworn police officers are available to respond; and two special constables also monitor screening during peak times at one location).

Another police service explained they have recently gone to tender to hire contractors to operate X-ray and magnetometers at the courthouse. The contracting measure is intended to generate significant savings, but the respondent wondered whether the level of service will be comparable to that of experienced special constables already familiar with the community, and whether sharing responsibilities with a private third-party will be effective.

There was concern that contractors may be ineffective e.g., inadequately trained, or unresponsive to direction from the police service. There was also concern that some high risk but very low frequency incidents have required an armed presence at or near the entrance when screening personnel are confronted with armed members of the public.

Other police services and court stakeholders seem to share the same concerns when considering involvement of the private sector in court security. The concern appears to focus on the learning involved in the change process, and the concern that a competitive procurement process will not select competent contractors. Toronto, who uses special constables exclusively for court security, has conducted regular audits on court security, but no exercise has recommended the use of contractors.

However, the data collected during the study indicates that contractors have successfully been used to conduct screening at courthouse entrances, secure courthouses in the evening and for monitoring cameras and alarms. At the moment the province has engaged contractors to conduct COVID-related health screening (that have been responsive to direction), and Ottawa Police Service and the Waterloo Regional Police Service use contractors successfully.

Ottawa found the introduction of contractors to conduct screening saved 70% of the cost, or \$700,000 compared to having 10 special constables conduct the work. This relates in part to the lower all-in hourly cost of staff, and partly to more flexibility in the assignment and recruiting of staff. Ottawa engaged a contractor who was also providing building security services in the evening, which ensured at least some staff had familiarity with the building and its operating circumstances. Ottawa also required the contractor to provide staff who had a minimum level of specified training as determined by the MPS. However, Ottawa also kept a sworn police officer who supervises the screening process, and provides the armed presence required in the event of incidents.

Similarly, the Waterloo Regional Police Service has registered a 4.5 FTE reduction and annual savings equal to \$358,000 as a result of contracting private security for screening as opposed to using special constables in their courthouse.



## Analysis

The evidence indicates expanded use of contractors to conduct screening at courthouse single points of entry can reduce the costs for police services of jurisdiction and provide adequate levels of security if properly implemented. It can also reduce the cost of introducing screening at new locations, which may make it easier to expand screening to new areas in response to stakeholder concerns. Contracting is most likely to be successful if RFPs require a specified level of staff training as determined by a MPS, and an MPS does not eliminate the presence of sworn police officers where they exist now, presumably on the basis of a risk assessment.

The concerns raised that some high risk but very low frequency incidents have required an armed presence is a factor independent of whether special constables or contract staff conduct the screening, as neither are armed. If a risk assessment indicates an armed presence is necessary, it will be required under either scenario. In some cases, it will be determined that other armed officers in the courthouse can cover the requirements, and again, that determination would be independent of whether special constables or contractors carry out the screening.

Based on survey findings, we estimate that there are 20 courthouses that could change from having special constables conduct screening, to having contractors conduct the screening. About half of these will be smaller than Ottawa and Waterloo, some will be constrained by collective agreements and/or negative attitudes towards contracting and some may keep more sworn police officers involved than Ottawa and Waterloo (although both retained some). As a consequence, our analysis conservatively assumes savings will be \$200,000 per location on average, despite the much higher savings that have occurred in Ottawa and Waterloo. The \$200,000 per location estimate is very conservative. The estimate is based on calculating less than half the average of what was achieved in Ottawa and Waterloo.

The review did consider the potential to contract out court security and/or prisoner transportation province-wide as a whole, to organizations such as the Commissionaires or GardaWorld. There would likely be savings in doing so, however there is concern that it would remove the control and direction of staff too far from the court stakeholders. With the high aversion to risk of court stakeholders and the need to maintain an armed presence in many courthouses we do not recommend this approach at the present time. However, it is something that a particular police department may choose to pursue in the future, and with the right relationship between the court stakeholders, the police service and the contractor, it could be a workable solution.

## Recommendation

- 5) Encourage police services using special constables (currently 83% of MPS and 30% of OPP locations) to conduct screening at courthouse entrances through contracting the screening operations. The contract should require the training of contract staff and specifications of responsibilities to respond to direction from the MPS (or OPP) courthouse security personnel. The screening area should retain an armed sworn police officer presence when warranted by risk assessments.*

## Implementation Plan

There is no structural change required to implement this recommendation. The existing *Police Services Act* does allow for the police service of jurisdiction to determine how it will provide court security and if it chooses to use contract staff, they have the special authority the act confers on court security staff generally. The police service of jurisdiction would remain accountable for court security.

The Ministry should start the process by facilitating information exchanges between police services and support police services that are considering the approach. A zoom presentation by Ottawa and Waterloo for example, could help identify best practices and assist other police services to initiate the process. It would also be useful to prepare a “best practices” document to assist police services to manage the approach, particularly when they are required to use municipal procurement processes. The process would be useful to police services expected to implement new screening processes as well as those contemplating converting existing screening processes to contracted staffing.

In a second phase, perhaps starting in 2024, the CSPT TP Program could be adapted to provide financial incentives to contract screening in particular. This could involve reducing the approved expenditures or the actual CSPT TP Program payments of any police service that continues to screen without at least tendering for screening activities (if tenders suggest no savings, implementation would not be required) to assume contracting is employed at all full-time courthouses, or it could simply reduce the payment by \$200,000 (based on the saving estimate above). These funds could be used to support the expansion of screening equipment to new locations, as discussed in the next section “Improving Security in Courthouses”.

## Efficiency Estimate

|                                                               | Rationale and Assumptions                                                                                                                                                                                                                                                                          | Estimated Savings                                                      |
|---------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>Short-term</li> </ul>  | <ul style="list-style-type: none"> <li>The forecast assumes at least 2 to 5 courthouses could switch to contractor screening in the short-term, recognizing that it is underway in at least one. To be conservative, the forecast assumes, reducing costs by \$200,000 at each location</li> </ul> | <ul style="list-style-type: none"> <li>\$400 K to 1 million</li> </ul> |
| <ul style="list-style-type: none"> <li>Medium Term</li> </ul> | <ul style="list-style-type: none"> <li>The medium-term estimate would assume 5 to 20 courthouses (total) would switch. The lower estimate assumes MPSs other than Toronto convert the higher</li> </ul>                                                                                            | <ul style="list-style-type: none"> <li>\$1 to 4 million</li> </ul>     |

|             | Rationale and Assumptions                            | Estimated Savings |
|-------------|------------------------------------------------------|-------------------|
|             | estimate assumes courthouses in Toronto are involved |                   |
| • Long Term | • Same                                               | • \$1 to \$4M     |

## 4.4 Improving Security in Courthouses

### Current Situation

Current legislation states that police service boards and the OPP Commissioner are responsible to determine the level of security required for court activities. In doing this, police services should follow the risk assessment protocols set by the province. There are guidelines for conducting the risk assessments as outlined in the Provincial Adequacy Standards (LE-014A). The Court Security Tool is used to identify security needs in each individual courthouse for which the police service of jurisdiction is responsible. This assessment covers critical incidents, the nature of cases, personnel and procedures, emergency planning and physical assessment.

Each courthouse has a Court Security Committee through which the judiciary, crown, defence counsel and court administrators discuss security requirements with police service responsible to provide security. Most MPS and OPP detachments who answered the survey participate in regular formal meetings with partners regarding court security, through Court Security Committees or working groups, Local Courts Management Advisory Committee, Criminal Court Management Committee, and Bench and Bar meetings. According to survey results, the frequency of contact varies (i.e., ‘regular’, bi-weekly, quarterly, bi-annually, annually). The majority of MPS survey respondents (86%) and most OPP detachment respondents (67%) report that collaboration with partners on court security is working well.

### Infrastructure Issues

Some survey and workshop respondents described technology or infrastructure upgrades to courthouses that have been valuable (e.g., creating a single-point of entry, installation of new screening equipment, adding surveillance cameras, opening of new courthouse, etc.). The province of Ontario continues to upgrade or replace courthouses, addressing security issues as part of the process. Survey respondents who operated out of new courthouses, or who reported that infrastructure and equipment improvements had been made, said they did not reduce their court security staff as a result, but had greater confidence in their ability to address security risks.

Through the survey and focus groups, other services report that infrastructure issues remain and, sometimes, a lack of adequate security equipment hinders court security. This includes challenges due to the number, design, age or characteristics of courthouse buildings. Examples of these challenges were noted as: shared buildings and cohabitation with multiple services, prisoner circulation in public spaces, lack of space, multiple points of entry, elevators, or inadequate cell blocks. Several courthouses

are located in heritage buildings, which can complicate retrofit or maintenance projects, although there have been examples where issues were overcome. Equipment issues include lack of screening hardware, no adequate camera system, defective alarms, no prisoner box for in-custody matters, and so on.

Among MPS who responded to the survey and do court security, less than half (46%) indicated there is screening equipment in operation at the courthouses they secure. This percentage is lower for OPP detachments where 16% of survey respondents indicated they have screening equipment in operation at courthouse access points. Courthouses with screening detectors tend to be larger facilities with higher risk trials and the largest numbers of people entering. The courthouses with deficiencies tend to be smaller and/or not used full-time.

These issues impact the risk assessment, and thus the number of staff (namely sworn officers) that have to be deployed to secure courthouses. For instance, armed presence may be required because a location has multiple points of access. The lack of screening equipment can impact the risk of weapons being brought into the courthouses, or the ability to screen incoming packages.

Additionally, crowns sitting in small or even temporary facilities with audiences that may be related to the accused indicate they would feel more comfortable if there was some screening of the attendees, who are usually seated behind the crown's back. Security outside the courthouse can also be a concern (e.g., immediate vicinity, and parking spaces).

## Relationships

Through the survey and workshops, police services explained that the relationship with the judiciary, crown and defense counsel regarding court security can be challenging. There are varying expectations and demands from the Judiciary with respect to how court security is provided. Some want armed officers in their Courtrooms – some do not, some want prisoners unshackled, causing increased security risks for the police services to manage and navigate, while others do not.

However, the most common issue raised by police services relates to court stakeholders' high and increasing expectations for court security, which can put a strain on resources. Court security expectations and requests have increased over time. Of MPS and OPP survey respondents who indicated they had made changes to court security duties in the last three years, most described increasing their staffing levels. Smaller police services have to accommodate additional requests by pulling staff from the front-lines or going into overtime. About half of OPP survey respondents (52%) find it challenging to deliver court security with their level of staffing, with needs exceeding their capacity. Some respondents specify that they do not have the resources to meet demands from the judiciary, or to accommodate late court hours. A few small and medium sized police services indicated they had to refuse requests to conduct additional court security activities (e.g., opening of a new court location, staffing new equipment) because of lack of personnel.

## Request for Standards

Both workshop participants and courthouse stakeholders also identify lack of consistent standards for court security as an issue. On the one hand, this makes it difficult for police services to “push back” against court security asks that are not aligned with the risk assessment, police service responsibilities or level of resourcing. On the other hand, there are no standards that court administration, the judiciary, counsel or Crown can rely on to formulate security requirements in courthouses and courtrooms.

As a result of no standard, security requirements do vary significantly between courthouses. A significant number of factors influence these differences:

- The nature of proceedings in the courthouse, e.g., criminal courts, youth courts, family courts, or POA courts (traffic ticket courts).
- The layout of the courthouse building, which may or may not have a single point of entry for the public, separate entrances for prisoners, and the judiciary, a requirement for judges to traverse public spaces, and a requirement for prisoners to traverse public areas, etc. The occasional use of public facilities in small communities, such as arenas or Legion halls can be limiting.
- Particular risks, such as defendants likely to be targets of attack or defendants likely to attack others, or the potential intervention of third parties to disrupt activities or attempt to free a prisoner.

These differences make it very difficult to set a standard for all courthouses, or even all courthouses that fit into a certain category. Renovations or reconstruction of courthouses can produce important benefits that can reduce the costs of providing adequate security, but they are costly and while some are always underway, they cannot all be accomplished at once. Moreover, standards and expectations do change over time. Any meaningful standard would have to apply to the facility as well. Setting a standard that required large capital expenditures by the province or large operating expenditures by police services would be problematic.

However, court stakeholders do require some means to ensure their reasonable requests are met. The ability of the judiciary to cancel a court hearing is an approach. An alternative would be to have an appeal body that court stakeholders could ask to issue orders that a police service provide additional security services. However, that would be difficult in a context where court security is largely a municipal responsibility, and while “anything is possible”, there have been very few incidents which would justify higher security standards.

Financial incentives would be possible, perhaps recognizing the full cost of new security measures implemented by a police service as a first charge against the CSPT TP Program. However, this would have the impact of having other municipalities pay for improved security in a particular location. Without some provincial funding of these incentives, there would be strong resistance.

## Recommendations

- 6) *Screening at entrances to courthouses should continue to be expanded as risk assessments identify requirements.*
- 7) *Police services should remain responsible for establishing security levels (and determining when and where screening will be added) unless*
  - *The province accepts responsibility for the cost of increasing security levels.*
  - *CSPT costs drop below \$125M so the full cost is funded by the province.*
  - *Funds are available for transfer from CSPT TP Program payments reduced as a result of a decision to contract screening.*

## Efficiency Estimate

There are no cost savings associated with this recommendation. Additional estimated resources are provided.

|                                                                 | Rationale and Assumptions                                                                                                                                                                           | Estimated Cost                                                              |
|-----------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>• Short-term</li> </ul>  | <ul style="list-style-type: none"> <li>• The forecast assumes at least 1 to 2 courthouses could implement screening. The forecast assumes, increased costs of \$400,000 at each location</li> </ul> | <ul style="list-style-type: none"> <li>• \$400K to \$800K</li> </ul>        |
| <ul style="list-style-type: none"> <li>• Medium Term</li> </ul> | <ul style="list-style-type: none"> <li>• The forecast assumes at least 2 to 4 courthouses could implement screening</li> </ul>                                                                      | <ul style="list-style-type: none"> <li>• \$800K to \$1.6 million</li> </ul> |
| <ul style="list-style-type: none"> <li>• Long Term</li> </ul>   | <ul style="list-style-type: none"> <li>• The forecast assumes at least 3 to 6 courthouses could implement screening</li> </ul>                                                                      | <ul style="list-style-type: none"> <li>• \$1.2 to \$2.4M</li> </ul>         |

## 4.5 Scheduling Prisoner Transportation

### Current Situation

Prisoner transportation is a very complex system. The police may initiate a transportation requirement by arresting someone who isn't subsequently released. The courts may establish a requirement by scheduling a hearing, and then by deciding to release, or not release a prisoner. Occasionally a requirement may result from the police need to take fingerprints or the need for a medical clearance after a prisoner shows symptoms resulting from an emerging medical condition or a conflict situation.

The OPP OTP tracks prisoner transportation requirements on a physical board at each of its five offices, then manually transfers the information to a daily board for each transportation loop, then creates manual sheets that drivers (and co-drivers) can use to determine who they are to pick up, where, and when. Although each vehicle has a regular “loop” they service, some stops may be skipped or others added depending upon the circumstances. The driver or co-driver also records information they have concerning how the trip went, and future commitments or appearances that prisoners are to make. This information is transferred to the future requirements board. This process occurs at all nine of the OPP OTP locations.

## Drivers for Change

The OPP OTP prisoner transportation scheduling process is manual and inefficient. There is a low tolerance for errors in this process, so it may require multiple calls or emails to confirm information with various police departments, courts and to inform correctional institutions which prisoners are to be prepared at what time on which day. The management of the operation consumes 11% of the FTEs of the OTP. This includes the staff carrying out all these administrative tasks, as well as other management and supervisory staff.

## Analysis

This process could be improved through the use of a software system that would collect information from police services, court administrators and prisoner transportation providers, and distribute information to correctional institutions, determine the most effective routes for the available vehicles to meet the needs the coming day, print schedules for drivers, and allow drivers to record information they receive. Ideally the system would allow input from cellphones (an app) and computers, from any of the stakeholders involved (police services, court administrators, correctional institutions, drivers or co-drivers and transportation managers), recording the source and time of the input. It would design the routes for each vehicle using algorithms like that used for para-transit scheduling, considering the various limitations on vehicle capacity, the categories of prisoners, etc. If tied to a GPS system (e.g., cell phones of co-drivers and/or vehicles) it would provide some visibility of progress and allow confirmation of anticipated arrival times. It could also provide confirmation to each police station, courthouse or correctional institution of the expected schedule, allowing them to confirm all requirements will be met. Emails could be sent daily or more frequently to seek the confirmation by stakeholders.

It is uncertain what the cost would be to implement such a software system and further investigation and/or a procurement process would be required. It would also be important to build the system taking into account any changes to operating regimes that are adopted or planned. The savings could be significant, not just in terms of the transportation costs but perhaps also the related costs in court administration, correctional institutions and police services. There is also the potential savings from

automated route planning. Route planning software packages promise savings of 10% to 50%<sup>14</sup>. One implementation is credited with reducing the staff time required for route planning by 66% and another saw a 12% reduction in driver cost and a capacity increase of 14%.<sup>15</sup> The savings would be less in this application as many of the current loops have been run for some years. But with reduced volumes and particular stops to be included or excluded based on day to day needs, there should be some savings.

It may also be useful to include in the system some capabilities related to court administration and court security. The court security system is pretty routine in most courthouses, but more variable in smaller and remote communities where courts only sit periodically. Some assistance in scheduling those courts may be helpful and could contribute to the scheduling of prisoner transportation and court security staff. Court administration is largely automated, and a link between that system and the new prisoner transportation system could ensure consistency in results and allow one-time input of data related to planned hearings.

Within the OPP OTP there are five administrative assistants and seven officers involved at least part-time in the route planning process, about 6% of the total staffing (and at least 6% of total costs). Reducing the need to collect, retain and process information on each prisoner trip, confirm the information (the impact of mistakes is large enough to require steps to reduce them) – all by hand – would clearly reduce the administration required. Within larger police services there are similar groups performing this work. There may also be some savings on the drivers and co-drivers if the route optimization aspect helps reduce travel requirements or the number of loops to be run. To be conservative, we have estimated the potential cost savings at 1% to 4% of transportation costs for both the lower administrative costs and route optimization savings, although it is likely savings will be greater.

## Recommendation

8) *The Ministry could pursue the potential to integrate a software initiative with court administration and court security requirements. Implementing a new software solution should reduce costs, but it would take some time, and the potential savings would need to be more precisely identified.*

## Implementation Plan

As a first step, SOLGEN should conduct a market review to determine the availability of software that would automate and co-ordinate prisoner transportation. Options that would be usable by all participants across the province, and those that might support a large individual operation (Toronto,

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<sup>14</sup> <https://www.paragonrouting.com/en-us/blog/post/is-route-optimization-worth-the-money/>, <https://www.aptean.com/solutions/tms/fleet-savings-calculator/>, <https://medium.com/@CircuitApp/using-route-optimization-to-cut-delivery-costs-8c90e2a7c8ea>, <https://blog.routific.com/what-is-route-optimization>, <https://optimoroute.com/>, <https://optimoroute.com/what-is-route-optimization/>

<sup>15</sup> <https://optimoroute.com/what-is-route-optimization/#examples>



OPP OTP, a Northern entity) should be considered. Any potential assistance with court administration should be noted.

Based on the outcome of the market review, the Ministry should identify the scope of a potential software solution, in particular identifying how it may relate to software used in the administration of the courts and the correctional institutions.

The Ministry should then conduct a competitive process to select a software vendor (unless it is determined to extend an existing system).

A pilot implementation could be arranged with the OPP Offender Transportation Program (OTP), or with one of the large MPS, such as Toronto.

Once the pilot demonstrates the value and works out ensures the design is optimal, extend the implementation to other providers.

### Efficiency Estimate

|                                                               | Rationale and Assumptions                                                                     | Estimated Savings                                                                                            |
|---------------------------------------------------------------|-----------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>Short-term</li> </ul>  | <ul style="list-style-type: none"> <li>Market Survey and scope definition</li> </ul>          | <ul style="list-style-type: none"> <li>N/A</li> </ul>                                                        |
| <ul style="list-style-type: none"> <li>Medium Term</li> </ul> | <ul style="list-style-type: none"> <li>Software selection and trial implementation</li> </ul> | <ul style="list-style-type: none"> <li>N/A</li> </ul>                                                        |
| <ul style="list-style-type: none"> <li>Long Term</li> </ul>   | <ul style="list-style-type: none"> <li>Full implementation</li> </ul>                         | <ul style="list-style-type: none"> <li>1% to 4% of prisoner transportation costs (\$650K to \$2M)</li> </ul> |

## 4.6 Indigenous Services

First Nations police services participated in the review. They expressed a strong concern that they are currently only funded for “front-line” policing, of which court security and prisoner transportation are excluded. However, they indicate they are required to provide both services related to persons they arrest, and support trials in the communities they serve. They argued they should be eligible for the CSPT TP Program just like any other police service, so they could provide the services without taking officers off of the front-line.

We were unable to identify any description of the services they are funded to provide, and only limited description of services they are not to provide – which did not include prisoner transport or court security. First Nations police services are also funded for 100% of their costs by the federal and provincial governments, unlike the police services in other communities where the municipality is responsible for most costs.

While of interest, these matters do not indicate whether the Indigenous services receive adequate funding for the responsibilities they have. The agreements under which they are funded are up for

renewal within the next few years. It would be a good time to review the range of services they provide and ensure there is adequate funding for those services.

Indigenous services also indicated that they can only use special constables for limited purposes as they are appointed by the OPP and can only perform the duties identified in their appointment. However, the OPP did indicate during this review that special constables can be appointed to conduct a range of activities, depending upon the description provided by the detachment – or the Indigenous service – when they seek the appointment. Based on that clarification, the Indigenous services may wish to explore wider use of special constables that would make the appointment of special constables worthwhile in a wider range of circumstances.

## Recommendation

- 9) *That the Ministry ensure that the appropriate funding levels for prisoner transportation and court security are specifically and clearly addressed in the next round of funding discussions with First Nations police services.*

## Implementation Plan

The court security and prisoner transportation requirements be considered during discussions related to future funding of First Nations Police Services.

## Efficiency Estimate:

No specific cost reductions are related to these recommendations.

## 5.0 Program Delivery Structural Change

The review identified two areas where savings cannot be achieved without structural change:

1. Through the focus groups and interviews, participants agreed there are opportunities for efficiencies in better coordination of prisoner transportation between services. Duplication of effort in prisoner transportation occurs at large correctional facilities where multiple police services, the OPP and perhaps the OPP OTP have to pick-up and drop-off prisoners. Where jurisdictions overlap, it is not uncommon to have several prisoner transport vehicles from different entities operating at the same institutions at the same time.
2. As noted earlier there are opportunities to replace sworn officers with special constables in the smaller MPSs and OPP detachments that cannot be achieved without gaining economies of scale in providing security and possible prisoner transportation to traveling courts.

The key finding from the Jurisdictional Review is that none of the other jurisdictions make the police service of jurisdiction responsible for prisoner transportation or court security, except in particular circumstances. Responsibility is generally assumed by an agency independent of the police, typically a Sherriff's Office or other government agency. A frequent recommendation for improvement from workshop participants was also the transfer the responsibility for prisoner transportation from police services to another entity.

### 5.1 Duplication in Prisoner Transportation

#### Current Situation

With so many police services involved in prisoner transportation, and the OPP involved in two distinct ways, there is significant duplication of service within the prisoner transportation network. For example, at the Elgin-Middlesex Detention Centre, six different municipal police services pick-up or drop off prisoners, along with one OPP detachment. The OPP Offender Transport Program also goes to the same detention centre.

The table below provides examples of these multiple occurrences.

Table 12: Police Services at Major Correctional Facilities

| Facility                                   | Prisoner Capacity | MPS | OPP detachments | OPP OTP | Total organizations |
|--------------------------------------------|-------------------|-----|-----------------|---------|---------------------|
| <b>Central East Correction Center</b>      | 1184              | 3   | 3               | 1       | 7                   |
| <b>Central North Correction Centre</b>     | 1184              | 3   | 3               | 1       | 7                   |
| <b>Maplehurst Correctional Complex</b>     | 1055              | 5   | 0               | 1       | 6                   |
| <b>Elgin-Middlesex Detention Center</b>    | 450               | 6   | 1               | 1       | 8                   |
| <b>Hamilton-Wentworth Detention Centre</b> | 560               | 2   | 0               | 1       | 3                   |

There are instances where the various services are heading in different directions after leaving the correctional centre, however in many cases they are heading in the same direction, and in a few cases, they are actually going to the same court facility (mostly in Toronto).

The OPP OTP has indicated it can clearly identify duplication of effort and costs could be reduced by combining forces, but it cannot quantify the potential savings, and can't implement such a concept given its current mandate.

Additionally, there are many sworn police officers conducting both prisoner transportation and court security in smaller communities, and smaller services (or OPP detachments) as discussed earlier. In the larger services, there are economies of scale to accommodate hiring special constables to conduct the prisoner transportation and/or court security as the case may be. However, where courts travel and sit in individual courthouses less than full-time, the police service responsible to provide security often has to pull sworn officers from their front-line duties to perform the tasks. This is both a use of more expensive resources than required and a serious inconvenience when the sworn officers are required for patrol or other duties.

## Analysis

The *Police Services Act* (and its likely successor) allow police services to purchase services from a third party. The third party could be another police service, or a new entity<sup>16</sup> established by a group of police services to transport prisoners and/or provide court security services on their behalf. The entities could be established by agreement between all the services involved, or by agreements between the entity and each of the services individually. In many ways the MOUs between municipalities and the OPP OTP are examples of how this could work.

Such agencies would be in a position to eliminate duplication between transportation routes, implement new practices such as the use of special constables to support mobile courts and the use of contractors to conduct screening at court entrances. They would have the scale to improve services and perform them as efficiently as possible, which isn't the case with smaller police services and OPP detachments.

One large opportunity would relate to prisoner transportation in the Greater Toronto Area (GTA), or even the wider area within the Greenbelt. It would offer the opportunity to overcome the duplication in prisoner transportation and would be a good home for an IT system that would co-ordinate prisoner transportation in the most efficient fashion possible. It is unlikely to achieve additional savings on the court security side, although it may be easier to contract some of the court screening activities if the responsibility was transferred to a new entity. It may be appropriate to have a number of entities focused around each of the institutions, or to have one that would handle all prisoner transport inside the Greenbelt.

Another major opportunity would be to group smaller MPSs and/or OPP detachments that share a court that travels between locations. There are eight judicial districts in Ontario and most of them have at least some courts that do not sit regularly. It may be useful to work with the judicial districts to identify the municipalities or detachments that would have to co-operate to hire special constables to serve the mobile courts. This would provide one approach to engaging the special constables needed to transport prisoners to court and provide court security without pulling sworn officers out of front-line policing services. Although one could argue that the sworn police officers would be retained so there would not be any savings, it would delay the time when a new position is needed, and many OPP detachments already allocate many portions of an FTE to various municipalities, so savings would accrue. Allocating the court security and perhaps prisoner transportation requirements to a new entity would allow the services to provide more consistent services to their communities. Such entities might be based on the judicial districts.

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<sup>16</sup> "Entity" is a general term referring to an organization that has a mandate to carry out certain activities. The legal form of the entity would need to be established after further consideration and consultation with the stakeholders, but it could be a new corporate entity, or it could be a responsibility accepted by an existing entity on behalf of others.

The major drawback of this approach is the reliance on voluntary participation and the requirement for co-operation and continued involvement of each of the participating police services. As history with municipal amalgamation and shared services in Ontario suggests, this level of involvement and participation can be difficult to achieve, and would likely require financial incentives, perhaps treating the entities like the OPP OTP in terms of funding. This would suggest reallocating some of the CSPT TP Program funds to each of the entities.

Similar to the approach used in Alberta and B.C. special constables can be assigned to work full-time with the court. Then the special constables would travel from location to location with the rest of the court party and provide the court security required. Depending upon the local circumstances, they may also be able to assist with, or conduct, the prisoner transportation. Given the allocation of responsible for both activities to the police service of jurisdiction, this could not occur with the current structure.

The potential savings would depend upon the extent of participation in the entity, and its mandate. Largely the entities would provide an opportunity to gain the savings discussed under the sections on special constables, eliminating duplication, and using technology.

The creation of regional court security and prisoner transportation entities would have two major advantages:

1. The ability to eliminate duplication in prisoner transportation by having one party plan and carry out all the prisoner transportation related to the region.
2. The ability to provide special constables to provide basic court security for traveling courts.

## Recommendation

- 10) *That the Ministry promote the development of regional entities among police services responsible for prisoner transportation and court security.*
- 11) *That regional entities have a mandate to eliminate duplication in prisoner transportation, focus on the use of special constables and contract perimeter security, alarm monitoring and entranceway screening.*
- 12) *That regional entities would use sworn police officers from the local police services when required to accommodate risk assessment conclusions. Requirements for full-time sworn police officers (e.g., as part of entranceway screening) could result in the secondment of the staff, while temporary requirements would be met by assigning staff to the duties as required.*
- 13) *That the province fund regional entity operations fully, as it does with the OPP OTP. The \$125M cap on the CSPT TP Program should be reduced by the amount of funding activities with the region concerned, for the activities transferred to the entity.*

## Implementation Plan

The province should identify a group of MPS/OPP detachments that provide security for a mobile court operation that shows some support for the regional co-operative entity and provide them some support to review the opportunity and come up with a plan to support the court, with or without

prisoner transportation as the circumstances suggest. It is essential that this first implementation be successful to encourage others to follow the same approach.

Once the first regional entity is operational, the province should address duplicating it in other jurisdictions. It should also support a process to create a regional entity with a prime focus on prisoner transportation. The scale of the operation would need to be determined, e.g., a focus on an institution or on the Greater GTA, or even the area inside the Greenbelt as a whole.

## Efficiency Estimate

Benefits from the use of special constables are included in the high-end estimates in that section above. The potential returns from reducing duplications in transportation are identified here.

|                                                               | Rationale and Assumptions                                                                                                                                                                                                                                             | Estimated Savings                                                                                   |
|---------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>Short-term</li> </ul>  | <ul style="list-style-type: none"> <li>Not Operational</li> </ul>                                                                                                                                                                                                     | <ul style="list-style-type: none"> <li>N/A</li> </ul>                                               |
| <ul style="list-style-type: none"> <li>Medium Term</li> </ul> | <ul style="list-style-type: none"> <li>Not Operational</li> </ul>                                                                                                                                                                                                     | <ul style="list-style-type: none"> <li>N/A</li> </ul>                                               |
| <ul style="list-style-type: none"> <li>Long Term</li> </ul>   | <ul style="list-style-type: none"> <li>High estimate assumes at least Greater GTA entity rationalizes transportation in the highest traffic area and Northern Strategy implemented with reduced transportation needs and co-ordination of FN and OPP trips</li> </ul> | <ul style="list-style-type: none"> <li>3% to 6% of transportation costs (\$2M to \$2.9M)</li> </ul> |

## 5.2 Northern Strategy

### Current Situation

Northern Ontario experiences many challenges that are less significant in the more populated areas of the province. There are several large cities in the north, along with many smaller remote and fly-in communities. Some of the remote and fly-in communities are Indigenous and there are significant Indigenous populations in some of the large cities. First Nations police services serve most of the Indigenous communities, the OPP provides police services to many of the other smaller and remote communities, and municipal police services serve the major population areas. Correctional facilities are located in the large cities, and the smaller, remote and fly-in communities have smaller police stations, usually with some form of detention facility, but generally not a facility that is suitable for holding prisoners for extended periods.

The north has many traveling courts that spend short periods in communities resulting in demands on local police services and the disruption of their regular policing resources.

The north also faces some unique challenges related to prisoner transportation. Before COVID-19, an arrest in a remote community often resulted in an extended trip by cruiser, or by airplane, depending on the location, to one of the large cities where the detainee would attend court for their bail hearing. If the detainee was released, they may be released without transportation back to their community. If remanded, the detainee would be placed in custody at the correctional facility. During COVID-19 there has been more effort to have the bail hearing occur in the remote community, before the prisoner is transported. However, the unreliability or absence of internet connections has resulted in many appearances by audio, rather than video. There were also circumstances where the police service was unable to arrange a virtual hearing, and the prisoner was transported to a large city even before a hearing could occur, both because of the 24-hour holding limit for police cells, and the inadequacies of cells at remote police stations.

When a trial is held, it is usually back in the community where the charge was laid. If the prisoner has been denied bail, they must be transported back to that community by the local police service – generally a two-way trip out from the community and then back. If the prisoner has been released after a hearing in the city, they may have no resources and be unable to return to their community for the trial. When the court flies in for the trial, the local police service must assign staff to provide security at the trial, which is generally not in a dedicated courthouse, but may be in an arena, community meeting hall or other facility.

## Analysis

Based on the understanding of current circumstances in the north provided by interviewees, focus group participants and IPCO, there are unique challenges given the remote and fly-in communities, the extensive use of traveling courts, the long travel distances both for prisoners and court stakeholders, and the number of First Nations communities.

A Northern Justice Strategy could lead to the development of a common prisoner transportation network in the north, and the development of a court security capability that would travel with the courts, both allowing the use of lower cost special constables, and better respond to needs.

It may also be useful to respond to other needs in the north, particularly the need to transport prisoners extensive distances. This could involve improving some detention facilities in northern communities and/or developing correctional rehabilitation facilities, similar to the healing lodges developed in other provinces. This could allow some prisoners to be detained in the north pending a hearing or a trial. Such an approach would have to be developed with involvement from the OPP, Indigenous police services in the area, and the MPS serving the cities in the area.

It would also need to examine the connectivity issues in the north and identify options to ensure virtual hearings are feasible from as many police stations as possible.

The strategy could also look at establishing a WASH court that would be available by video and/or audio for hearings from these remote communities (if the province does not initiate a province-wide



facility). This could eliminate the trips from remote communities to cities that occur simply because no court could be reached.

Some of these steps may be reasonably easy to implement, others might require some development. A solution could also be based on expanding an existing service, for example the OPP OTP in Northern Ontario, or it could involve establishing a new entity with more Indigenous participation. Such agencies might operate on a regional basis. For example, part of a Northern Justice Strategy could be the creation of such an entity. The OPP OTU in the North currently serves a number of OPP detachments. The Indigenous services that operate in the north carry out similar programs, although the OPP remains the police service of jurisdiction. The municipal police services in the north might also be useful participants and they generally handle security in the fulltime courthouses, and use many of the same correction institutions as the more remote communities. One key benefit would be to reduce the need for police services to divert front-line officers to provide court security and/or prisoner transportation services. A strategy would need to develop staff appropriate to respond to the needs of Indigenous communities.

Development of a regional entity in Northern Ontario is a key cost reduction and service improvement opportunity and would need to advance from the development of a Northern Justice Strategy.

## Recommendations

*14) That the Ministry initiate the development of a Northern Justice Strategy.*

*15) That the needs of Indigenous Communities and First Nations Police Services be considered in the resolution of issues related to Northern Ontario.*

## Implementation Plan

SOLGEN would need to discuss the potential with key justice stakeholders in the north, including the court stakeholders, the MPS, OPP and First Nations police services and community leaders. It would be useful to establish a working group with key stakeholders and identify some resources to support the process.

The study process would involve a consultation process, both to identify all the issues to be addressed, and to identify appropriate approaches to resolving the issues.

## Efficiency Estimate

Savings are available from eliminating duplication in transportation and expanding the use of special constables. Both of these items were identified earlier, and the high estimates can only be achieved if regional entities, such as a Northern Ontario CSPT entity is formed.

## 5.3 Independent Agency

### Current Situation

The tables below provide a summary of the approach to court security and prisoner transportation in other jurisdictions. Full details on information collected from the jurisdictional review can be found in Appendix 3. The first table shows the responsibility for prisoner transportation while the second shows the responsibility for court security.

Table 13: Responsibility for Prisoner Transportation

|                                                     | Ontario | Alberta | British Columbia | Quebec | Australia | New Zealand |
|-----------------------------------------------------|---------|---------|------------------|--------|-----------|-------------|
| <b>Transportation Station to Detention</b>          |         |         |                  |        |           |             |
| → Police                                            | ■       | □       |                  | ■      | ■         | ■           |
| - Other                                             |         | ◆       | ◆                |        |           |             |
| <b>Transportation Detention to Court (and back)</b> |         |         |                  |        |           |             |
| - Police                                            | ■       |         |                  |        | □         |             |
| → Other                                             |         | ■       | ■                | ■      | ◆         | ■           |
| ■ Yes    ◆ Mostly    □ Partly                       |         |         |                  |        |           |             |

As the table indicates, police are frequently responsible for prisoner transportation from the police station to a court or correctional facility. With increasing use of video for bail hearings, this usually means to a correctional institution. In BC, the RCMP transports some prisoners in remote areas, but is compensated by the Sherriff's office. For the more frequent transportation requirements between the courthouse and the detention centre, a central agency is responsible. The state authority is responsible in Australia, except in remote areas where police services generally provide the service.

Court security is generally the responsibility of an entity independent of the police (Table 14). Usually, a Sherriff's Office or other government entity. Some jurisdictions (Australia and BC) make local police services in remote areas responsible for court security.

Table 14: Responsibility for Court Security

|                                            | Ontario | Alberta | British Columbia | Quebec | Australia | New Zealand |
|--------------------------------------------|---------|---------|------------------|--------|-----------|-------------|
| <i>Who is responsible general security</i> |         |         |                  |        |           |             |
| Police of jurisdiction                     | ■       |         |                  |        | □         |             |
| →Centralized entity                        |         | ■       | ■                | ■      | ■         | ■           |

■ Yes      ◆ Mostly      □ Partly

Interviewees from other jurisdictions raised a number of advantages associated with the use of centralized agencies:

- Some suggest it is more consistent with even-handed justice.
- If a justice entity is responsible, this resolves conflict of interests with police, particularly on court security issues.
- Allows consistent security standards as one entity administers all courthouses.
- Resolves the trade-off of capital and operating costs between different entities.
- Provides greater flexibility in the movement of staff to different Courts.
- Resolves fairness issues:
  - Municipalities with courthouses do not subsidize those without them.
  - Municipalities with access to a centralized unit (OPP OTP) do not have advantages over other municipalities that fund prisoner transport.
  - Municipalities in the north or with long transportation requirements do not suffer relative to those with short transportation requirements.
  - Municipalities with inefficient courthouses from a court security point of view are not disadvantaged based on where provincial funds are invested.

The key finding from the Jurisdictional Review is that none of the other jurisdictions make the police service of jurisdiction responsible for prisoner transportation or court security, except in particular circumstances, although the BC Sherriff’s office does purchase services from police services when this is the most economic way to meet the need.

### Provincial CSPT Entity

Founded upon the feedback received from representatives of central agencies in other jurisdictions reviewed, and the alignment of those findings to the issues identified in court security and prisoner transportation processes identified throughout this report, the Ministry could consider creating a

single entity with responsibility for CSPT throughout the province. This approach would be consistent with that in other jurisdictions, including all the Canadian jurisdictions examined. It would be able to achieve all the operational efficiencies discussed, including:

- Using special constables or the equivalent, for all CSPT activities where an armed presence is not necessary. The province could also create two categories of staffing, with one armed to provide the armed presence where that is considered necessary.
- Contracting entranceway screening, much as the province has contracted COVID-19 screening, and learning from the experience of police services that have contracted some courthouse security services to date.
- Tying security provision to traveling courts, eliminating the impact on front-line policing,
- Co-ordinating court security with courthouse operations, so the province can provide the level of security it determines is required (through risk assessments) and ensure consistency of approach across the province.
- Providing an alignment of interests between those responsible for capital improvements of courthouses and those responsible for security operations.
- Giving the province the incentive to minimize prisoner transportation to reduce risks and costs.

## Recommendation

16) *If the development of regional entities does not achieve substantial progress within four years, the province should establish a province-wide entity with responsibility for court security and prisoner transportation. Consideration should be given to creating a new agency or having the OPP carry out the role, depending upon whether the entity would report to SOLGEN or the Attorney General. Key elements of the plan, whether part of the OPP or part of a new entity, would include:*

- *Having local MPS and OPP detachments remain responsible for transferring prisoners in their custody (e.g., from the police station to a correctional institution or a courthouse). The provincial agency could agree to conduct such transfers where the one-way travel distance is more than 50 km (far enough to require a significant resource diversion, unlikely to cover transportation within a municipality, and likely to capture those municipalities currently benefiting from OPP OTP service);*
- *Having two categories of staff, an armed category and an unarmed category;*
- *Most staff would be in the unarmed category, but the armed members would be used where a full-time armed presence is required as part of a court security plan;*
- *Reliance on the police service of jurisdiction to support high risk operations when required;*
- *Contracting entrance screening and extending it as required by risk assessments*

## Implementation Plan

The province will need to conduct an examination of the alternatives (a “Sherriff” operation, or the assignment of the role to the OPP) in detail. The review would need to consider:

- The reporting relationship. A Sherriff option would report to the Attorney General and an OPP option would report to SOLGEN.
- The additional infrastructure required, under each option.
- The labour relations implications of each option.
- The costs and other financial implications of each option, taking into account the evolution of the justice system post COVID-19.
- The availability of armed officers when required.
- The transition process, and particularly the extent to which staff currently conducting court security and prisoner transportation would be transferred, or would have the option to transfer to the new entity.

There will need to be a transition plan and transition date established, with extensive consultation with the MPSs and OPP carrying out the role now.

## Efficiency Estimate

Many of the benefits of this approach are not financial, however it is important to note total provincial costs could be reduced. Leaving the police service of jurisdiction responsible for the initial transport from the police station to either a courthouse or correctional institution would have them responsible for carrying a little over half the future volume of prisoners as discussed in the section on *Estimated Impacts of Virtual Hearings on Prisoner Transport*. They would be among the less economical of trips as the number transported on each trip would vary and the timing would be somewhat unpredictable. This approach would therefore leave municipalities with about 20% to 35% of pre-COVID-19 prisoner transportation volumes, or about 55% of planned prisoner transportation volumes. While this is a significant cost, it compares to the 30% of combined court security and prisoner transportation costs that police services (and their municipalities) currently bear. It would not be their only cost as they would also be responsible for the costs of converting police holding areas to accommodate virtual hearings.

|                                                                 | Rationale and Assumptions                                                                                                                                                                                                                             | Estimated Savings                                                                                                                                                                                                               |
|-----------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> <li>• Short-term</li> </ul>  | <ul style="list-style-type: none"> <li>• Not Operational</li> </ul>                                                                                                                                                                                   | <ul style="list-style-type: none"> <li>• N/A</li> </ul>                                                                                                                                                                         |
| <ul style="list-style-type: none"> <li>• Medium Term</li> </ul> | <ul style="list-style-type: none"> <li>• Not Operational</li> </ul>                                                                                                                                                                                   | <ul style="list-style-type: none"> <li>• N/A</li> </ul>                                                                                                                                                                         |
| <ul style="list-style-type: none"> <li>• Long Term</li> </ul>   | <ul style="list-style-type: none"> <li>• Full implementation, results in the municipalities taking responsibility for the first trip from the police station to a courthouse or correctional institution, 20% to 35% of pre-COVID transits</li> </ul> | <ul style="list-style-type: none"> <li>• About 60% of forecast prisoner transportation costs would be left with municipalities as they would carry about 55% of expected trips, with slightly higher costs per trip.</li> </ul> |

## 6.0 Alignment to Transfer Payment Policy

### 6.1 Context

In June 2019, the Ontario Internal Audit Division of the Treasury Board Secretariat published its review of transfer payments managed by SOLGEN, including the CSPT TP Program. It measured compliance with the Transfer Payment Accountability Directive (TPAD) and the relevant grant agreements.

Overall, the audit found that SOLGEN's public safety grant programs were for the most part compliant with the Transfer Payment Accountability Directive (TPAD) and respective transfer payment agreements; however, to ensure that programs are delivering results and operating in an efficient and effective manner, the audit recommended that SOLGEN:

- examine a renewed funding model and or granting structure for public safety grants;
- establish program-level outcomes and performance measures for all grant programs so that performance can be assessed;
- review the level of monitoring required by recipients to make certain it is proportional to risk and recipient capacity;
- implement timely corrective action when recipients are not meeting transfer payment agreement requirements; and,
- complete risk assessments on all grant activities and recipients to ensure a risk-based approach is being used.

The CSPT TP Program has the largest portion of funding compared to other transfer payment programs managed by the Public Safety Division at SOLGEN. In particular, the audit found the rationale for funding municipalities that provide court security or prisoner transportation services to be lacking. It noted that TPAD activities should be focused on outcomes and the achievement of associated public policy objectives, arguing that the programs reviewed are funding core policing activities. It also notes that the CSPT TP Program originated as part of the 2008 negotiations between the province and municipalities. Thus, SOLGEN implemented a cabinet approved program to upload certain municipal costs to the province.

The Jurisdictional Review, as reported in Appendix 3, indicates that all other jurisdictions reviewed make responsibility for court security and prisoner transportation a provincial or, in some cases, national responsibility. In no other jurisdiction is court security and prisoner transportation a municipal responsibility (beyond special considerations for remote communities), at least beyond the initial transfer of prisoners from the police station. This relates to the corresponding provincial or national responsibility for justice, and the clear connection between court security and the transfer of

prisoners to and from the courthouse with the administration of justice. This is within the SOLGEN's priority area.

## 6.2 Managing Cost Effectiveness and Efficiency

Court security and prisoner transportation cannot be segregated into separate dimensions of police service, nor separate dimensions of the outcomes of the justice ecosystem. The CSPT TP Program funding model has been established as a support subsidy. Based on the document review, it was found that the program currently does not have documented goals or outcomes.

The current Transfer Payment Agreements for the CSPT TP Program indicate:

*“The Province implemented the Court Security and Prisoner Transportation (CSPT) Program (the “Program”) in 2012 to assist municipalities in **offsetting** their costs of providing CSPT services in their jurisdictions.”*

This study did not review the need or relevance of the CSPT TP Program, nor the justification for SOLGEN to be intervening and funding court security and prisoner transportation activities through the formal agreement with municipalities. The Ministry does however have public sector accountability to ensure CSPT TP Program funds are used as intended. This includes demonstration of how resources were used in the realization of outputs and outcomes, and whether the extent of resource utilization was reasonable for the level of outputs and outcomes observed.

Recent research conducted by Public Safety Canada entitled, “Measuring the performance of Police: The Perspective of the Public,”<sup>17</sup> found that there are a number of dimensions of police work that can be used when setting up a framework to measure the performance of police.<sup>18</sup> There is not one single performance measure that can assess all of the dimensions of police work at the same time; neither is there one perfect measure that can assess a single dimension of police work (Gallagher et al, 2001). The measuring instrument needs to be chosen depending on the dimension that needs to be measured.

In the case of the CSPT TP Program, there is a concern that the grant program does not adequately encourage or reward financial efficiency and cost reduction. The Public Safety Canada report found that an efficiency dimension of performance relates indirectly to police work in that the public expects the police to do their work in an efficient and economically sustainable manner. Just as in any other public or private organization, waste of resources within police departments is usually met with public disapproval.

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<sup>17</sup> Public Safety Canada, Research Division, Measuring the Performance of the Police: The Perspective of the Public, Research Report: 2015-R024

<sup>18</sup> Kiedrowski, J., Petrunik, M., Macdonald, T., Melchers, R. (2013). “Canadian Police Board Views on the Use of Police Performance Metrics” Ottawa: Public safety Canada, # PS14-12/2013E. 53 pages.



The measurement of efficient police performance receives the least amount of attention because it is not seen as a primary output of police work. Further, the measurements are not straightforward because it can be complicated to set benchmarks for what constitutes efficient spending. For example, large police jurisdictions could be spending more in all areas of police work because they deal with larger or more complex problems. Similarly, one jurisdiction may have to transport prisoners longer distances and/or have a different risk level, requiring different service levels. One approach to measure police performance in this area is to look into the innovative approaches that police take to spending: new economical ways to utilize officers, use of technology, innovative scheduling methods, etc.<sup>19</sup>

In this sense, the CSPT TP Program can initially focus on performance indicators targeted towards resource utilization. This can provide insight to what and how resources are being used and possible other contextual factors that affect the resources being used.

Through the document and data review completed for this study, the performance indicators identified below may be considered by the CSPT TP Program as a start to its formal performance measurement strategy. The current CSPT TP Program transfer payment agreement stipulates that recipients only need to provide annual financial reports. Further work will be required to define an outcome pathway, in collaboration with municipal stakeholders, that will allow SOLGEN to track program outcomes.

An initial perspective of efficiency would be largely concerned with how inputs are being used and converted into outputs, and the extent to which outputs have been optimized in relation to resources used to produce them (i.e., the extent to which the minimum number of resources have been used (contextualized of course).

It is possible that an operational efficiency perspective may actually suit information needs of the Ministry. The following table presents options for measuring operational efficiency and economy.

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<sup>19</sup> Public Safety Canada, Research Division, Measuring the Performance of the Police: The Perspective of the Public, Research Report: 2015-R024, page 15.

**Table 15: Performance Indicators for Implementation Efficiency**

| Output Indicator                                                                                                                                                                                                                                                                                                                                              | Source                                                                                                                                                                                           | Rationale                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Methodology                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Quantitative:</p> <p># of FTEs assigned to court services and transit services broken out by CS and PT and by:</p> <ul style="list-style-type: none"> <li>■ Sworn police officers</li> <li>■ Special constable versus all other police officer ranks</li> <li>■ Contract staff versus all other police officer ranks</li> <li>■ Other civilians</li> </ul> | <p>MPSs and OPP Annual Report for the CSPT TP Program (new instrument to accompany the Template for Annual Financial reporting)</p> <p>Statistics Canada Annual Police Administration Survey</p> | <ul style="list-style-type: none"> <li>● The use of special constables for court services and transit services has been shown to reduce cost (at least when scale warrants) and the use of contractors for courthouse entrance screening has been shown to reduce costs.</li> <li>● The Ministry can track changes over time in the proportion of special constables and contractors being engaged to perform court security and transit services with the expectation that proportions will increase (target set by the Program in future).</li> <li>● Police services are providing the special constable data to Statistics Canada so the additional burden to collect information will be minimal.</li> </ul> | <ul style="list-style-type: none"> <li>● The question should be worded to align with the Annual Police Administration Survey conducted by Statistics Canada Permanent special constable personnel question (#4 in the 2019 survey), particularly in the way FTEs are measured so comparisons can be made.</li> <li>● The Ministry can consider a number of possible analysis scenarios: <ul style="list-style-type: none"> <li>■ Comparisons across MPSs in Ontario.</li> <li>■ Comparisons nationally to Statistics Canada data in order to understand trends in the use of special constables (tested first as many provinces do not employ the same model as Ontario).</li> </ul> </li> </ul> |
| <p>Quantitative:</p>                                                                                                                                                                                                                                                                                                                                          | <p>MPS and OPP Annual Report for</p>                                                                                                                                                             | <ul style="list-style-type: none"> <li>● While recognizing a number of external influencers to video and audio appearances, MPSs and</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <ul style="list-style-type: none"> <li>● Analyze trends in proportion of first appearance by video and audio.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

| Output Indicator                                                                                                                                                                  | Source                                                                                                                           | Rationale                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Methodology                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>% (proportion) of first appearances conducted by video from the police station. Broken down by:</p> <ul style="list-style-type: none"> <li>■ Video</li> <li>■ Audio</li> </ul> | <p>CSPT TP Program (new instrument)</p> <p>Or</p> <p>Ontario Court of Justice Criminal Court Statistics if available</p>         | <p>OPP should attempt to maintain reduced levels of in-person first appearances (i.e., all first appearances from a police station as influenced by COVID-19).</p> <ul style="list-style-type: none"> <li>● The Ministry will be able to track the rate at which video appearances are increasing or decreasing, possibly an early indicator that environments are regressing towards pre-COVID-19 levels. The Ministry could then trigger an increase in change management intervention or conduct additional investigation to understand the change in activity.</li> <li>● In future, as the video strategy is rolled out, targets can be set.</li> </ul> | <ul style="list-style-type: none"> <li>● Compare trend in proportion of first appearance by video and audio to trend in cost of transportation e.g., % increase in first appearance by video and audio versus assumed % decrease in transportation cost.</li> </ul>                                                                                                                                                                                                  |
| <p>Quantitative:</p> <p># of prisoners transported</p>                                                                                                                            | <p>MPSs and OPP Annual Report for CSPT TP Program (new instrument)</p> <p>Ontario Court of Justice Criminal Court Statistics</p> | <ul style="list-style-type: none"> <li>● While this indicator is not perfect (e.g., not accounting for multiple prisoners transported at the same time), it can provide the Ministry with some insight to operational efficiency (relationships between resources and outputs).</li> </ul>                                                                                                                                                                                                                                                                                                                                                                   | <ul style="list-style-type: none"> <li>● Program output index: gross annual prisoner transportation costs ÷ annual number of prisoners</li> <li>● Analyze relationship between # of prisoners transported and number of cases received and pending in court. Expectation that there should be some correlation between the two variables. As cases go down (particularly major crimes, the number of in-person appearances would also go down, decreasing</li> </ul> |

| Output Indicator                                                                                         | Source                                                         | Rationale                                                                                                                                                                                                                                                                                                                                                   | Methodology                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|----------------------------------------------------------------------------------------------------------|----------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                          | (Offence Based Statistics)                                     | <ul style="list-style-type: none"> <li>• The court security and prisoner transportation costs are already provided in the current annual financial reports and can be broken out by PT and CS</li> <li>• Offence Based Statistics are already broken down by region. Alignment can be determined by (court) or comparisons made within a region.</li> </ul> | <p>the number of prisoners transported). Initial bivariate analysis should be completed to ensure the validity of this indicator.</p> <ul style="list-style-type: none"> <li>• Potential to compare decreasing costs with decreasing numbers reported for average appearances to disposition (this is the average of all appearances from the first to last court appearance). Assessment likely required against offence type.</li> <li>• A breakdown by ground versus air will be required for service in the north. Context and environment for activities where prisoners are mainly transported by air will need to be considered and balanced.</li> </ul> |
| <p>Quantitative:</p> <p>Annual ground kilometers travelled for all prisoner transportation conducted</p> | MPS and OPP Annual Report for CSPT (new instrument)            | <ul style="list-style-type: none"> <li>• OPP OTP already collects this data.</li> <li>• Assume that longer distance equates to greater cost but this indicator can contribute to validate or disprove assumptions.</li> </ul>                                                                                                                               | <ul style="list-style-type: none"> <li>• Program output index: gross annual prisoner transportation costs ÷ annual prisoner transportation kilometres travelled</li> <li>• Possibility to compare MPS with similar environments in order to promote consistency in delivery (if best practices are found).</li> <li>• Will need to factor differing cost environments across the province (e.g., cost of gas per litre).</li> <li>• Breakdown by ground versus air will be required for service in the north. Will need to factor in proportion of ground versus air in cost breakdowns.</li> </ul>                                                             |
| <p>Qualitative:</p> <p>Identification of annual budget efficiencies proposed in relation to</p>          | MPS and OPP Annual Report for CSPT TP Program (new instrument) | <ul style="list-style-type: none"> <li>• Municipal Police Service Boards approve and publish MPS operational budgets which typically detail cost saving</li> </ul>                                                                                                                                                                                          | <ul style="list-style-type: none"> <li>• Analysis of efficiencies implemented to identify best practice for potential dissemination to other MPS or OPP for consideration.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

| Output Indicator                                                | Source                                                         | Rationale                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Methodology                                                                                                                                                                                                                                                                                        |
|-----------------------------------------------------------------|----------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| court security and inmate transportation.                       |                                                                | measures proposed by MPSs. The Ministry could request a summary of cost-saving measures being implemented by a MPS in relation to court security and prisoner transportation on an annual basis. This would set an expectation that the continuous review for efficiencies is expected.                                                                                                                                                                                                                                                                                                                  | <ul style="list-style-type: none"> <li>Requires coding of qualitative data for the identification of consistent or innovative activities.</li> </ul>                                                                                                                                               |
| Qualitative:<br>Identification of rationale for increased costs | MPS and OPP Annual Report for CSPT TP Program (new instrument) | <ul style="list-style-type: none"> <li>An alternative approach to providing incentives for cost reductions might be to require municipalities to justify their expenditure level as expenditures rise under the new normal. The justification could require an explanation of why the approach taken is the lowest cost available, and/or a certification that the approach follows “best practices” (such as use of special constables, for prisoner transport and most court security and use of contractors for screening at entrances, monitoring alarm systems and any WASH patrolling).</li> </ul> | <ul style="list-style-type: none"> <li>Analysis of reasons for increased costs to understand changing environment and determine if there are supports available to mitigate.</li> <li>Requires coding of qualitative data for the identification of common issues or regional problems.</li> </ul> |

## Recommendation

17) SOLGEN should formally develop a Performance Measurement Framework (PMF) for the CSPT TP Program collaboratively with program recipients and stakeholders. The PMF must define objectives and expected results (outcomes). In order to meet the requirements of the Transfer Payment Policy, at minimum, the PMF must focus on outputs and/or intermediate outcomes for activities in order to determine how success will be evaluated. The PMF needs to define expected short, medium and long-term outcomes. Subsequent to the results definition, the Ministry should implement a systematic collection of performance data, which would make it possible to link the funding to the achievement of results, measure progress to targets, further pursue analysis of certain issues and to make changes to the program as required.

## 6.3 Options to Maintain Necessary Financial Accountability

### A Risk-Based Approach is Best

Risk-based assessment approaches in policing have a long-standing history as best practices in the published literature. A study in the National Institute of Justice Research Preview<sup>20</sup> identifies that a risk assessment should be an integral part of a comprehensive survey of courtroom security and the transportation of prisoners to determine security vulnerabilities and equipment and training needs.

In Ontario, the current Policing Standards Manual's section on Court Security includes a Court Security Tool to identify security needs in each individual courthouse for which the police service of jurisdiction is responsible. This assessment covers critical incidents, the nature of cases, personnel and procedures, emergency planning and physical assessment.

The 2019 Ontario Internal Audit Division audit also found that SOLGEN should use a risk-based approach to review the activities of grant recipients.

### Opportunities for the Ministry

- Police services could be required to submit the risk assessments conducted for court security and activities in place today (as the baseline), and then again whenever it changes. The Ministry could then undertake a qualitative assessment of annual costs versus risk.
- To date, SOLGEN has not assigned a risk rating to CSPT transfer payment recipients in receipt of less than \$500K. As well, it does not appear to have audited or reviewed the funded activities of any of the grant recipients. It should be noted that about half of recipients

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<sup>20</sup> National Institute of Justice Research Preview, Court Security and the Transportation of Prisoners, June 1997.

surveyed did report that they had been audited or reviewed since 2015, but those audits or reviews were conducted internally by the police service, or by the municipalities that provide the majority of police funding. A risk assessment should be completed by the Ministry for all grant recipients and a risk-based review or audit test of 10% of applications (randomly selected, with higher probability of selection for higher risk recipients and materiality) should be conducted annually. Possible criteria for review could be:

- Annual financial and performance reporting received on time.
- Expenses reported meet program guidelines.
- Meeting service standards for payment.
- Financial reports are being signed by a person with an adequate level of authority.
- Funding agreements are being signed by the appropriate delegate.
- Select audits of eligible activities (as identified in the master TP agreement).

## Transfer Payment Delivery

The CSPT TP Program is paid based on expenditures incurred two years earlier. Therefore, in 2021 recipients will be paid based on their expenditures in 2019. As a result, a municipality that reduces expenditures (as most will in 2021 due to COVID-19 if not as a result of implementing cost reduction measures in 2021) will not receive any reduction in its grant, at least not until 2023. At that time, their grant will be reduced by 70% of the cost reduction, which could be seen as a disincentive to reduce costs. Some stakeholders also pointed out that increasing expenditures, perhaps to meet a request from courthouse stakeholders for new security activities, will not be covered by any increase in grant payments until 2023 either. That means the entire cost of new expenditures is born by the police service (or municipality) for the first two years, which is a clear **disincentive** to increasing expenditures.

This could be resolved by allowing some kind of “amendment” process before the final payment. Applicants could be allowed to submit an amendment if their activities changed over the course of the year in such a manner as to increase or decrease expenditures by more than, say, 10% of their base year (two year ago) expenditures. Their share of the grant would then be adjusted on the final payment to take into account the change. The process would have to include an amendment to the following year’s grant to recognize the change, and similarly going forward. The process would add significant complexity both to the recipients and to the SOLGEN grant administration. It is very likely recipients would report increases in expenditures (and enhance their grant eligibility) but not decreases, so the effect would be to reduce the impact of new expenditures, but it would not encourage cost savings. It would likely also raise concern among municipalities that received a reduced allocation (the \$125M being a fixed amount) in order to accommodate a higher payment to another municipality.

COVID-19 changes will significantly alter actual expenditures in calendar year 2020 and presumably the effect on expenditures will continue into 2021. This is a period where substantial cost reductions could have been achievable, but many police services have followed the federal

government’s encouragement to keep people on salary as much as possible, reassigning staff, and reducing part-time hours when feasible. The “new normal” that will emerge in 2021 and 2022 is an area where encouragement to cut expenditures, or minimize the growth in expenditures (assuming they dropped in 2021) could be effective.

The two-year delay in implementing the grant will reduce the impact, but also make it easier to introduce changes. Although police services may reassign their staff to activities like monitoring video appearances from police stations, many of these activities will not qualify as CSPT TP Program expenditures, even when they are substitutes for qualifying expenditures. The result could be a very substantial decrease in qualifying expenditures, even when staffing levels do not decrease substantially.

One way to make the grant provide immediate support to improved security measures that increase costs (e.g., adding screening) would be to convert the grant to a fixed percentage of actual expenditures. This could occur in 2023 when the “post-COVID-19” world has emerged. As indicated in the financial analysis, this percentage could be as much as 100% if the use of virtual hearings is retained for most hearings, however this does not align with SOLGEN priorities, as it does run a risk of expanding expenditures beyond \$125M. It would also be difficult to reward cost reduction, unless a “bonus” beyond actual costs was provided to police services that identified specific cost reduction initiatives they had implemented.

When the grant was initially designed, stakeholders considered a range of alternative ways to allocate funds – by population, by numbers of prisoners transported or number of courthouses, etc. All these options have flaws and all stakeholders, municipalities, police services and representatives of the Ministries involved selected the approach based on actual expenditures instead.

## Recommendation

*18) A change in the approach to allocating funding under the CSPT TP Program is not recommended at this time, except as outlined in the other recommendations to incent cost reductions.*



## 7.0 Summary of Financial Implications

The tables below summarize the forecast financial impacts that may occur due to the expansion of virtual hearings and the other changes recommended in this report. All tables assume 2% average inflation per year. The CPI for Ontario went up 2.1% in 2019, .7% in 2020 (influenced by COVID-19). Some collective agreements call for more than 2%, however the recently lower inflation rate is likely to constrain future agreements. The other assumptions are as discussed in the earlier sections.

The table below shows the costs of court security and prisoner transportation in the next three years assuming pre-COVID-19 conditions, and all costs inflating by 2% per year.

Table 16: Future CSPT Costs With No Changes

|                                  | Pre-COVID-19<br>(000s) | 2022<br>(000s) | 2023<br>(000s) | 2024<br>(000s) |
|----------------------------------|------------------------|----------------|----------------|----------------|
| MPS (2019)                       | 165,274                | 175,390        | 178,898        | 182,476        |
| OPP Detachments (2019)           | 7,583                  | 8,047          | 8,208          | 8,372          |
| OPP OTP (2020) Adult             | 17,267                 | 17,965         | 18,324         | 18,691         |
| OPP OTP (2020) Youth             | 6,690                  | 6,960          | 7,099          | 7,241          |
| <b>Total Costs</b>               | <b>196,814</b>         | <b>208,362</b> | <b>212,530</b> | <b>216,780</b> |
| <b>Costs will be carried by:</b> |                        |                |                |                |
| Municipalities                   | 47,857                 | 58,437         | 62,106         | 65,848         |
| SOLGEN                           | 142,267                | 142,965        | 143,324        | 143,691        |
| MCCSS                            | 6,690                  | 6,960          | 7,099          | 7,241          |

Assuming inflation is the prime driver of program costs, the provincial share of total costs will increase modestly, comparing the 2024 projection to pre-COVID-19 levels:

- 1.0% for SOLGEN; and,
- About 8% for MCCSS over the implementation period.

On the other hand, municipalities will see a 37.6% increase as they are responsible for most costs increases due to the SOLGEN contribution limit of \$125M towards the CSPT TP Program.

Phase 1 implementation of the recommendations related to efficiency and effectiveness will have the following effects – as discussed in each of the short-term opportunities described in relevant sections earlier.

Table 17: Phase 1 Implementation

|                                  | Court Security       |                       | Prisoner Transportation |                       |
|----------------------------------|----------------------|-----------------------|-------------------------|-----------------------|
|                                  | Low Impact<br>(000s) | High Impact<br>(000s) | Low Impact<br>(000s)    | High Impact<br>(000s) |
| Base Cost                        | 128,406              | 128,406               | 79,956                  | 79,956                |
| Effect of Virtual Appearances    | (6,420)              | (12,841)              | (15,991)                | (23,987)              |
| Special Constables               | (30)                 | (160)                 |                         |                       |
| Use of Contractors               | (400)                | (1,000)               |                         |                       |
| Expanded Screening               | 400                  | 800                   |                         |                       |
| <b>Net Cost</b>                  | <b>121,956</b>       | <b>115,205</b>        | <b>63,965</b>           | <b>55,969</b>         |
| <b>Costs will be carried by:</b> |                      |                       |                         |                       |
| Municipalities                   | 30,111               | 21,529                | 10,870                  | 7,199                 |
| SOLGEN                           | 91,845               | 93,677                | 47,527                  | 43,899                |
| MCCSS                            | -                    |                       | 5,568                   | 4,872                 |

The major impact will be the effect of the expansion of virtual hearings, relative to 2019. With the current funding approach, the major cost reductions would benefit the municipalities, potentially reducing their costs to or below 2019 levels.

Phase 2 implementation of the recommendations related to efficiency and effectiveness will have the following effects – as discussed in each of the medium-term opportunities described in relevant sections earlier.

**Table 18: Phase 2 Implementation**

|                                  | Court Security    |                    |  | Prisoner Transportation |                    |
|----------------------------------|-------------------|--------------------|--|-------------------------|--------------------|
|                                  | Low Impact (000s) | High Impact (000s) |  | Low Impact (000s)       | High Impact (000s) |
| Base Cost                        | 130,974           | 130,974            |  | 81,555                  | 81,555             |
| Effect of Virtual Appearances    | (13,097)          | (19,646)           |  | (16,311)                | (32,622)           |
| Special Constables               | (120)             | (160)              |  |                         | (40)               |
| Use of Contractors               | (1,000)           | (4,000)            |  |                         |                    |
| Expanded Screening               | 800               | 1,600              |  |                         |                    |
| <b>Net Cost</b>                  | <b>117,557</b>    | <b>108,768</b>     |  | <b>65,244</b>           | <b>48,893</b>      |
| <b>Costs will be carried by:</b> |                   |                    |  |                         |                    |
| Municipalities                   | 27,107            | 13,304             |  | 10,355                  | 4,116              |
| SOLGEN                           | 90,449            | 95,464             |  | 49,210                  | 40,521             |
| MCCSS                            | 0                 | 0                  |  | 5,679                   | 4,256              |

In Phase 2, continued expansion of virtual hearings and some additional economies related to staffing may reduce the costs of both municipalities and SOLGEN depending primarily upon the extent to which the volume of prisoner transportation declines, and costs decrease with them.

Phase 3 implementation of the recommendations related to efficiency and effectiveness will have the following effects – as discussed in each of the long-term opportunities and the structural changes described in relevant sections earlier.

Table 19: Phase 3 Implementation

|                                                            | Court Security       |                       | Prisoner Transportation |                       |
|------------------------------------------------------------|----------------------|-----------------------|-------------------------|-----------------------|
|                                                            | Low Impact<br>(000s) | High Impact<br>(000s) | Low Impact<br>(000s)    | High Impact<br>(000s) |
| Base Cost                                                  | 133,594              | 133,594               | 83,186                  | 83,186                |
| Effect of Virtual Appearances                              | (13,359)             | (20,039)              | (16,637)                | (33,275)              |
| Special Constables                                         | (120)                | (160)                 | (120)                   | (320)                 |
| Use of Contractors                                         | (1,000)              | (4,000)               |                         |                       |
| Expanded Screening                                         | 1,200                | 2,400                 |                         |                       |
| Scheduling Software                                        |                      |                       | (664)                   | (1,988)               |
| Reduced Duplication                                        |                      |                       | (1,973)                 | (2,856)               |
| <b>Net Cost</b>                                            | <b>120,314</b>       | <b>111,795</b>        | <b>63,792</b>           | <b>44,752</b>         |
| <b>With Regional Entities costs will be carried by:</b>    |                      |                       |                         |                       |
| Municipalities                                             | 28,6734              | 13,795                | 10,486                  | 3,801                 |
| SOLGEN                                                     | 91,580               | 98,000                | 47,753                  | 37,055                |
| MCCSS                                                      | 0                    | 0                     | 5,553                   | 3,896                 |
| <b>With Province-wide Entity costs will be carried by:</b> |                      |                       |                         |                       |
| Municipalities                                             | -                    |                       | 38,275                  | 26,851                |
| SOLGEN                                                     | 120,314              | 111,795               | 19,964                  | 14,005                |
| MCCSS                                                      |                      |                       | 5,553                   | 3,896                 |

The net costs for SOLGEN under the various options would be as follows:

Table 20: Net Costs to SOLGEN

|             | Pre-COVID-19 | Short Term | Medium Term | Long Term /Entities | Long Term/ Provincial |
|-------------|--------------|------------|-------------|---------------------|-----------------------|
| No Change   | 142,267      | 142,965    | 143,324     | 143,691             |                       |
| Low Impact  |              | 139,372    | 139,659     | 139,333             | 140,278               |
| High Impact |              | 137,575    | 135,986     | 135,055             | 125,800               |

The net costs to municipalities would be as follows:

Table 21: Net Costs to Municipalities

|             | Pre-COVID-19 | Short Term | Medium Term | Long Term /Entities | Long Term/ Provincial |
|-------------|--------------|------------|-------------|---------------------|-----------------------|
| No Change   | 47,857       | 56,546     | 62,106      | 65,848              |                       |
| Low Impact  |              | 40,891     | 37,462      | 39,220              | 38,275                |
| High Impact |              | 28,727     | 17,420      | 17,596              | 26,851                |

Without any change in policy, direction, or prisoner volumes due to COVID-19, SOLGEN costs will remain essentially static. The \$125M contribution to the CSPT TP Program will remain constant, and the only impact would be inflation on the OPP OTP costs. On the other hand, municipal costs will continue to rise going from \$47.9M to \$65.8M as municipalities take on almost the full burden of increasing costs.

Recognizing the impact of virtual appearances and the potential cost reduction opportunities identified, provincial costs are forecast to be \$3.5M to \$5M lower in 2022, the short term. With the fixed \$125M SOLGEN contribution, municipal costs could reduce by \$7M to \$19M by 2022, rather than increasing by \$9M. However, the reduced municipal cost for court security and prisoner transportation does not consider the increased costs municipalities will bear due to the need to create virtual capacity at police station cells and to supervise virtual hearings.

In the medium term (2023), SOLGEN costs could go down by another \$2.5M, while municipal costs could decrease by another \$3M to \$11M depending upon whether the low impact or high impact changes occur. Again, there is no consideration of the increased costs municipalities will bear to accommodate virtual hearings.

In the long term, SOLGEN costs would be \$3M to \$7M lower than they were pre-COVID-19 in the long run if regional entities were created to reduce the costs of CS and PT. There is some risk in having those entities created successfully, which could result in some further spending to provide the incentives to form the entities, but these expenditures would not be large. Municipal costs would remain more or less the same as they were in the medium term, with the additional economies off-setting the effects of inflation.

If the province chooses to take responsibility for CS and PT (other than the first transfer from a police station to a correctional institution), provincial costs could be \$3.5M to \$13M lower than under the regional entity option, or \$6M to \$20M lower than they were pre-COVID-19. Municipalities would see their costs \$5M to \$18M lower than the \$47.8M cost pre-COVID-19. Note that municipalities would also have the cost of accommodating virtual hearings at police stations. This approach would also provide the province more control of costs and security levels so it would be better able to influence whether the low or high impact scenarios become true.

## 8.0 Summary of Recommendations

As recommendations were elaborated in connection with the detailed rationales and evidence presented throughout the report, a summary of all recommendations is presented here.

- 1) *SOLGEN should work with all justice stakeholders (justices, crowns, defense counsel, court administrators, police services) to ensure the “new normal” that emerges after COVID-19 minimizes the transport of prisoners, and maximizes the use of virtual appearances for pre-trial hearings. This will require:*
  - *Establishing a standard of practice for using virtual hearings for pre-trial hearings that do not have extenuating circumstances.*
  - *Continuing to install video capacity in correctional institutions and courthouses with a view to accommodating both the hearings themselves and communications between prisoners and their counsel and relevant support agencies.*
  - *Encouraging police services to upgrade their detention facilities to incorporate the capacity for virtual bail hearings.*
  - *Improving access to virtual weekend and statutory holiday (WASH) courts throughout the province to eliminate the need to transport prisoners before a First Court Hearing.*
- 2) *The MPS that use full-time sworn police officers rather than special constables for prisoner transportation and/or court security should convert to use of special constables.*
- 3) *In 2024 Implement \$40,000 CSTP PT grant reductions per FTE for police services that only use sworn police officers for prisoner transportation or courthouse entrance screening (should not apply to police services who use a limited number of sworn officers as well as special constables).*
- 4) *The OPP OTP continue to reduce its “refusals” to transport prisoners whenever possible.*
- 5) *Encourage police services using special constables (currently 83% of MPSs and 30% of OPP) to conduct screening at courthouse entrances through contracting the screening operations. The contract should require the training of contract staff and specifications of responsibilities to respond to direction from the MPS (or OPP) courthouse security personnel. The screening area should retain an armed sworn police officer presence when warranted by risk assessments.*
- 6) *Screening at entrances to courthouses should continue to be expanded as risk assessments identify requirements.*
- 7) *Police services should remain responsible for establishing security levels (and determining when and where screening will be added) unless*
  - *The province accepts responsibility for the cost of increasing security levels.*
  - *Court security and prisoner transportation costs drop below \$125M so the full cost is funded by the province.*
  - *Funds are available for transfer from CSPT TP Program payments reduced as a result of a decision to contract screening.*

- 8) *The Ministry could pursue the potential to integrate a software initiative with court administration and court security requirements. Implementing a new software solution should reduce costs, but it would take some time, and the potential savings would need to be more precisely identified.*
- 9) *That the Ministry ensure that the appropriate funding levels for prisoner transportation and court security are specifically and clearly addressed in the next round of funding discussions with First Nations police services.*
- 10) *That the Ministry promote the development of regional entities among police services responsible for prisoner transportation and court security.*
- 11) *That regional entities have a mandate to eliminate duplication in prisoner transportation, focus on the use of special constables and contract permitter security, alarm monitoring and entranceway screening.*
- 12) *That regional entities would use sworn police officers from the local police services when required to accommodate risk assessment conclusions. Requirements for full-time sworn police officers (e.g., as part of entranceway screening) could result in the secondment of the staff, while temporary requirements would be met by assigning staff to the duties as required.*
- 13) *That the province fund regional entity operations fully, as it does with the OPP OTP. The \$125M cap on the CSPT TP Program should be reduced by the amount of funding activities with the region concerned, for the activities transferred to the entity.*
- 14) *That the Ministry initiate the development of a Northern Justice Strategy.*
- 15) *That the needs of Indigenous Communities and First Nations Police Services be considered in the resolution of issues related to Northern Ontario.*
- 16) *If the development of regional entities does not achieve substantial progress within four years, the province should establish a province-wide entity with responsibility for court security and prisoner transportation. Consideration should be given to creating a new agency or having the OPP carry out the role depending upon whether the entity would report to SOLGEN or the Attorney General. Key elements of the plan, whether part of the OPP or part of a new entity, would include:*
  - *Having local MPS and OPP detachments remain responsible for transferring prisoners in their custody (e.g., from the police station to a correctional institution or a courthouse). The provincial agency could agree to conduct such transfers where the one-way travel distance is more than 50 km (far enough to require a significant resource diversion, unlikely to cover transportation within a municipality, and likely to capture those municipalities currently benefiting from OPP OTP service);*
  - *Having two categories of staff, an armed category and an unarmed category;*
  - *Most staff would be in the unarmed category, but the armed members would be used where a full-time armed presence is required as part of a court security plan;*
  - *Reliance on the police service of jurisdiction to support high risk operations when required;*

- *Contracting entrance screening and extending it as required by risk assessments*

*17) SOLGEN should formally develop a Performance Measurement Framework (PMF) for the CSPT TP Program collaboratively with program recipients and stakeholders. The PMF must define objectives and expected results (outcomes). In order to meet the requirements of the Transfer Payment Policy, at minimum, the PMF must focus on outputs and/or intermediate outcomes for activities in order to determine how success will be evaluated. The PMF needs to define expected short, medium and long-term outcomes. Subsequent to the results definition, the Ministry should implement a systematic collection of performance data, which would make it possible to link the funding to the achievement of results, measure progress to targets, further pursue analysis of certain issues and to make changes to the program as required.*

*18) A change in the approach to allocating funding under the CSPT TP Program is not recommended at this time, except as outlined in the other recommendations to incent cost reductions.*



## Appendix 1: List of Stakeholder Interviews

| Stakeholder or Partner                                   |
|----------------------------------------------------------|
| 1. Association of Municipalities of Ontario (AMO)        |
| 2. Institutional Services                                |
| 3. Public Safety Division                                |
| 4. SOLGEN Finance                                        |
| 5. Indigenous Justice Division                           |
| 6. Municipal POA Courts                                  |
| 7. Ontario Association of Chiefs of Police               |
| 8. Ontario Association of Police Services Boards         |
| 9. OPP – OTP                                             |
| 10. OPP – Finance                                        |
| 11. Ministry of Children, Community, and Social Services |
| 12. Indigenous Police Chiefs of Ontario (IPCO)           |
| 13. Criminal Law Division                                |
| 14. Multiple via Survey                                  |
| 16. Judiciary                                            |
| 17. Court Services Division                              |
| 18. Ontario Video Strategy/ Justice Video Strategy       |
| 19. Owen Sound Police Services                           |

## Appendix 2: List of Workshops Participants

| Group                                             | Date              | Participants                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|---------------------------------------------------|-------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Indigenous Police Chiefs of Ontario (IPCO)</b> | December 7, 2020  | <ol style="list-style-type: none"> <li>1. Wikwemikong Tribal Police Service</li> <li>2. Treaty 3 Police</li> <li>3. Nishnawbe Aski Police Service (NAPS)</li> <li>4. Treaty 3 Police</li> </ol>                                                                                                                                                                                                                                                                                   |
| <b>“Big 10” Municipalities</b>                    | December 10, 2020 | <ol style="list-style-type: none"> <li>1. Halton Regional Police</li> <li>2. Halton Regional Police</li> <li>3. Peel Regional Police</li> <li>4. Ottawa Police Service</li> <li>5. London Police Service</li> <li>6. York Regional Police</li> <li>7. Niagara Regional Police</li> <li>8. Durham Regional Police</li> <li>9. Waterloo Regional Police</li> <li>10. Windsor Police Service</li> <li>11. Hamilton Police Service</li> </ol>                                         |
| <b>Toronto Police</b>                             | December 9, 2020  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Small/Medium size Police Services</b>          | December 14, 2020 | <ol style="list-style-type: none"> <li>1. South Simcoe Police Service</li> <li>2. Chatham-Kent Police Service</li> <li>3. Kawartha Lakes Police Service</li> <li>4. Brockville Police Service</li> <li>5. Brockville Police Service</li> <li>6. Peterborough Police Service</li> <li>7. Thunder Bay Police Service</li> <li>8. Gananoque Police Service</li> <li>9. Woodstock Police Service</li> <li>10. Cornwall Police Service</li> <li>11. Cornwall Police Service</li> </ol> |
| <b>OPP Detachments</b>                            | December 15, 2020 | <ol style="list-style-type: none"> <li>1. Bancroft</li> <li>2. Orillia</li> <li>3. Upper Ottawa</li> <li>4. Quinte West</li> <li>5. Lennox and Addington</li> <li>6. Offender Transportation Program</li> <li>7. West Parry Sound</li> <li>8. South Bruce</li> </ol>                                                                                                                                                                                                              |

## Appendix 3: Jurisdictional Comparator Review Report

This jurisdictional comparative study was conducted to support the review of the Ontario Ministry of the Solicitor General's Court Security and Inmate Transportation Program. The following sections provide an overview of the information gathered through the analysis of various jurisdictions in Canada and abroad. The objective of the jurisdictional review was to understand how other jurisdictions financially support and operationalize prison transportation and court security functions. Comments in this section are generally as expressed by the interviewee and have not been tested or confirmed. The details of each jurisdiction are presented followed by summary comparison tables.

### 1. Alberta

Contacts: Deputy Chief Marcia Gonder and Superintendent Aaron Coon

#### General Information

In Alberta, the Alberta Sheriff has the mandate to provide court security in all court buildings and is responsible for the transportation of all offenders pre- and post-sentencing. Sheriffs are governed by the Alberta Peace Officer Act and the organization carries out a number of roles beyond court security and prisoner transportation.

The organization is currently comprised of five Divisions:

- Courts and Prisoner Transport;
- Communications;
- Surveillance;
- Highway Patrol; and,
- Fish and Wildlife.

There are approximately 1,150 sworn peace officers – 424 of those assigned to Courts and Prisoner Transport. The all-in cost for a Sheriff is approximately \$110K (compared to about \$160K for an RCMP constable). The province is divided into two operational divisions – North and South. Recently, the Courts and Prisoner Transport sections have been more clearly divided to recognize the different business lines associated with their functions. Most Sheriffs are armed although about 10 Sheriffs operate under a different classification and only carry pepper spray and handcuffs.

There have been a number of reviews since 2003 that redefined the service delivery model. The Alberta Sheriff assumed more responsibilities over the years from the Royal Canadian Mounted Police (RCMP) in prisoner transport and they moved away from an integrated Traffic Unit with the RCMP to create a stand-alone unit.

The Alberta Sheriff has recently delineated Court Security and Prisoner Transport to better meet the needs of their clients. They have also recognized that Court needs are different than Law Enforcement needs and there is a requirement to continue building out their service delivery model to recognize varying conditions that are mainly focused on supporting 24x7 needs of law enforcement.

Funding is provided by the Provincial Government under the Solicitor General and the Alberta Sheriff do not receive funds from the police services they serve.

## Court Security

The Alberta Sheriff is responsible to provide Court Security which includes perimeter, buildings, courtrooms and holding facilities. Its mandate also includes smaller circuit court temporary locations, although these locations are not a legislated responsibility. Although not legislated, it falls under the Sheriff's Mandate.

The Court Security model has been in place for many years and not many changes have taken place. With the introduction of magnetometers and screening checkpoints in certain Court buildings, the Alberta Sheriff has contracted "The Commissionaires" to perform these security functions.

In larger Courts, a dedicated unit of Sheriffs is present to provide overall security including perimeter security, building security and courtroom security. Sheriffs also are responsible for any holding facilities located in a Court Building. In smaller courthouses, Sheriffs are brought in to cover when there is Court in session. In remote areas, the prisoner transport Sheriff will also act as Court Security.

All newly hired Sheriffs attend a 15-week induction training program. This program would be comparable to other policing programs, with the exception of the duration and learning regarding policing roles. Sherriff's will receive additional training before being assigned to roles other than CS and PT.

Staff are deployed throughout the province at Base court locations and provide security services to the regional circuit courts when open.

- Base Court (provincially) – Total of 21 location (including Edmonton/Calgary)
- Circuit Courts (provincially) – Total of 52

The interview respondent noted that the model works well. The judiciary is demanding and their expectations often impact the effective deployment of resources.

Court Security Staffing: 424 full time employees in total consisting of:

- Perimeter Sheriff (SST1): These Sheriffs are unarmed and only provide support to contracted Commissionaires; screening the general public entering the Courthouse. They only utilize these Sheriffs in major centres where they see a significant volume of public entering.
- Jury Officers (SST1): These officers are not 'peace officers' and only provide support to the Judiciary during jury trials. They remain with the jury throughout the process, from selection to trial, this is to ensure the integrity of the jury trial processes.
- Communications Officer (SST1): these members are civilian and provide dispatch services and logistics planning for prisoner transport. All stakeholders requesting prisoner transportation services submit their requests directly to these officers to have offenders moved.
- Intelligence Officers (SST3): these members are Peace Officers but work with the Communications Officer on screening prisoner transport requests for intel and security for the Sheriffs conducting the service.
- Judicial Security Officer (SST3): These officers provide close security protection to the senior levels of Judiciary. This includes driving and escorting these members of the Judiciary while working in their roles (not outside of business hours). These Sheriffs are not in uniform (but still armed) and provide covert security to these key stakeholders.
- Sheriff (SST3): These are armed Sheriffs who are assigned to courtroom security, cellblock security and to facilitate prisoner transportation services. This is the primary group of Sheriffs assigned to program areas and provide the majority of the service delivery to stakeholders. (Approximately 360-370 uniformed members).
- Sheriff Sergeant (SST4): These are uniformed supervisors that work in operations and oversee the unit staffing. This includes day to day operations, time management for staff and are primary point of contacts for stakeholders.

Note: other Sheriffs performing other tasks have different training and compensation levels, consistent with the requirements of their tasks.

## Prisoner Transport

The Alberta Sheriff has a provincial centralized hub call centre that coordinates all prisoner transports across the province. They have set regular routes that are established in order to maximize the ability to pick up prisoners from all pickup points. "It operates like UPS except it's for prisoners". Their longest run is approximately 1,200km. They will share the run between the North and South Divisions. The split is approximately 50/50 for urban short vs long runs. They are responsible to transport all prisoners pre-sentence during their regular hours of operation Monday to Friday. The police of jurisdiction is responsible for all prisoner transportation during off hours. Municipal Police Services are not compensated by the province for any resulting prisoner transportation costs.

Sheriffs also have the mandate to transport prisoners between five Federal and 11 Provincial correctional institutions. They utilize large capacity prisoner buses to facilitate transports. This mitigates costing and the need for large amounts of staff to provide services.

Sheriffs have gradually been assuming more prisoner transportation responsibilities across the province, including functions previously performed by the RCMP.

There have been some negotiations with Municipal Police Services (Edmonton and Calgary) to extend more than the “basic” service currently being provided and to design a service delivery that better meets the needs of police services (e.g., 7 X 24). The approximately \$1.5 million in additional costs incurred by the Sheriffs to expand services would potentially be funded by municipal police services requesting this enhancement.

Sheriffs do approximately 50,000 prisoner transports per year; on average 220 per day. Its capacity has dropped by 50% since COVID 19 due to restrictions being imposed from Health and Safety on transport vehicles and the reduction in the number of prisoners requiring transport because of enhanced release procedures by Police.

Some Sheriffs are assigned to fixed transportation which includes fixed scheduled runs to the following stakeholders:

- Provincial Corrections;
- Federal Corrections;
- RCMP (province wide); and,
- Municipal police, basic services (Monday-Friday) with a potential for future cost paid service (this has only been discussed, not implemented).

These Sheriffs also provide support to Out of Province Escort teams and travel across the country to return offenders being held in other jurisdictions.

They are currently working to build Prisoner Transportation section to be functioning 7 days a week, as the current service offering of Monday-Friday (0700-1700), has been insufficient for their policing partners.

One benefit mentioned by the interview respondent is that having Alberta Sheriffs provide these services, from a costing perspective and as a policing mandate, allows Police Officers the ability to focus on their primary responsibility.

Technology has also played an important role in reducing in person court appearances by using video conference. COVID-19 has helped with the acceptance of this technology and they hope to capitalize on it.

## 2. British Columbia

Contacts: Chief Paul Corrado – BC Sheriff, Superintendent Dave Attfield – BC RCMP, and Superintendent Lisa Byrne – Vancouver Police Department.

### General Information

In British Columbia (BC), the BC Sheriffs have a strong presence across the province and have significant responsibilities in providing Court Security during regular hours of operation, staffing permitted. They also have a responsibility to transport prisoners during regular hours of operation (5 days a week). The RCMP has a large presence in BC and they are involved in the transport of prisoners within their jurisdictions (7,500 members, 132 detachments, 121 cell blocks). The municipal police services (MPS), such as Vancouver, also have a role in transporting prisoners, particularly on weekends. The RCMP and MPS are generally compensated when they assist.

### Court Security

The British Columbia Sheriff Service is responsible for Court Security for the province of BC. It is an organization within the Ministry of the Attorney General of BC and part of the Court Services Branch.

The BC Sheriff Service responsibility is legislated under the BC Sheriff Act and Police Act. Sheriffs in BC have the authority to enforce provincial and federal statutes within their mandate. They are also appointed under the BC Public Service Act.

Historically, Sheriffs performed a variety of duties such as jailhouse manager, tax collector, government agent, formed Posses and even gold commissioner.

In 1974, the Sheriff's Office in British Columbia was restructured and merged into a single department known as the British Columbia Sheriff Service and reported to the Attorney General.

In the spring of 2019, Sheriffs were given further responsibility to act in exigent circumstances to intervene in life-threatening situations they encounter in the course of their duties.

All Sheriffs are sworn peace officers in the province of BC. They are formally trained through the BC Sheriffs Academy at the Justice Institute of BC. The Service does employ civilian Jury Guards and their role is restricted to providing comforts to the Jury. Jury Guards are neither peace officers nor are they trained in the same stream as Deputy Sheriffs. Jury Guards only receive in-house training.

Some of the tasks Deputy Sheriffs perform include court security (armed/not armed), search gate, prisoner and jury management, witness protection, arrest and detention.

Interviewee respondents note that one advantage to the training is that it is the same throughout the province for all Sheriffs. A Sheriffs Operating Manual provides operational guidance and outlines operational procedures that are to be followed consistently throughout the province.

One disadvantage noted by interviewees is the use of jury guards. The Service is no longer actively seeking to employ civilian jury guards. Jury guards are not peace officers and do not have the same authority as sworn Sheriffs; thus, jury guards cannot respond in the same manner as Sheriffs in some circumstances.

Funding for the BC Sheriff Service is provided by the provincial government.

The RCMP and municipal police services are required to support BC Sheriffs in providing remote location court security due to shortages of personnel within the Sheriffs. RCMP and municipal police services do not receive funding for remote location support. Police services also assist in providing security for high-risk trials and participate in risk assessments.

## Prisoner Transport

The BC Sheriffs are largely responsible for transporting prisoners to and from police stations, courts and detention facilities. However, they currently only operate during Court hours, which excludes evenings and weekends. The transportation gap is fulfilled by the police service of jurisdiction – either the RCMP or the municipal police. RCMP and municipal forces are eligible to receive funding from the BC Sheriff when required to transport prisoners. The co-location of the central Courts and Vancouver Police Department (VPD) holding cells in Vancouver is ideal and significantly reduces prisoner transportation needs.

There has been a push to introduce video remand in order to reduce the number of prisoners requiring transportation. The advent of COVID-19 has significantly increased video remands and it is the BC Sheriffs plan to continue with this practice post COVID-19. Police services have been impacted with infrastructure and staffing challenges to accommodate video from police cells. They have not received provincial funding to move video technology forward, although Sheriff costs for prisoner transportation have declined.

Police in BC are required to hold prisoners in their cell blocks upon remand when there are capacity issues in the detention centres. They receive provincial funding under the “Keeper of Prisoner Program” when required to hold prisoners. The funding available does not cover all real costs due to limited funding in the province. For example, in 2019, the Vancouver Police recovered 78% of their costs from the province. Police services would like to see 24 X 7 services by the Sheriffs due to increased risk and liability associated with keeping prisoners longer in their cells.

Interview respondents pointed out that distance travelled between facilities can be an issue for the transport of prisoners in more remote locations. When the Sherriff is transporting prisoners long distances, two sheriffs may be involved and local police services are required to hold prisoners in their cells during prisoner runs that require hand offs, which can cause additional working pressures and risk for police services.

The general consensus across all interviewees is that BC Sheriffs should receive the required funding to operate their services 24 X 7 resulting in a more effective and efficient model.



### 3. Quebec

Contacts: Dave Castegan – Directeur général adjoint à la sécurité de l’État – Ministère de la sécurité publique (Court Security)

Jimmy Potvin – Directeur général adjoint des affaires policières – Ministère de la sécurité publique (Prisoner Transport)

#### General Information

In Québec, Court Security and Prisoner Transportation fall under the mandate of the Ministry of Public Safety. There are two distinct sub ministries responsible for each program. Court Security has always been performed by Special Constables who work for the Ministry. As a result of a significant project focused on the modernization of their Courts, there has been a shift in the responsibility associated with the transport of prisoners. Previously, Corrections had the sole responsibility of transporting all prisoners. Since the modernization project, and with the advent of COVID-19, police services are now responsible to transport any prisoner to an institution (or a court if a live appearance is required for some reason). Corrections maintains the responsibility of transporting prisoners requiring appearances for trial.

#### Court Security

Court Security in Québec is a shared responsibility between two Ministries (Justice and Public Security). There are over 100 court locations across the province including 48 main Court buildings and approximately 52 part time courts including fly in locations. The infrastructure is the responsibility of the Ministry of Justice and all other dynamic security requirements fall under the Ministry of Public Safety’s mandate. Interviewees note that this division of responsibility doesn’t always work well. It mainly depends on the relationships that exist. There have been instances where the Ministry of Justice doesn’t always take into consideration all downstream costs and operational impacts resulting from changes or decisions made relating to infrastructure. There is a view that both should fall under the responsibility of one Ministry though there is no opinion as to which one.

Special Constables, who are fully armed, hired and trained by the Ministry, are responsible to provide court security from the sidewalks in. They have powers of search and arrest and are remunerated at same rate as police officers due to collective agreements in place.

Court buildings that operate on a regular basis have dedicated special constables assigned. Judges who are required to attend remote part-time court sites are assigned Special Constables who travel with them to the sites and are responsible for security. Of late, Indigenous community police services have taken over the responsibility of providing security to part time courts in their jurisdiction which has been supported by the Ministry and has helped reduce their costs.

There are Liaison officers from police services (MPS and QPP) at Courts which helps the relationship between the Ministry and police services and acts as a point of contact with respect to Intelligence and information gathering.

The Ministry has a complement of trained investigators to conduct investigations of criminal incidents occurring in court buildings. However, if they are complex then the police of jurisdiction will assume responsibility. They have officers assigned to Intelligence who work with corrections and police services, Jury surveillance officers (courtrooms – hotels) to ensure the integrity of juries, officers assigned to monitor courtrooms as required by some Judges and officers assigned to the protection of some Judges (based on risk assessment).

All Court Cell Block security is the responsibility of Corrections.

Private Security companies are hired throughout the province to provide additional security functions and various court building and remote part time courts. These functions include screening, security camera monitoring, parking lot gate security and staffing at security checkpoints to operate x-ray units.

The model has been in place for more than 20 years and there have been no recent changes, however they are moving towards the use of “Government Security Officers” to replace private security being used to augment security at various sites. The Ministry wants better control of recruiting, training and staffing as opposed to using a number of private contractors.

## Prisoner Transport

In recent years, the province of Quebec has undertaken a significant modernization project which spans into 2023 valued at \$675 million, including the introduction and expansion of video conferencing. One of Quebec’s goals is to reduce the need to transport prisoners and use technology to make Court appearances more effective and efficient. With the advent of COVID-19, their plans for video conferencing have advanced to the point that all Bail and Remand Appearances are now mandated to take place over video – either from the police station or the detention facility. The initial plan was to operate the program only over weekends, but they are now moving towards operating 7 days a week.

Prior to the modernization project, all prisoner movements, other than initial Bail Hearings where the accused was still in police custody, were made by Corrections. All prisoner movements pre-trial are now the responsibility of the police service of jurisdiction. When combined with the requirement that all bail and remand hearings be virtual, this essentially means police are responsible for prisoner transportation from the police holding cells to the detention facility. If the police service is not equipped to move prisoners, the Sûreté du Québec will assume that function. Corrections have the mandate to transport prisoners required for trial from the institution.

The number of transports required have reduced dramatically with COVID-19, resulting in lower workload for Corrections but an increase in tasks for police, to accommodate video appearances from police cells and the new responsibility to transport prisoners to the correctional institution.

Police have been asked to track their costs associated with the acquisition of technology, infrastructure changes and increased costs associated with prisoner transportation. There are no

current plans to fund local police services, however, a new funding arrangement may result in future years.

#### 4. Australia / Queensland

Contact: Andrew Ballantyne , Superintendent Custodial Delivery Command – Queensland Corrective Services

##### General Information

Australia (pop 25M) is comprised of six states and three territories, one of which is Queensland (pop 5.2M). The Australian Federal Police has the role of investigating federal crime and protecting the national security of the Commonwealth of Australia. Each state or territory has their own police service responsible for investigating crimes and maintaining public safety within their respective jurisdictions. In addition, each state and territory has their own Corrective Services entity responsible for the supervision and rehabilitation of offenders in correctional services. In Queensland, the 5,000 Custodial Corrections Officers (CSO) are mandated to provide court security for defendants in their largest centres of Brisbane Courts Complex's and Townsville Courts, transport prisoners between correctional centres across the state, and are mandated to provide security in all correctional facilities centres in the state.

##### Court Security

Queensland Corrective Services (QCS) have the mandate of providing Court security for defendants in court buildings located in Brisbane and Townsville which are their largest court locations in the state. Building security for these courts is provided by State Government Security i.e., the entry and exit screening. There are 131 designated local court locations (not all full time), 38 District Courts and 11 Supreme Court locations.

In the past, police had the responsibility for security of defendants in courts. However, changes were made approximately 30 years ago. The bulk of all trials take place in the Brisbane Supreme and District Courts and some in Townsville and Cairns including serious offences. Minor offences can be dealt with at other court locations throughout the state. Queensland Police Service (QPS) are responsible for providing security at all other court locations (approximately 70) in the state and do not receive specific funding for this activity as this is included in their responsibilities. They also have state protective security officers assigned to those Courts.

All Court Security Officers (CSO's) receive the same training regardless of the role they are assigned (Courts, Correctional Centres and Escort and Security Branch). Extra compensation by way of shift premium is provided to those CSO's working shift work, however CSO's working Court Security only work Monday to Friday.

##### Prisoner Transport

In general, Corrections staff move prisoners from correctional facilities to court once remanded into custody by the Courts across the state. Police transport prisoners to Court from police

holding facilities. There are several remote locations where police transport prisoners from Correctional Facilities to Police holding facilities (Watch houses) to attend court e.g., Toowoomba, Roma. This is based on geography and stems from practice and history.

Some CSO's are armed for transports based on risk assessments in accordance with approved policy.

When a person is arrested by police, a charge is laid and if there is a requirement to hold them in custody they appear before a judge in person or by video. If remanded into custody, they return to the police watchhouse and are put on a list to be picked up by Queensland Corrections when a spot has been secured in a correctional facility. Currently the correctional facilities are operating at an average of 160% capacity therefore a prisoner can be on a list waiting in a police cell for over seven days before being picked up for transport to the correctional centre.

QCS move about 30,000 prisoner per year. There is high use of video conferencing for remand prisoners by Corrections – up to 70% is done by video across all Correctional centres.

QCS have recently gone through a review and are amidst reform. Both QCS and QPS are currently reviewing reception, transport, and escort of, and security of, prisoners.

QPS would like to see prisoners transferred into jail sooner. Currently Corrections are not resourced to deal with front end services performed at watchhouses. Queensland Correctional Facilities are operating at approx. 160% of capacity – placing strain on the system and housing prisoners is problematic.

An extension to a facility has been completed and a new facility is being built which should assist with capacity issues.

QCS and the Justice sector are also working to assess the value of incarcerating certain offenders for certain offences. Is it effective to put a first time impaired driver in jail – are they a threat to society as an example.

## 5. New Zealand

Contact: Deputy Commissioner Jevon McSkimming, New Zealand National Police

### General Information

The New Zealand Police Service (NZPS) has approximately 15,000 employees and has the policing mandate for the entire country. Police in New Zealand are not armed. Court security does not fall under the jurisdiction of the police. It is handled by the Minister of Justice. However, police are responsible for all prosecutions therefore have some presence in court buildings. NZPS are responsible for all prisoner transport up until the sentencing phase of the judicial process. Prisoners are held in police cells for short durations and when remanded by the Court they are held in Correctional facilities.

## Court Security

Responsibility for court security is legislated under the Court Securities Act and the Minister of Justice is responsible to ensure Courts are secure and provides required funding. A combination of civilians (Court Security Officers) and private contractors are present in the courts for security purposes. One stated advantage of using non police resources is associated to the impartiality of the Court process given that police are the ones responsible for prosecuting offenders.

New Zealand Police have a physical presence in the court buildings for the main purpose of prosecuting offenders and to maintain the security of offenders. If a police response is required, those on duty will respond, but additional resources may be called in. There are no security checkpoint requirements present in accessing any of the 326 court buildings across the country. A risk-based approach is used if a particular court appearance or trial requires higher security and additional resources will be assigned if deemed necessary.

There are approximately 300 police stations across the country and most of them are in proximity of the court buildings. However, the closure or merging of police facilities has outpaced consolidation of Court buildings.

## Prisoner Transport

The New Zealand Police is responsible for all pre-sentencing prisoner transportation in the country and operations are funded by the general revenue provided by the Ministry of Justice.

There has been a concerted effort to reduce the number of Court appearances required by an offender. The strategy involves reducing the number of arrests requiring detention (e.g., identification confirmation, releasing at a police station or an officer phone checking fingerprints to avoid need to arrest) and the use of video remand. Both strategies are geared towards reducing the number of prisoners requiring transport. There is a cultural shift that has been required and resistance is often felt depending on the individual Judge hearing a case. The advent of COVID-19 has helped with the culture change but they have a long way to go towards achieving their goals. The practice of offenders appearing in person has been in place for centuries and shifting to a culture of remote appearance has been challenging.

There is a pool of approximately 300-400 “Duly Authorized Officers” (equivalent of Special Constables) who are tasked with prisoner transport and guarding prisoners in police and court cells. The prisoner transport program is governed centrally but the officers are deployed geographically and report to Area or District Commanders depending on the size of the jurisdiction. Because of geography, the longest transport they have might be two hours. They also have fly in communities. There is centralized (national) policy and direction. Resource deployment, supervision and operations are grounded at the local level.

The focus of the NZPS is on reducing Court Appearances – they are looking at “disrupting the custody pipeline”. They have seen a 30% reduction of appearances specifically attributed to better managing offender identification and providing front line officers smart phone technology to

capture and view video and fingerprints. Their focus is also on maximizing the use of digital evidence in Court.

They also use a risk management approach and will have police officers support transports or court appearances when required. The model they use to transport when required works well according to interviewees.

## 6. United Kingdom

Contact: On Line Research

### Organization/Agency Responsible

England/Wales: The Lord Chancellor or Secretary of State for Justice (role combined in 2007) is under a duty to ensure that there is an efficient and effective system to support the carrying out of the business of the Senior Courts, the Court of Protection, the county courts, the family courts, and magistrates' courts, and that appropriate services are provided for those courts.

Northern Ireland: The Ministry of Justice, Lord Chief Justice's Office, and the Courts and Tribunals Services are responsible for the safe operation of court rooms.

Scotland: Estates, Health and Safety, Fire and Security Committee under the Scottish Courts and Tribunals Service which is a public agency responsible for the administration of Scottish Courts.

### Legislation

Courts Act 2003

The Lord Chancellor, in accordance with the Courts Act 2003, appoints and designates security officers for all courts in England and Wales, other than the UK Supreme Court. Security officers are required to comply with training requirements prescribed by secondary legislation. Once the Lord Chancellor designates an individual as a court security officer, they have specific powers that they may exercise in court buildings, for example, the power of search, seizure of weapons and other prohibited articles and of restraint and/or removal from a court.

### Model

England and Wales: Court Security Officers employed by the Lord Chancellor/Secretary of State for Justice or a private "court officer" designated by the Lord Chancellor under section 51(1) of the Courts Act 2003 provides all court security functions.

Northern Ireland: Similar to the England and Wales

Scotland: Court security is the responsibility of the Scottish Police Force. Non-Warranted uniformed officers are provided, who have the power to hold persons in custody, remove persons from the premises, apprehend escapees, transfer persons from any court, prison, police station, or

mental institution to another, search any person in custody, and demand information with reasonable cause.

## Staff

A court security officer is a person who is appointed by the Lord Chancellor under section 2(1) or provided under a contract made by virtue of section 2(4), and designated by the Lord Chancellor as a court security officer.

In the UK, private contractors also transport prisoners to and from 24 crown courts and 43 magistrates' courts. They cover many of the most high-profile courts in England and Wales, including the Royal Courts of Justice, the Central Criminal Court and Westminster Magistrates' Courts.

North Ireland: Private security contractors perform the role of jury keepers. A Private security contractor is responsible for the overall security of the courthouse. General court duties include calling defendants, witnesses and helping court ushers. Prison Service Prison Officers and Prison Custody Officers are responsible for the security of defendants in custody while in the holding area of the courthouse and the dock. Youth court security is provided by "security staff".

Court Police and Security Officers, known as a TurnKey, is a uniformed non-warranted officer of the Scottish Police Force. These Officers provide security (and transport) for courts within Scotland.

## Funding

Limited information, however, it appears that funding is provided by the central governments through the ministry responsible for court operations.

## COVID-19 /Other Concerns

Move towards more remote court appearances and other technologies available to reduce the need for in-court appearances. Some courts have installed plexiglass dividers and such to mitigate transmission risk.

## Comparison Tables

| General Information   | Ontario | Alberta | British Columbia | Quebec | Queensland Australia | New Zealand |
|-----------------------|---------|---------|------------------|--------|----------------------|-------------|
| Population (millions) | 14.75   | 4.42    | 5.1              | 8.57   | 5.11                 | 5           |
| Police                | ✓       | ✓       | ✓                | ✓      | ✓                    | ✓           |
| Sheriffs              | ✗       | ✓       | ✓                | ✗      | ✗                    | ✗           |
| Government Security   | ✗       | ✗       | ✗                | ✓      | ✓                    | ✓           |
| Corrections           | ✓       | ✓       | ✓                | ✓      | ✓                    | ✓           |

| Court Security                               | Ontario | Alberta | British Columbia | Quebec | Australia | New Zealand |
|----------------------------------------------|---------|---------|------------------|--------|-----------|-------------|
| <i>Responsibility Legislated?</i>            | ■       | ■       | ■                | ■      | ■         | ■           |
| <i>Who is responsible general security</i>   |         |         |                  |        |           |             |
| - Police of jurisdiction                     | ■       |         | □                |        | □         | ■           |
| - Centralized entity                         |         | ■       | ■                | ■      | ■         | ■           |
| <i>Staffing model for general security</i>   |         |         |                  |        |           |             |
| - Police                                     | ■       |         | □                |        |           |             |
| - Other                                      | □       | ■       | ■                | ■      | ■         | ■           |
| <i>Staffing model for holding facilities</i> |         |         |                  |        |           |             |
| - Police                                     | ■       |         | □                |        |           |             |
| - Other                                      |         | ■       | ■                | ■      | ■         | ■           |
| <i>Screening</i>                             |         |         |                  |        |           |             |
| - All courthouses                            | □       | □       | □                | □      | □         |             |
| - Major courthouses                          | ■       | ■       | ■                | ■      | ◆         |             |
| - Part-time courthouses                      |         |         |                  |        |           |             |
| <i>Designated Funding</i>                    | ◆       | ■       | ■                | ■      | ■         | ■           |

|   |     |   |        |   |        |
|---|-----|---|--------|---|--------|
| ■ | Yes | ◆ | Mostly | □ | Partly |
|---|-----|---|--------|---|--------|



| Prisoner Transportation                                         | Ontario | Alberta | British Columbia | Quebec | Australia | New Zealand |
|-----------------------------------------------------------------|---------|---------|------------------|--------|-----------|-------------|
| <i>Responsibility legislated?</i>                               | ■       | ■       | ■                | ■      | ■         | ■           |
| <i>Transportation Station to Court</i>                          |         |         |                  |        |           |             |
| - Police                                                        | ■       | □       | □                | ■      | ■         | ■           |
| - Other                                                         |         | ◆       | ◆                |        |           |             |
| <i>Transportation Station to Detention</i>                      |         |         |                  |        |           |             |
| - Police                                                        | ■       | □       | □                | ■      | ■         | ■           |
| - Other                                                         |         | ◆       | ◆                |        |           |             |
| <i>Transportation Court to Detention</i>                        |         |         |                  |        |           |             |
| - Police                                                        | ■       | □       | □                | ■      | ■         | ■           |
| - Other                                                         |         | ◆       | ◆                |        |           |             |
| <i>Transportation Detention to Court</i>                        |         |         |                  |        |           |             |
| - Police                                                        | ■       |         |                  |        | □         |             |
| - Other                                                         |         | ■       | ■                | ■      | ◆         | ■           |
| <i>Use Armed Police Officers</i>                                | □       | □       | □                | ◆      | □         |             |
| <i>Use Special Constables</i>                                   | ◆       | □       | □                |        |           | ■           |
| <i>Use Sworn Peace Officers</i>                                 |         | ◆       | ◆                | □      | ◆         |             |
| <i>Payments to Police for Conducting PT.</i>                    | ◆       |         | ◆                |        |           |             |
| <i>Pre COVID-19 use of video appearances</i>                    | □       | □       | □                | □      | □         | ◆           |
| <i>Impact of COVID-19 on increased use of video appearances</i> | ■       | ■       | ■                | ■      | ■         | ■           |
| <i>Are changes being contemplated?</i>                          | ◆       | □       | □                | ◆      | □         | □           |

|   |     |   |        |   |        |
|---|-----|---|--------|---|--------|
| ■ | Yes | ◆ | Mostly | □ | Partly |
|---|-----|---|--------|---|--------|