

June 13, 2001

Kevin McLaughlin, Sheriff

Chittenden County Sheriff's Department  
P.O. Box 1426  
Burlington, VT 05402

Re: 24 V.S.A. § 73 - Opinion Number 2001-1

Dear Sheriff McLaughlin:

Pursuant to 3 V.S.A. § 159 you have requested an opinion interpreting 24 V.S.A. § 73 concerning liability insurance. Specifically, you ask whether, under the circumstances set forth below, the County is obligated to pay the deductible amount under the terms of your office's liability insurance policy.

In 1999 you and your department were defendants in a lawsuit filed in the United States District Court for the District of Vermont. Your involvement in this suit arose as a result of the role played by your department in so called "Brady gun checks" for firearm purchases made in the State of Vermont. The lawsuit was dismissed. Attorneys' fees for the defense of you and your department exceeded \$12,000. You have been presented with a bill in the amount of \$10,000, which represents the deductible under the liability insurance policy that has been purchased for your department. You have requested that the County reimburse your department for this deductible. The County has declined reimbursement but approves of your request for an opinion from this office.

For purposes of this opinion we assume that the facts are as presented.

It is the opinion of this office that the County is required to pay the deductible.

24 V.S.A. § 73 reads as follows:

- (a) The county shall provide the sheriff with an adequate bond, a suitable office, office equipment and supplies and adequate telephone service. The sheriff's department shall also be provided with law enforcement equipment, supplies, insurance and funds for maintaining and

operating such equipment as the assistant judges consider necessary to ensure that the department operates in a safe, accountable and professional manner. The county shall also provide reasonable secretarial assistance and bookkeeping assistance. The county shall also provide funds necessary for department personnel to comply with basic and in-service training requirements established by the Vermont criminal justice training council, funds to provide the matching share of grants from federal, state or private sources, and funds to pay the liability insurance premiums for the sheriff and his deputies.

We recognize that an argument can be made that the above language is specific and only requires payment of insurance premiums. The counter argument is that the above language expresses legislative intent that the County is responsible for liability insurance and that responsibility would include payment of a deductible.

In determining the meaning of a clause of a statute, it is permissible to consider not only the letter of the statute, but, more importantly, its reason and spirit. State v. Lynch, 137 Vt. 607, 613 (1979). To that end legislative history is important.

24 V.S.A. § 73 has a relatively lengthy history. While counties have long had some obligation to support sheriff's departments there was no reference to liability insurance in the statute until 1978. In that year the following language was added to the statute:

The county may also provide funds to train sheriffs and deputy sheriffs, funds to provide the matching share for grants from federal, state or private sources, and funds to pay the liability insurance premiums for the sheriff and his deputies. (Public Acts, 1977 Adj. Session No. 218)

The above quoted language uses the permissive "may" and thus gave counties the option to provide for liability insurance.

One decade later that which was optional was turned into a mandate. The current language was added to the statute by Public Acts, 1988 Session, No. 262. The current language reads in relevant part, as follows:

The County shall also provide funds necessary for department personnel to comply with basic and in-service training requirements established by the Vermont criminal justice training council, funds to provide the matching share for grants from federal, state and private sources, and funds to pay for liability insurance premiums for the sheriff and his deputies.

The statement of purpose of the bill that became Act No. 262 of the 1988 session reads as follows:

This bill would make certain statutory changes recommended by the joint legislative committee on the office of sheriff in order to increase the fiscal accountability of the sheriff's departments.

(S. 262, statement of purpose)

Given that the statement of purpose of the bill that contains the statutory language in question makes specific reference to the recommendations of the joint legislative committee on the office of sheriff the report of that committee is of some relevance in determining legislative intent. This is particularly true with regard to the language concerning liability insurance because that language remained consistent from the bill as introduced to the final version that was enacted into law.

The Report of the Joint Legislative Committee on the Office of Sheriff makes no specific recommendation with regard to liability insurance. However, the report does make a recommendation concerning the sources and level of funding for sheriff's departments. The report recommends that the state be responsible for a number of costs and expenses relating to sheriff's departments. The report then states as follows:

All other operating costs of the fourteen Sheriff's Departments shall be the responsibility of the respective county government.

The above language is a clear indication of legislative intent that county government bear those operating costs which are not specifically assigned to the state and which are mentioned in the statutes amended to effectuate the recommendations of the joint committee.

The payment of an insurance deductible is a cost of operating a sheriff's department. It is our opinion that it is a cost that should be paid by the County.

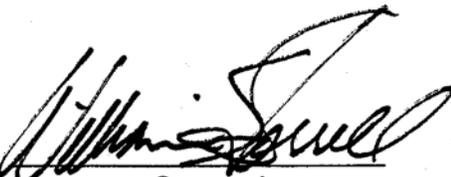
This opinion is limited to the specific question asked in your letter. As you know, opinions of this office are only opinions and do not create, negate or affect legal rights or entitlements.

Very truly yours,



Michael McShane Assistant  
Attorney General

Approved:

  
Attorney General

