

COMMENT ON FY'21 "SKINNY BUDGET" INSTRUCTIONS

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To: Metayer, Timothy <Timothy.Metayer@vermont.gov>

Cc: Evans, Lora <Lora.Evans@vermont.gov>

Hello Tim:

Per instructions distributed May 12, 2020, we are writing to let you know that while we may be able to get through the first quarter of FY 2021 with 23% General Fund and 25% PD Special Fund, we cannot operate and continue to provide our core constitutionally-required services on reduced funding through the full year.

As you know, the 2% reduction (\$369,133 for ODG) is calculated off the annual amount and applied to the first quarter funding. In effect, it is an 8% reduction for one-quarter of funding.

The FY 2021 budget initially proposed by the Governor included an additional \$609,176 in non-discretionary increases. Some of that was staff roll out costs, some were already-negotiated public defense contract increases, and some was to provide additional funding to NEK Law, the contract public defense firm in Caledonia and Orleans Counties to keep that contract in place at substantial savings to the State. Changes since that time include a new lease for the Public Defender's office space in St. Albans negotiated by BGS in February (additional cost of approximately \$39,000 and one-time costs for wiring and moving). That means that we are short another \$152,294 for the first quarter.

Beyond those core costs, we can anticipate additional needs based on the COVID-19 pandemic, specifically related to the Judiciary's plan to reopen and start working through the backlog of existing cases that have developed over the last few months, together with cases that have had their arraignments deferred since early March. The Judiciary's plan includes adding judges to hear these backlogged cases, which means that Public Defense is going to need to respond to the push with additional staff lawyers, contract lawyers, and increased contract-lawyer-time for existing contractors. There will also be additional needs for other personal services, particularly investigations and evaluations of clients. We are also being told that the State's Attorneys anticipate bringing the cases that they have been holding off on for the last few weeks, again pushing the need for additional public defense lawyers. We don't know yet how much that might cost, and we are exploring whether COVID funds can be used to cover costs to handle that backlog of cases.

While we understand that in August the Governor will introduce a revised spending plan, with presumably an opportunity for departments to submit additional budget information, we felt that it is necessary to advise you of our concerns and anticipated difficulties with this level of funding immediately. A reduction in the face of a tidal wave of new cases, more judges to handle those cases, and likely additional prosecutors are untenable.

As always, please reach out to us with additional questions that you may have.

Stay well,

Matt

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