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TO: Representative Diane Lanpher, House Committee on Appropriations
Senator Richard Sears, Senate Committee on Appropriations
Stephen Klein, Chief Fiscal Officer, Joint Fiscal Office

FROM: Joshua R. Diamond, Deputy Attorney General
Sarah London, Chief Assistant Attorney General
Marcey Hodgdon, Finance Director

DATE: August 24, 2020

SUBJECT: Attorney General's FY2021 Budget Request

The Attorney General's Office ("AGO") is requesting an increase of **\$158,519** above the FY2021 Governor's Recommend. These additional funds will ensure that the AGO has adequate staffing to meet the needs of the State of Vermont and its citizens.

The Governor's Recommend seeks a 1.9% cut in general funds to the AGO. Such a cut will require the AGO to maintain a vacancy savings of approximately 7% or \$369,313, while the accepted statewide vacancy savings is 4% or approximately \$209,410. It is noted that as a result of staffing a Rapid Response Team in response to COVID-19, as described more fully below, the AGO projects an offset of general funds with Coronavirus Relief Funds of approximately \$65,000 for FY2021. Use of such one-time monies will further strain the AGO's budget in FY 2022 without a matching increase to its baseline budget.

As stated above, maintaining a 7% vacancy rate will impact the AGO's ability to effectively provide services. This will require the AGO to leave attorney, investigator, and paralegal positions open. Most notable is the need to adequately staff the Vermont Internet Crimes Against Children (VT-ICAC) Task Force in the AGO. The importance and necessity of additional resources for the VT-ICAC Task Force are spelled out in detail within the AGO's budget narrative. Moreover, the need has increased significantly in the last few years. The AGO has seen a significant increase in cyber tips coming into our ICAC program. From 2016 through April 2019 we went from 126 to 402 cyber tips per year. Currently, we are on track to exceed 2019's cyber tips.

This dramatic rise in ICAC tips necessitates substantial, additional resources for ICAC-related investigations and prosecutions as we move forward. Through painstaking review and prioritization, current vacant positions have been reclassified and reallocated to the VT-ICAC program. However, without the additional \$158,519 to “buy down” the AGO vacancy savings to the statewide accepted rate of 4%, recruiting for and filling these positions would be fiscally ill-advised.

ICAC is not the only unit that has seen an increase in the need for legal services. Demand for legal services has increased in other areas since COVID-19. The AGO redeployed attorneys from across its divisions to staff a Rapid Response Team in response to the COVID-19 crisis. This team fields questions from the public, business owners, law enforcement, and others about compliance and enforcement of the Governor’s Executive Orders, Addendums, Directives, and Agency Guidance (“Governor’s Orders”). Although the AGO relies primarily on education to achieve compliance, we are devoting resources to enforce and defend the Governor’s Orders as well. It is anticipated, like in many of our sister states, that constitutional challenges to the Governor’s Orders will increase and the AGO will be called upon to defend them in due course.

Since early April, the team has responded to more than 270 questions. The AGO has received referrals from local law enforcement and other sources pertaining to 15 allegations of noncompliance with the Governor’s Orders. One such matter involving a gym facility in Rutland, Vermont, remains open and is currently being litigated.

Meanwhile, other divisions of the AGO, such as the Consumer Protection Division, in partnership with the Secretary of State’s Office of Professional Regulation (OPR), has issued cease and desist letters to various professionals allegedly operating in contravention of the Governor’s Orders. Additionally, the Consumer Protection Division, in collaboration with the Consumer Assistance Program, has received more than 119 complaints and questions about potential price gouging reported by consumers. The Consumer Protection Division brought an enforcement action against Big Brother Security Programs and its owner Shelley Palmer for price gouging.

The AGO anticipates additional pressures upon its constrained staffing as the Courts increase operations and the backlog of litigation that accrued with the COVID-19 pandemic is addressed.

We look forward to presenting the AGO’s budget to your respective committees. Please be in touch if we can offer you any additional information beforehand.

cc: Tim Metayer, Budget Analyst, Finance & Management