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Senate Judiciary Committee  
Vermont State House  
115 State Street  
Montpelier, Vermont 05633-5301

**By E-mail Only**

Dear Senator Sears and Members of the Senate Judiciary Committee:

Thank you for the opportunity to address the Senate Judiciary's inquiry into COVID-19 budget impacts. In a nutshell, the Attorney General's Office ("AGO"): (1) re-deployed resources from our traditional duties to meet the needs of Vermonters and our client agencies caused by the COVID-19 crisis; (2) expects increased work related to a concerning rise in tips regarding potential internet crimes against children ("ICAC") over the last two months; and (3) anticipates the demands caused by COVID-19 will continue, especially with the re-opening of the courts. A description of some of the numerous demands placed upon the AGO resulting from the COVID-19 crisis is set forth below.

**1. Rapid Response Team.**

The AGO redeployed a number of lawyers to staff a Rapid Response Team. This team fields questions from the public, business owners, law enforcement, and others about compliance with - - and enforcement of -- the Governor's Executive Order, Addendums, Directives, and Agency Guidance ("Governor's Orders"). Although we rely primarily on education to achieve compliance, we are devoting resources to enforce and defend the Governor's Orders. It is anticipated, like many of our sister states, constitutional challenges to the Governor's Orders will occur and the AGO will be called upon to defend them in due course.

The AGO has received fifteen (15) referrals for enforcement of allegations of noncompliance with the Governor's Orders. Of the fifteen (15), nine (9) matters were resolved after outreach and education from the AGO. The majority of these matters concerned essential businesses and their ability to remain open under the Governor's The issues ranged from pet grooming to faith services. Six (6) matters are currently open, including a recent enforcement action against a Rutland fitness facility.

Additionally, in March, the Rapid Response Team made telephone contact with forty-one (41) lodging operations identified by law enforcement as possibly violating the Governor’s Executive Order, Addendum 7.

Since early April, the Rapid Response Team has responded to more than 170 questions from Vermonters about compliance with the Governor’s Orders. The majority of these questions required an assistant attorney general to direct the questioner to a specific portion of the Executive Order, the Agency of Commerce and Community Development’s website, the Department of Public Safety’s Executive Order Reporting Tool, or some other outside agency (e.g., the lawyer referral line or Vermont Legal Aid). These questions, for the most part, have changed in nature as new directives and addendums have been issued or restrictions lifted. In the beginning, many of the questions were related to lodging operations whereas currently, questions are focused primarily on travel, rental properties, and quarantine requirements.

Furthermore, the AGO and its Rapid Response Team have published helpful guidance to help ensure compliance with the Governor’s Orders on subjects ranging from price gouging and collections to lodging and protests.

## **2. Criminal Division**

Unfortunately, we have recently seen a significant increase in cyber tips coming into our ICAC program. From January through April 2020 we have received 139 cyber tips whereas calendar year 2019 yielded a total of 299 cyber tips. Below is a comparison of cyber tips for March and April 2019 to 2020.

	2019	2020	% Increase
March	22	46	209.09%
April	22	53	240.90%

This dramatic rise in ICAC tips will necessitate substantial and unexpected additional resources for ICAC-related investigations and prosecutions as we move forward.

## **3. Public Protection Division.**

The Public Protection Division and the AGO Consumer Assistance Program have received more than 110 complaints and questions about potential price gouging reported by consumers. Outreach typically includes contacting the aggrieved consumer, inquiries to the business alleged to have engaged in price gouging, providing education, and requesting voluntary compliance, when appropriate. Recently the Public Protection Division brought an enforcement action against a supplier of personal protective equipment and obtained a preliminary injunction to stop the price gouging.

The Public Protection Division, in partnership with the Secretary of State’s Office of Professional Regulation (OPR), reached out to at least seven (7) entities to alert them that their activities – if accurately reported – may be in violation of the Governor’s Orders and to request voluntary compliance. The entities, who were contacted in March and April, included:

- 3 cosmetologists;
- 1 real estate agent;
- 1 property inspector;
- 1 tattoo artist; and,
- 1 oxygen supply company.

In addition, Public Protection’s Civil Rights Unit has received 45 public complaints, concerns or referrals involving a broad range of issues during the COVID-19 crisis. These include allegations about employers failure to provide protective measures, inquiries from employees about how returning to work could impact their disabilities or those of immediate family members, and questions about the interplay between federal and state laws designed to provide COVID-19 related leave or benefits. We anticipate that as the COVID-19 crisis continues along with economic uncertainty, the civil rights unit will receive additional inquiries about employee rights and allegations of discrimination beyond its typical caseload.

#### **4. General Counsel and Administrative Law (“GCAL”) Division.**

The GCAL Division has been deployed to assist State agencies as they address numerous contract and procurement issues created by the COVID-19 crisis. Examples include essential supplies, construction and operation of medical facilities, lease agreements for temporary housing, and the application of “force majeure” clauses in existing contracts. It is anticipated that the AGO will be needed to pursue and/or defend claims arising from non-conforming contracts before the crisis is over. The division has responded to numerous COVID-19 related general counseling requests from agencies such as the Department of Taxes, Agency of Transportation, and the Treasurer. In addition, the AGO has seen a substantial increase in public records requests since the COVID-19 crisis began.

#### **5. Agency of Human Services Division.**

Attorneys supporting the Department of Health have been answering continuous legal questions arising out of this public health emergency. In addition to managing questions regarding privacy, health orders, and legal protections for volunteers, these attorneys are handling an unprecedented number of public records requests.

AAGs in the Family Services Division are helping their local clients navigate important issues around parent-child contact and child-care provider safety, including appearing in court on emergency hearings related to these issues arising from the COVID-19 crisis.

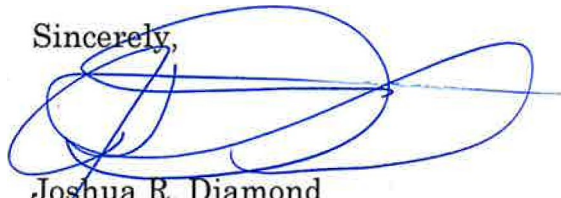
AAGs assigned to the Department of Mental Health are continuing with hospitalization and involuntary medication proceedings through remote video conferencing. This Unit anticipates an influx of cases when the judiciary reopens. This is due to a backlog of cases pending for proceedings involving continued treatment within the community.

The backlog of cases that will likely impact the AGO’s limited resources also include guardianship proceedings and matters involving the termination of parental rights where children have been abused or neglected.

## 6. Conclusion.

Fortunately, at this time the AGO can meet the current demand for COVID-19 legal services within its current budget. The AGO has accomplished this work while still managing the daily flow of other regular matters such as protecting Vermonters from consumer fraud, helping ensure clean air and water, prosecuting crimes, and defending the State of Vermont against civil claims. As noted above, the backlog of cases will create further workload pressures on the AGO as criminal cases and other civil litigation moves forward with the reopening of the courts. The AGO appreciates that budget constraints are projected for FY2021 and the significant burdens placed on many parts of State government at this time. We hope the above information is helpful to the Committee and we are happy to provide any additional information upon request.

Sincerely,



Joshua R. Diamond  
Deputy Attorney General