



COMMONWEALTH OF KENTUCKY
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Via hand-delivery

Governor Steve Beshear
700 Capitol Avenue, Suite 100
Frankfort, KY 40601

RE: Request for Exemption and Budget Reduction Plan for the Commonwealth's and
County Attorneys

Dear Governor Beshear:

The Prosecutors Advisory Council, on behalf of the Unified Prosecutorial System ("UPS"), submits this letter for your consideration as you develop a Budget Reduction Plan. We fully recognize the dire financial situation of the Commonwealth and acknowledge that Kentucky is not unique among the states in suffering a budget shortfall. Currently, media reports indicate that 43 of the 50 states are in a fiscal crisis, and the U.S. is now officially in a recession. Therefore, we recognize the difficulty of your task. However, prior to making your decision concerning the UPS budget, we ask that you carefully consider the crime victims, the elderly population and the children that will be hurt when prosecutors are not sufficiently funded. With these vulnerable citizens in mind, we respectfully request that you exempt the UPS from the mandated 4% budget reduction.

Prosecutors help protect the most vulnerable members of our population and deserve sufficient funding to provide this needed protection. When bruised and battered domestic violence victims come to a County Attorney asking for help, they deserve to have staff in place that can assist them with emergency protective orders. When a child is being physically or sexually abused at home, our government should care enough about that child to fund the local County Attorney who will see that the child is removed from that dangerous environment. When a rape victim comes to a Commonwealth's Attorney seeking justice, our government owes that victim a prosecutor who has the necessary resources to do everything in his power to see that the guilty party cannot prey upon another innocent person. They also deserve a victim's advocate to help guide them through the criminal justice process without being further victimized. None of these victims deserves a government that denies them the basic services they need for their protection.

Unfortunately, domestic violence, child abuse, DUI, and other crimes do not subside, but in fact tend to increase during poor economic times. These criminal acts will always occur, and the victims will always need public servants who care about their safety. Despite the economic straits we find ourselves in, our government cannot turn its back on protecting our citizens.

The protection of the public has already been threatened by the current budget shortfall. The insufficient funding during the legislative process has been exacerbated by the economic downturn and the corresponding mandated budget cuts in the executive branch. Prosecutorial budgets are personnel driven. When cuts are made to the UPS system, a capital project cannot be delayed nor a vehicle purchase deferred to absorb the cut. There are no capital projects and no vehicle fleet. There is necessarily a human cost when prosecutor budgets are reduced, and this proposed cut will affect more than 1,000 employees and their families in all 120 counties in the Commonwealth.

The funding of Commonwealth's and County Attorney staffs under the UPS is devoted exclusively to criminal prosecution. Any reduction in this work force will have a significant and negative impact on the citizens of the Commonwealth by creating delays in prosecution, complete dismissal of some charges due to court imposed time limitations, or criminal charges not being filed at all. Unfortunately, criminals and criminal activity have no respect for budget shortfalls. Crime is recession proof.

With these facts in mind, the Council voted on two separate plans – one for County Attorneys and one for Commonwealth's Attorneys. Both of the plans have similar components which are summarized below. The Unified Prosecutorial System is unique in that it includes 177 elected officials who have discretion in how to run their offices and how to deal with budget shortfalls. The Council attempted to balance the need for some uniformity within the system against the flexibility necessary to deal with 177 different sized offices, located in varying parts of the state with different needs and responsibilities. As a result of the 4% reduction plan, both County and Commonwealth's Attorneys will have to make the difficult choice between one of these three options:

1. **Furloughs:** Furloughs will be mandated for the entire staff for three one-week periods from January 1, 2009 to May 31, 2009; or
2. **Staff salary budget reductions:** Staff salary budgets will be reduced in excess of 15%; or
3. **Layoffs:** At least 161 individuals will be laid off initially with the potential for layoffs of over 200 people due to the cost of unemployment benefits that must be borne by the UPS.

Each of these options has a terrible human cost. For example, for a victim's advocate making \$22,000 annually and contributing the employee's share to a family health plan, she may be unable to cover her share for the family's employee health insurance for that

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month if she loses a week of pay as a result of the furlough. In addition to the health insurance funding, the lack of pay during the furlough week is compounded by the fact that she likely took a pay cut in July of this year due to the underfunding of the UPS in the 2008 budget session. Moreover, because she will be on leave without pay during the furlough, she will have her retirement base reduced and a reduction in her Social Security benefits. The effects of these mandated furloughs on employees will be felt for years.

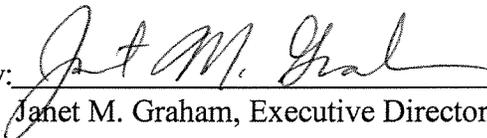
The other options are equally Draconian. Under the staff salary budget reduction option, the same victim's advocate will see a net decrease in every paycheck she receives. Therefore, the family budget for medical bills, housing, food, and other basic necessities is jeopardized. Layoffs are the most devastating of the three options to both the individual and society. The victim's advocate who is the sole provider for the family's health insurance and is laid off in January will lose the family health insurance by the end of January. Thereafter, she will be forced to make painful choices about her children's health care. The sad example of this single employee pales in comparison to the 250 prosecutors and support staff that may be laid off and facing these same dilemmas.

Not only does a budget cut have a human impact, but it adversely affects an already crippled criminal justice system. The underfunding of the prosecutorial system delays justice for victims and other components of the judicial system if cases linger because there are not sufficient prosecutors to appropriately handle the proceedings. It also costs our already overtaxed counties because defendants will sit in county jails for longer periods of time awaiting trial. Additionally, money contributed annually to the general fund in fines and fees will be lost if there are no prosecutors to attend to the cases where fines and fees would be collected. The progress that we have made in the last several years in reducing caseloads, moving cases through the system and appropriately training our prosecutors will be lost should prosecutors be subjected to this cut.

For these reasons, we respectfully request that the Unified Prosecutorial System be exempted from the current budget reduction.

Respectfully submitted,

Prosecutors Advisory Council

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