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Director of Council Services
Traci N. T. Fujita, Esq.

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.MauiCounty.us

April 4, 2021

Mr. Andrew H. Martin, Prosecuting Attorney
Department of the Prosecuting Attorney
County of Maui
Wailuku, Hawaii 96793

Dear Mr. Martin:

SUBJECT: **FISCAL YEAR ("FY") 2022 BUDGET** (PA-1) (BFED-1)

May I please request you be prepared to answer the following questions at the BFED Committee meeting held via BlueJeans on **April 13, 2021**.^{*} This will enable the Committee to comprehensively review the FY 2022 Budget. Please also submit your answers to bfed.committee@mauicounty.us by the end of the day on **April 13, 2021**. **Date subject to change without notice.*

Overall

1. Because of the latest Hawaii Supreme Court mandate, the Department has been unable to screen and charge hundreds of routine cases involving property and drug crimes. How many individuals were unable to be screened and charged by the Department as a result of this mandate? How many individuals were released in Maui County as a result of this mandate? (Page 514, Program Budget) (GJ)
 2. If Council were to ask for an 11 percent cut in programs and activities funded by the General Fund to fully fund the recommendations proposed in the Comprehensive Affordable Housing Plan at \$57,000,000, without increasing real property tax revenue:
 - a. What programs or activities would you cut? (TK)
 - b. What impact would the cuts have on residents? (TK)
- ✓

Salaries and Wages (Category "A")

1. Explain the need to fund a previously grant-funded Deputy Prosecuting Attorney. (Page 16-10, Budget Details, 906156A) (TP)
2. Explain the need to reallocate a Legal Clerk I to Legal Clerk II. (Page 16-8, Budget Details, 906156A) (TP)

Key Activity Goals & Measures

1. Under Goal #2, the goal percentage to provide trainings and education to attorney positions in ethics and professional responsibility has decreased by 10 percent. Please justify the decrease. (Page 520, Program Budget) (MM)
2. Under Goal #3, the goal percentage estimate to provide trainings annually to all employees has decreased from 90 percent to 80 percent. Is this decrease due to less staff? Please clarify why your goal has decreased rather than increased. (Page 520, Program Budget) (MM)

Grant Funds

1. Is one full-time Domestic Violence Investigator adequate for the Domestic Violence Investigations Program? How many domestic violence cases did the County have last year? (Page 526, Program Budget) (GJ)
2. The Defendant/Witness Trial Program decreased by \$120,000. Explain why the allowable reimbursement amount has gone down significantly. Is there an existing program that will absorb reimbursements relating to the prosecution of criminal cases? (Page 525, Program Budget) (MM)

Mr. Andrew H. Martin
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Thank you for your attention to this request. Should you have any questions, please contact me or the Committee staff (Lesley Milner at ext. 7886, Kasie Apo Takayama at ext. 7665, or Yvette Bouthillier at ext. 7758).

Sincerely,

A handwritten signature in black ink, appearing to read 'Keani N.W. Rawlins-Fernandez', with a long horizontal flourish extending to the right.

KEANI N.W. RAWLINS-FERNANDEZ, Chair
Budget, Finance, and Economic
Development Committee

bfed:2022bgt:210402apa01:kmatt

cc: Mayor Michael P. Victorino
Budget Director

BFED Committee

From: BFED Committee
Sent: Monday, April 5, 2021 7:47 AM
To: Andrew.Martin@co.maui.hi.us
Cc: BFED Committee; Michelle Santos; Zeke Kalua; michele.yoshimura@co.maui.hi.us
Subject: PLEASE READ attached letter re: FISCAL YEAR ("FY") 2022 BUDGET (PA-1) (BFED 1)
Attachments: 210402apa01 (PA-1) signed.pdf

Mr. Martin: Please refer to the attached letter from the Budget, Finance, and Economic Development (BFED) Committee Chair, 4/4/2021.

Mayor's Office (attention: Michelle Santos and Zeke Kalua): Please forward the attached letter to Mayor Victorino.

Ms. Yoshimura: FYI

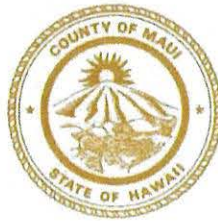
Thank you,
Yvette Bouthillier, Secretary
BFED Committee

MICHAEL P. VICTORINO
Mayor

ANDREW H. MARTIN
Prosecuting Attorney

MICHAEL S. KAGAMI
First Deputy Prosecuting Attorney

ROBERT D. RIVERA
Second Deputy Prosecuting Attorney



DEPARTMENT OF THE PROSECUTING ATTORNEY
COUNTY OF MAUI
150 SOUTH HIGH STREET
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April 13, 2021

Ms. Michele Yoshimura *my*
Budget Director, County of Maui
200 South High Street
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL

Michael P. Victorino 4/14/21

Mayor Date

Honorable Michael P. Victorino
Mayor, County of Maui
200 South High Street
Wailuku, Hawaii 96793

For Transmittal to:

Honorable Keani N.W. Rawlins-Fernandez, Chair
Budget, Finance, and Economic Development Committee
Maui County Council
200 South High Street
Wailuku, Hawaii 96793

**SUBJECT: FISCAL YEAR ("FY") 2022 BUDGET QUESTIONS/REQUESTS
(PA-1) (BFED-1)**

Dear Chair Rawlins-Fernandez:

This letter is in response to the Budget, Finance, and Economic Development Committee's letter dated April 4, 2021. As requested, we are providing the following responses to your request:

Overall

1. Because of the latest Hawaii Supreme Court mandate, the Department has been unable to screen and charge hundreds of routine cases involving property and drug crimes. How many individuals were unable to be screened and charged by the Department as a result of this mandate? How many individuals were released in Maui County as a result of this mandate? (GJ)

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Response: In light of the Hawaii Supreme Court's (HSC) rulings with respect to inmates held at the State's various correctional facilities during the COVID-19 pandemic, the Department has withheld filing formal charges in certain non-violent property and drug-related crimes. While the number of cases has fluctuated, as of April 7, 2021, there are currently 135 cases pending filing of information charges due to the pandemic, the associated HSC rulings, and the prolonged period during which jury trials were postponed. It is difficult to quantify the total number of inmates who have been released specifically as a result of the HSC's orders. The current orders have been in effect since August, 2020, and have informed the trial courts' decisions with respect to pre-trial detainees since that time. We cannot determine the exact number of inmates released because the trial courts are not required to make a record that an inmate is being released specifically due to the HSC's orders, and wouldn't otherwise be subject to release. However, it is safe to assume that hundreds of inmates have been released as a result of the HSC's orders.

2. If Council were to ask for an 11 percent cut in programs and activities funded by the General Fund to fully fund the recommendations proposed in the Comprehensive Affordable Housing Plan at \$57,000,000, without increasing real property tax revenue:
 - a. What programs or activities would you cut? (TK)

Response: We have reviewed each category thoroughly and are unable to cut operating costs. Our departmental budget includes overhead expenses and additional expenses that are necessary to provide essential functions to the Department and community. Professional services provide for 24-hour sexual assault doctors, medical services, expert testimony consultation, forensic examination fees, and court transcription fees. Due to the State of Hawaii's budget shortfall, the Defendant Witness Trial Program has seen a significant decrease in funding, therefore, reimbursements for witnesses and defendants' travel expenses will be affected. The Department of the Prosecuting Attorney will need to cover any unreimbursed travel expenses. In addition, the Department covers travel for attorneys to attend court in Hana and on Moloka'i and Lana'i, and for victim and witness preparation. Overhead expenses include electricity, bar dues, legal publications & subscriptions, and cellular telephone expenses for 24-7 on-call deputy prosecuting attorneys.

- b. What impact would the cuts have on residents? (TK)

Response: Any reduction to our operating funds would have a significant negative impact on our core functions and more importantly to the safety of our community.

Salaries and Wages (Category "A")

1. Explain the need to fund a previously grant-funded Deputy Prosecuting Attorney. (TP)

Response: The State of Hawaii Department of the Attorney General has informed the Department that due to the budget shortfall, both the Career Criminal Prosecution Program, which funds a Deputy Prosecuting Attorney position, and the Victim Witness Assistance Program, which funds a Victim Witness Counselor position, will be defunded.

In order to continue prosecuting these types of cases, it is necessary to request funding for this position. The loss of this deputy prosecuting attorney position would have a negative impact on essential services we provide and to the community.

2. Explain the need to reallocate a Legal Clerk I to Legal Clerk II. (TP)

Response: The Legal Clerk I will be reallocated to Legal Clerk II after meeting the requirements of the position. A Legal Clerk II has additional knowledge and experience to perform higher-level functions of the job and will be able to provide additional support to the division.

Key Activity Goals & Measures

1. Under Goal #2, the goal percentage to provide trainings and education to attorney positions in ethics and professional responsibility has decreased by 10 percent. Please justify the decrease. (MM)

Response: After reviewing FY 2021 performance goals, we anticipated a decrease in training opportunities due to the COVID-19 pandemic. There has been a decrease in training opportunities offered to attorneys due to the initial cancellation of in-person conferences and trainings. Many, but not all, of those conference and training providers have shifted to offering virtual conferences and trainings. The Department has been able to maintain a high percentage by taking an active approach and providing internal training. We would support adjusting our goal percentage to 90 percent.

2. Under Goal #3, the goal percentage estimate to provide trainings annually to all employees has decreased from 90 percent to 80 percent. Is this decrease due to less staff? Please clarify why your goal has decreased rather than increased. (MM)

Response: After reviewing FY 2021 performance goals, we anticipated a decrease in training opportunities due to the COVID-19 pandemic. Although

there has been a decrease in training opportunities offered to staff, internal trainings have been provided. We have been informed that on-line trainings are available in Workday and will be incorporating them in our professional development offerings. We would support adjusting our goal percentage to 90 percent.

Grant Funds

1. Is one full-time Domestic Violence Investigator adequate for the Domestic Violence Investigations Program? How many domestic violence cases did the County have last year? (GJ)

Response: There were approximately 995 domestic violence cases last fiscal year. One full-time Domestic Violence Investigator is inadequate for the number of cases received. The Domestic Violence Investigations Program provides grant funding that covers a portion of the position's salary. We received the award letter for FY 2022 and were informed that our grant funding will not be reduced.

While the addition of a Domestic Violence Investigator would assist the Unit, the addition of a Deputy Prosecuting Attorney would dramatically increase the services provided to victims and families of domestic violence.

2. The Defendant/Witness Trial Program decreased by \$120,000. Explain why the allowable reimbursement amount has gone down significantly. Is there an existing program that will absorb reimbursements relating to the prosecution of criminal cases? (MM)

Response: Due to the State of Hawaii's budget shortfall and the decrease in reimbursements, the Department received notification of the State's reduction and our departmental budget was corrected to accurately reflect the anticipated grant revenue amount. We received notice on April 8, 2021, that the State Legislature is currently working on the State Budget and will receive notice of the status of reimbursements when finalized. This Program covers costs for transporting defendants and police escorts, as well as transporting victims and witnesses for trial. Because there are no additional programs that will absorb these costs, the Department's travel and professional services budget will need to cover these costs.

In FY 22, the Department will be handling a high profile murder case that will require travel and per diem for approximately 25 mainland witnesses which includes expert witnesses. If the State's Defendant/Witness Trial Program is unable to provide reimbursement, the Department of the Prosecuting Attorney will need to cover these costs.

Item	Airfare	Per diem	Add'l Costs	Expert Witness Fee	Total
FY 2021 Reimbursed Expenses					
1 st Qtr. Defendant/Witness Program	\$5,455	\$285	\$482	\$4,730	\$10,952
2 nd Qtr. Defendant/Witness Program	\$1,561	\$1,269	\$506	\$443	\$3,779
3 rd Qtr. Defendant/Witness Program	\$5,316	\$110	\$211	\$0	\$5,637
					\$20,368
FY 2022 Upcoming Case (46 witnesses)					
	Airfare	Per diem	Taxi (\$40 x 6)	Hotel (3 days)	Total
25 Mainland Witnesses (3-4 days)	\$675	\$545	\$240	\$690	\$53,750
	Airfare	Per diem	Taxi (\$40 x 3)	Hotel (1 days)	
24 Inter-island Witnesses (2 days)	\$190	\$177.50	\$120	\$230	\$17,220
					\$70,970

Additional Questions

1. Mask Violations/Fines (TP):

Response: The Department has been prosecuting misdemeanor mask violations. Alternate resolutions have been reached depending on a person's financial circumstance. Citation monies go to the State.

The Department will research the following and respond to the Committee:

- The number of violations of residents and non-residents.
- Whether pop-up tents are not allowed and umbrellas are allowed on beaches. The Department will need to check on the recent rule amendment.

2. Key Activity Goals & Measures: Objective for Goal #4 "Promoting safer communities" needs to be updated (KK):

Response: The Department will be addressing and updating how to better measure the impact on our community by looking at recidivism rates, certain crime rates, and will have updated reports after transitioning to eProsecutor software. Goal and Objectives will be updated for FY 2023.

3. Update on eProsecutor (YS):

Response: The NARIP grant has been executed and the Department has been awarded \$264,750. The Department has requested an additional \$40,250. Once the budget is approved, the Department will work with the vendor to migrate data and implement the program.

4. Grant Funding (YS):

Response: Due to the upcoming reduction in grant revenue, the Department has been exploring new grant opportunities. Additional funding could be used towards a Criminal Intelligence Unit, Domestic Violence, and improving additional services.

5. Status of Children's Peace Center (YS):

Response: The Children's Peace Center is currently on schedule. The County of Maui and the Children's Justice Center meet monthly. The projected move-in date is the end of this year/beginning of next year depending on construction.

6. Domestic Violence statistics compared to other municipalities with the same population (KRF):

Response: The Department will research the following and respond to the Committee:

- a. DV statistics compared to other municipalities with the same population
- b. Number of cases received and prosecuted

Members' Priority Proposal Matrix #46: Community Outreach Court (TK)

A feasibility study was proposed for establishing a Community Outreach Court. The Department has been in discussions with the State Judiciary (Judge Bissen), Office of the Public Defender (Danielle Sears), and Maui Police Department (Medical Mobile Unit) to establish this program. Council members expressed support for the program and commented that there is will and motivation to make it happen. The Department will report back to the Committee in February 2022 with an update of funds needed.

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The Department will research the following and respond to the committee:

- a. Whether a feasibility study is necessary and the amount proposed

Thank you for giving us the opportunity to respond to your questions. Should you have any questions, please feel free to contact me at ext. 7777.

Sincerely,



ANDREW H. MARTIN
Prosecuting Attorney

BFED Committee

From: Michele Yoshimura <Michele.Yoshimura@co.maui.hi.us>
Sent: Wednesday, April 14, 2021 4:17 PM
To: BFED Committee
Cc: Melissa Agtunong
Subject: PA-1, BFED-1
Attachments: (PA-1) Response.pdf

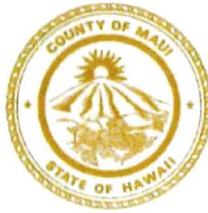
Please see attached response from the Department of the Prosecuting Attorney

MICHAEL P. VICTORINO
Mayor

ANDREW H. MARTIN
Prosecuting Attorney

MICHAEL S. KAGAMI
First Deputy Prosecuting Attorney

ROBERT D. RIVERA
Second Deputy Prosecuting Attorney



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COUNTY OF MAUI
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WAILUKU, MAUI, HAWAII 96793
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April 21, 2021

Ms. Michele Yoshimura *MY*
Budget Director, County of Maui
200 South High Street
Wailuku, Hawaii 96793

Honorable Michael P. Victorino
Mayor, County of Maui
200 South High Street
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL

Michael P Victorino *4/22/21*
Mayor **Date**

For Transmittal to:

Honorable Keani N.W. Rawlins-Fernandez, Chair
Budget, Finance, and Economic Development Committee
Maui County Council
200 South High Street
Wailuku, Hawaii 96793

SUBJECT: FISCAL YEAR ("FY") 2022 BUDGET QUESTIONS (PA-1) (BFED-1)

Dear Chair Rawlins-Fernandez:

This letter is in response to the additional questions asked at the Budget, Finance, and Economic Development Committee's meeting of April 13, 2021. As requested, we are providing the following responses to your questions:

Additional Questions

1. Mask Violations/Fines (TP):
 - a. The number of violations of residents and non-residents.

Response: The table below reflects the number of citations received by the Department. This includes traffic, DLNR, Rules & Orders, and other citations. Our statistics do not differentiate between types of citations, nor whether they were issued to residents or non-residents.

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October 2020	207
November 2020	413
December 2020	290
January 2021	312
February 2021	341
March 2021	847
April 2021 (thru 4-15-21)	296

- b. Whether pop-up tents are not allowed and umbrellas are allowed on beaches. The Department will need to check on the recent rule amendment.

Response: According to the latest Public Health Emergency Rules, effective April 9, 2021, the use of tents and umbrellas on our beaches is allowed.

2. Domestic Violence statistics compared to other municipalities with the same population (KRF):
- a. DV statistics compared to other municipalities with the same population
- b. Number of cases received and prosecuted

Response: In order to make a meaningful comparison of our DV statistics to those communities with a similar population size, the Department would need additional time. Included in the Department's count of the number of DV cases received are misdemeanor physical abuse cases, felony physical abuse cases, violation of twenty-four hour warning citation cases, violation of temporary restraining order cases, and violation of protective order cases. A review of publicly available data does not provide enough information to determine if data collected by other, like communities is comparable. It is unclear, when reviewing publicly available crime data, whether other communities are reporting data for a similar group of family violence-related crimes. The Department would require additional time to research this question.

Members' Priority Proposal Matrix #55: Strategic Service Delivery Assessment for the Maui Mobile Community Outreach Court (TK)

The Department is currently working with the Judiciary, the Office of the Public Defender, and the Maui Police Department in the development of a Community Outreach Court ("COC") for the Second Circuit. The model serving as the basis of discussion for the Second Circuit COC is based upon

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the successful COC currently implemented in Honolulu. The basic idea of the model entails taking court out into the community in order to better serve members of our houseless residents. The COC model seeks to serve “participants”, as they are referred to in COC, by providing a less intimidating, community environment in which they feel more comfortable making their court appearance. A participant in COC is given the opportunity to resolve all of their outstanding court cases, recall outstanding bench warrants, and clear outstanding fines and license stoppers. As a measure of accountability, participants complete community service. As a part of COC’s holistic approach, participants also meet with social service providers who offer assistance with housing, employment, mental health, and substance abuse issues.

With the christening of MPD’s Mobile Medical Educational Unit, utilizing the mobile unit’s health and counseling services as a part of COC has been discussed. Along these same lines, the idea of a dedicated COC mobile unit, outfitted specifically for the needs of COC, has been brainstormed.

While the planning of the Second Circuit COC remains in the early stages, should all stakeholders agree to its implementation, it is reasonable to expect the first iteration of the COC here would follow the Honolulu model. It is anticipated that the COC would be implemented in the Second Circuit before the need for a mobile unit is determined. Implementing a mobile COC unit would take a good deal more planning and discussion. Before embarking on such an undertaking, additional funding to explore the need and feasibility (including determining the costs of operation and maintenance) of a mobile COC unit is necessary. The Department therefore supports Councilmember Kama’s priority initiative for funds to support a Strategic Service Delivery Assessment for a COC mobile unit.

Thank you for giving us the opportunity to respond to your questions. Should you have any questions, please feel free to contact me at ext. 7777.

Sincerely,



ANDREW H. MARTIN
Prosecuting Attorney

BFED Committee

From: Melissa Agtunong <Melissa.P.Agtunong@co.maui.hi.us>
Sent: Thursday, April 22, 2021 11:57 AM
To: BFED Committee
Subject: FY 2022 Budget (PA-1) (BFED-1)
Attachments: (PA-1A) Response.pdf

Please see attached response from the Department of the Prosecuting Attorney

Mahalo,
Melissa P. Agtunong
Office of the Mayor | County of Maui
[\(808\)270-8263](tel:(808)270-8263)