The Supreme Court
State of Washington

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Re: 2011 Budget Reduction Process and Proposals

In my November 23, 2010 letter I indicated that the judicial branch will continue to be cooperative during these tough economic times. I also indicated that the development and implementation of a supplemental budget must be based upon a full understanding of the judicial branch's constitutional responsibilities.

When the Governor issued Executive Order 10-4 implementing across-the-board allotment reductions, I instructed the state judicial branch agencies to examine their budgets and remove from consideration those budget items that are either directly mandated or

essential to implementation of federal and state constitutional provisions. Against the balance of nonconstitutionally required functions, we applied a 6.3 percent cut, resulting in cumulative allotment reductions of over $3 million. This approach mirrored the approach taken by the executive branch.

In light of the November 2010 revenue forecast, this is not sufficient. Therefore, I have again instructed the state judicial branch agencies to provide additional budget reduction recommendations within the context of nonconstitutional activities. I intend to submit the additional reductions during the week of December 6, 2010.

I also note that a number of proposals are circulating that contain judicial branch budget reductions, ranging from the elimination of judicial branch state agencies to limiting reductions to those offered to date. As various budget reduction proposals are considered, I would like to reiterate that any reductions must be considered within the constitutional framework that defines our roles and powers. This framework consists not only of activities that are directly tied to specific constitutional provisions, but must also encompass foundational activities and functions. Without the foundational activities, e.g., Clerk's Office, attorney staff, and production personnel, we cannot meet our constitutional duty to administer justice openly and without unnecessary delay.

Because at least one proposal eliminated funding for the Office of Public Defense and the Office of Civil Legal Aid, I think it is important to mention that the substantial majority of funding administered by the Office of Public Defense directly supports the discharge of the State of Washington's constitutional duty to provide effective assistance of counsel in criminal matters at both the trial and appellate level. A large portion is dedicated to discharging the state's constitutional obligations to provide counsel to parents in dependency and termination matters. These functions flow directly from constitutional directives and eliminating the administering agency will not obviate this requirement.

For its part, the Office of Civil Legal Aid provides an infrastructure of civil legal aid delivery capacities that directly support the ability of our trial courts to ensure the timely and fair adjudication of cases in which the courts themselves have been designated by the Legislature as the exclusive forum for the resolution of disputes. The Supreme Court has determined that the portion of OCLA's current appropriation that is dedicated to this essential trial court support function cannot be eliminated without compromising the capacity of our trial courts to discharge their constitutional obligations in these categories of cases.

In sum, to avert unintended consequences, it is essential that we engage in direct, coordinated, and personal discussions before budget reduction decisions are made. I will be contacting you to discuss the judicial branch's 2011 supplemental budget so you can include our additional reductions in your discussion. In addition, I would like to talk with you about the 2011-2013 biennial budget recommendations as they are being considered.

Sincerely,

Barbara A. Madsen
Chief Justice

c: Senator Margarita Prentice
Senator Ed Murray
Senator Joseph Zarelli
Representative Jeannie Darneille
Representative Gary Alexander
Marty Brown, Director, OFM