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OFFICE OF THE ATTORNEY GENERAL
109 STATE STREET
MONTPELIER, VT
05609-1001

March 1, 2018

Mark Davis
Seven Days
mark@sevendaysvt.com

VIA E-MAIL

Re: Public Records Request 2-14-18

Dear Mr. Davis:

I am writing in response to your request for records that was received by the Vermont Attorney General's Office on February 14, 2018.

Request

Your request was for:

- All documents pertaining to the investigation of Trooper Christopher Brown for a September 2015 shooting in Fayston involving Robert Smallridge.

Response to Request

The Vermont Attorney General's Office has identified approximately 60 paper pages, 250 electronic records, approximately ten hours and thirty minutes of audio and/or audio/visual recordings, approximately 21 short videos recorded by a responding crime scene search team, and approximately 198 photographs captured by a responding crime scene search team. This initial review required approximately three hours and forty-five minutes of staff work for which you will not be charged.

Information within the paper records may require redactions for the following or other reasons: disclosure would be of criminal investigation records that could reasonably be expected to constitute an unwarranted invasion of personal privacy, 1 V.S.A. § 317(c)(5)(A)(iii); and/or certain communications or records of communications may be exempt under 1 V.S.A. § 317(c)(5)(4), which exempts documents "that, if made

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public pursuant to this subchapter, would cause the custodian to violate any statutory or common law privilege other than the common law deliberative process privilege as it applies to the General Assembly and the Executive Branch agencies of the state of Vermont." *See Killington, Ltd. v. Lash*, 153 Vt. 628, 641-48 (1990) (discussing the existence of attorney work-product privilege in Vermont prior to adoption of rules of procedure).

To review and determine applicability of exemptions, we estimate that approximately 620 minutes (two minutes or more per page) of senior-level staff time will be necessary to review the paper and electronic records. That rate is currently set at \$.57 per minute. *See "Uniform Schedule of Public Records Charges for State Agencies, Vermont Secretary of State," available at <https://www.sec.state.vt.us/archives-records/certifications-fees/uniform-fee-schedule.aspx>*. The Vermont Attorney General's Office estimates that the total cost of complying with your request would be \$353.40 plus photocopies rated at .05 per page totaling \$15.50.

A review of the ten hours and thirty minutes of audio and audio/visual recordings would take a minimum of ten hours and thirty minutes at \$.57 per minute (\$359.10) in addition to any costs incurred for electronically redacting exempt material.

Many of the 198 photographs and 21 video clips captured by the crime scene search team following the germane incident depict portions of Mr. Smallridge's private home and curtilage. Due to this, many of these videos and photographs would be exempt as their production would constitute an unwarranted invasion of personal privacy. A review of these materials would take an estimated 60 minutes (totaling \$34.20).

We are unable to estimate production costs (i.e., photocopies, color copies, burning and producing discs), consistent with the Uniform Schedule, as the exemption review would determine the amount of material produced.

We ask that you confirm your willingness to pay the above costs (totaling \$746.70) before we proceed further with processing your request. Alternatively, you may narrow your request or negotiate substitute arrangement for the audio recorded portion of the records.

Sincerely,



Adam C. Korn
Special Assistant Attorney General