

Rep. Mike Sylvia  
216 Farrarville Rd.  
Belmont, NH 03220

July 3, 2018

Department of Justice  
Office of the Attorney General  
Attorney General Gordon J. MacDonald  
33 Capitol Street  
Concord, NH 03301

Please find enclosed copies of my letter to and the response from Belknap County Attorney Livernois. While I understand Attorney Livernois' opinion, I feel his conclusion leaves the issue insufficiently addressed. I will provide here additional facts and questions that I had not presented to Attorney Livernois in the interest of brevity.

I am including three appendices in order to separate my opinions (reflecting 5 years experience on the Delegation) from the facts, and questions which I believe to be relevant.

While the amount at issue in this specific instance may seem small, it is indicative of a more general and longstanding pattern of failure of the County Commission and the County administrative staff to comply with the law, to the detriment of the taxpayers.

Accordingly, you should treat this letter as a formal complaint and request for an investigation and possible prosecution by your office.

Sincerely,

Rep. Mike Sylvia  
Chairman Belknap County Executive Committee

## **Appendix I**

### **Opinion:**

The contingency fund established by the County Delegation is held to provide for unexpected and necessary expenses that may arise during the year. It has long been the practice of the Executive Committee to reserve these funds until any other resources that might be deployed are exhausted. In recent years the Board of Commissioners, dissatisfied with the level of appropriations, have maneuvered to force additional appropriations. One of their tactics used in 2017 (as soon as the budget was set) was to claim an emergency repair was needed in the nursing home sprinkler system, for which they sought a transfer from the contingency fund. This was revealed to be nothing more than a political stunt, paid for by county taxpayers. Knowing that this scheme would fail again in 2018, they simply skipped the formalities of seeking authority from the Executive Committee.

I do not believe that a bank robber is no longer a bank robber if he returns the money prior to apprehension. Funds were knowingly transferred, contrary to the law, without authorization.

## Appendix II

### Facts:

Belknap County Commissioners met April 19, 2018 (Waring and Taylor attended).

At that meeting Restorative Justice Executive Director MacFadzen – Accounting Manager Sharp – County Administrator Shackett recommended a transfer from contingency to pay for vehicle maintenance and urine sample cups.

Commissioners Taylor and Waring voted to approve the transfer from contingency to Restorative Justice.

Belknap County Executive Committee met May 11, 2018 to review the budget.

The budget review confirmed a news report of the contingency transfer.

[https://www.laoniadailysun.com/news/local/county-could-run-out-of-cups-for-urine-tests/article\\_88f3bb40-44db-11e8-850d-ffc45dff90cb.html](https://www.laoniadailysun.com/news/local/county-could-run-out-of-cups-for-urine-tests/article_88f3bb40-44db-11e8-850d-ffc45dff90cb.html)

The transfer from contingency occurred without authorization of the Executive Committee in violation of RSA24:13 II.

Rep. Sylvia wrote to the County Attorney seeking an investigation on May 16, 2018.

Belknap County Commissioners met May 31, 2018 to transfer \$4,000 back to contingency.

[https://www.laoniadailysun.com/news/local/commissioners-backtrack-on-money-transfer/article\\_b545ea52-6514-11e8-aaf6-ebcaa374d890.html](https://www.laoniadailysun.com/news/local/commissioners-backtrack-on-money-transfer/article_b545ea52-6514-11e8-aaf6-ebcaa374d890.html)

DeVoy - “It wasn’t worth it. And the money isn’t needed right now anyway,” he said.

Belknap County Attorney responded June 12, 2018 with his finding.

Taylor in a letter to the editor of the Laconia Daily Sun in March 2013

([https://www.laoniadailysun.com/opinion/letters/hunter-taylor/article\\_70bc7422-44dd-5d02-ba28-83f723cc9029.html](https://www.laoniadailysun.com/opinion/letters/hunter-taylor/article_70bc7422-44dd-5d02-ba28-83f723cc9029.html)) demonstrated his depth of knowledge on the subject at hand.

### **Appendix III**

#### **Questions:**

Was this transfer from contingency an urgent matter?

When the transfer occurred, the money was encumbered; as this was claimed an 'urgent' need, was the money spent?

If the money was spent, whence came the funds to restore the contingency?

Why were the funds used to restore contingency not used instead of tapping the contingency fund in the first place?

Who benefited, or who was harmed?

Was this transfer in violation of RSA 24:15 I, whereas the Commissioners incurred debts in excess of the appropriation made to the department?

Does this transfer demonstrate malfeasance or misfeasance?

There were a number of public servants (RSA 640:2 II) involved in this act beyond the Commissioners; why was nothing said to stop it?

Does official oppression (RSA 643:1) not fit the facts involved in this act?

Does restoration of the funds negate the possibility corrupt practices?