

WASHINGTON STATE ATTORNEY GENERAL'S OFFICE



ANNUAL REPORT 2021



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Bertolla Bugarin and her husband Abe Garza discuss the ongoing health issues that Garza has faced after being exposed to toxic gases while working at Hanford. See page 19 for more info on Hanford.

Mission

The Office of the Attorney General will provide excellent, independent, and ethical legal services to the State of Washington and protect the rights of its people.

Anti-Racist Commitment

The Office of the Attorney General is committed to recognizing, addressing, and eradicating all forms of racism within the scope of its work and operations. Conversations about race require courage, respect, and compassion. We recognize that when we enter into these conversations, we may not always be comfortable and may need to lean into the discomfort. As an agency that strives to be anti-racist, it is our goal to identify, discuss, and challenge racial inequity in the workplace and the impact it has on our employees, and, within our authority, combat racism that impacts the people of the State of Washington.

Vision

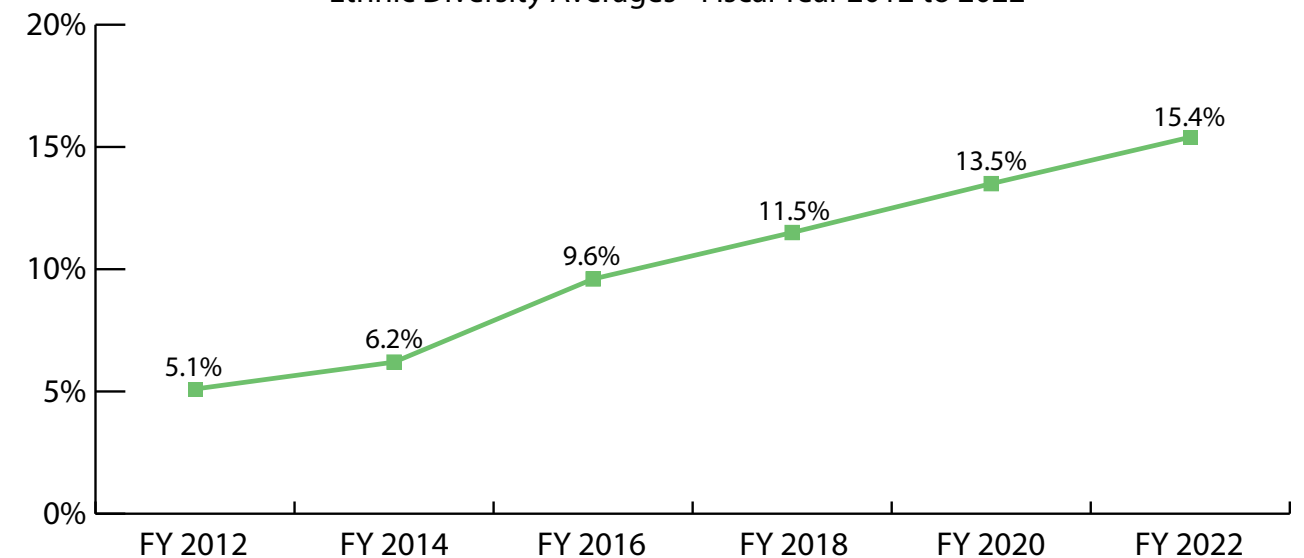
The Office of the Attorney General will be the best public law office in the United States.

Values

All staff in the Office of the Attorney General are guided by the following core values:

1. We will deliver high quality legal services and remember that we serve the people of Washington.
2. We will conduct ourselves with integrity, professionalism, civility and transparency.
3. We will promote a collegial, inclusive and diverse workplace that values, respects and supports our employees.

Workforce Diversity Snapshot
Ethnic Diversity Averages - Fiscal Year 2012 to 2022



The office strives to continue to increase Diversity, Equity and Inclusion within the workforce and support employees of all backgrounds. While there is more work to be done, the percentage of employees who self-identified as being ethnically diverse has increased 10.3% over the last 10 years.

Letter from AG Ferguson

Dear Washingtonians,

In each of my years as your Attorney General, I've witnessed the most amazing work by the public servants of this office. Just when I think they've reached the pinnacle of inspiration, they continue to reach new heights, year after year. I am in awe of the dedication, adaptability and perseverance of the attorneys and professional staff I have the privilege to work with every day.

Despite the unprecedented challenges brought by the COVID-19 pandemic, the Attorney General's Office (AGO) not only continued to provide excellent, independent and ethical legal services to the State of Washington, we sharpened our focus on social justice and racial equity.

This year, we updated our mission statement to include an anti-racist commitment and created a Racial Equity Unit within the office. This unit works with all AGO divisions to provide training on racial equity toolkits, and coach agency employees to utilize the toolkits as appropriate for that division's work. It will also establish metrics to measure our progress.

As part of this commitment, I launched an Environmental Justice Initiative to help address the disproportionate impacts of environmental problems.

While we work toward a more equitable AGO, our office has continued to uphold the rights of Washingtonians. We continued to enforce the ongoing eviction moratorium, stood up for marriage equality and ensured fair treatment of migrant workers.

We also strengthened one of our office's core roles — protecting consumers — by passing the Consumer Protection Improvement Act. The legislation nearly tripled penalties for violations of the Consumer Protection Act — which had not been increased in half a century. It also created an enhanced penalty for violations that target vulnerable communities, including seniors, immigrants, BIPOC communities, individuals with disabilities and veterans.

These examples represent a fraction of the work we do. At any given time, the more than 600 attorneys and 700 professional staff at the AGO are handling approximately 20,000 legal matters. We continue to work diligently to improve public safety, protect children, protect workers, fight for civil rights, defend the environment, protect consumers and provide legal counsel to state agencies.

The employees of the AGO are dedicated to continuing the office's tradition of excellence and independence. I am honored to serve with this team of devoted public servants and I continue to be inspired by their work.



Bob Ferguson, Attorney General



AG Ferguson discusses a lawsuit against Navient with a reporter. See page 31 for more info on the Navient case.



In the Headlines

Editorials and op-eds from newspapers around the state.

Sick Hanford workers deserve easier access to workers' comp

- Union-Bulletin Editorial Board – 9/21/2021

In Our View: Court affirms that beliefs not license for bigotry

- The Columbian Editorial Board – 7/5/2021

Legislature, ban high-capacity magazines and assault weapons now

- Seattle Times Editorial Board – 1/27/2021

Lawsuit to the rescue of Seattle's National Archives

- Seattle Times Editorial Board – 1/19/2021

In Our View: Ferguson right to challenge opioid deal

- The Columbian Editorial Board – 6/6/2021

In the Headlines: editorials and op-eds from newspapers around the state

Attorney General Bob Ferguson on why local newspapers matter

- Seattle Times Editorial Board – 10/22/2021

In Our View: Eyman out to make a buck with bunco

- The Columbian Editorial Board – 2/17/2021

Legislature, enact sensible gun control now

- Seattle Times Editorial Board – 3/27/2021

Questions for DOE and WA state about Hanford tank waste cleanup

- Tri-City Herald Guest Opinion – 5/24/2021

Rising cybercrime demands laws and users keep up

- Seattle Times Editorial Board – 11/ 23/2021

Gubernatorial candidate's baseless claims needed to be challenged

- Union-Bulletin Editorial Board– 1/19/2021

Make Department of Energy accountable to Hanford workers

- Seattle Times Editorial Board – 9/ 22/2021

Police must obey use-of-force laws

- Seattle Times Editorial Board – 2/2/2021



Jorge Barón, Executive Director of the Northwest Immigrant Rights Project, speaks at a press conference on GEO Group's wage practices at a private detention facility. The office filed a lawsuit against GEO Group, alleging the company violated Washington law by paying workers at a private detention facility less than the minimum wage.

Standing up for Civil Rights

Launched in 2015, the Wing Luke Civil Rights Division continued its work investigating discrimination in employment, housing, credit, insurance and public accommodation. The division also led multiple high-profile lawsuits against the federal government.

Arlene's Flowers civil rights case comes to an end

In July, the U.S. Supreme Court denied review of the state's lawsuit against a Richland florist for violating Washington's Consumer Protection Act and the Washington Law Against Discrimination by refusing to serve a same-sex couple seeking to buy wedding flowers. The court's denial ended nearly a decade of legal challenges. Attorney General Bob Ferguson hailed the decision as "a historic victory for equality."

The case began in March 2013, when Robert Ingersoll spoke with Arlene's Flowers proprietor Barronelle Stutzman about purchasing flowers for his upcoming wedding to Curt Freed. Stutzman refused, based on her personal objection to marriage equality. Later that month, the Attorney General's Office sent a letter to Stutzman asking her to comply with Washington law, which prohibits businesses from discriminating on the basis of sexual orientation. Stutzman refused.

The next month, the Attorney General's Office filed a consumer protection lawsuit against Arlene's Flowers and Stutzman for refusing to serve the couple.

On Feb. 18, 2015, a Benton County Superior Court judge granted the state's motion for summary judgment, ruling she and her business had violated state law. An appeal to the Washington State Supreme Court followed.

Ferguson personally presented the oral argument before the state Supreme Court on Nov. 15, 2016, and the court agreed with Ferguson in a 2017 ruling. Stutzman then appealed the decision to the U.S. Supreme Court.

In 2018, following a separate ruling on a similar case in Colorado, the U.S. Supreme Court issued a "grant, vacate, remand" order in Stutzman's case and sent it back to the Washington Supreme Court for further review.

On June 6, 2019, the state high court upheld its previous decision, finding no evidence of hostility in the handling of the case. Arlene's Flowers again petitioned the U.S. Supreme Court to review the case, which it denied.

In August, Stutzman paid the \$1,000 penalty and \$1 in costs and fees the Attorney General's Office originally sought in its lawsuit.

Challenging discriminatory insurance practices

In May, the Attorney General's Office filed a lawsuit against travel insurance company Allianz over its discriminatory practice of categorically denying insurance claims for Washingtonians who had to cancel or reschedule their travel plans because of mental health events.

Allianz sells travel insurance policies to consumers to protect them from suffering travel-related losses in the event they have to cancel or postpone their trip. The cost of these policies range from \$6 to more than \$1,700. An Attorney General's Office investigation found Allianz's policies included an exclusion for "mental or nervous health disorders" and their related physical complications that disrupt travel. Allianz failed to adequately disclose the exclusion to consumers, which the lawsuit asserted is discriminatory under Washington state law.

Mental health disorders are considered disabilities under the Washington Law Against Discrimination. Ferguson asserts that Allianz's mental health exclusion also violated the Washington Insurance Code, and the Consumer Protection Act, which prohibit unfair discrimination on the basis of disability in the insurance market.

Allianz denied 485 claims from Washingtonians who had to cancel or change their travel plans for conditions ranging from Alzheimer's diagnoses to hospitalization for severe depression to a family member's attempted suicide. Allianz denied the claims even when policyholders provided letters from physicians or hospital records.

Protecting female farm workers from harassment

In February, the Attorney General's Office received \$350,000 from Great Columbia Berry Farms LLC, a blueberry grower in Walla Walla County, as a result of a civil rights lawsuit asserting that one of the company's managers raped at least one female worker and sexually harassed several female workers over the course of years. The lawsuit also alleged that the manager, Jose Luis Contreras Ramirez, retaliated against those workers who spoke out against his conduct. At least four women were affected by his conduct and the entire \$350,000 monetary recovery went directly them.

The legally binding consent decree required the company to adopt anti-discrimination and anti-retaliation policies and trainings, approved in advance by the Attorney General's Office.

Great Columbia Berry Farms owns and operates a 136-acre blueberry farm in Burbank, Washington. The farm employed Ramirez as a supervisor and manager, and he oversaw operations at the farm. He had the authority to hire employees, make job assignments, fire employees and determine who would be offered work the following season.

From at least 2012 to 2019, Contreras subjected several female employees to severe, pervasive and unwelcome sexual conduct, including unwanted touching, sexually charged comments about his employees' appearance and repeated demands for sex.

Ensuring a fair wage for detainee labor

In November, U.S. District Court Judge Robert Bryan ordered The GEO Group Inc., the for-profit operator of the Northwest Immigration and Customs Enforcement (ICE) Processing Center, to pay \$5.9 million for illegal business gains it made from using \$1-per-day detainee labor, as a result of a lawsuit filed by the Attorney General's Office. The workers performed essential tasks while detained at the center such as doing the laundry, preparing and serving food and cleaning the facility. Sometimes GEO group employees gave the detainees additional food, rather than money, for their labor.

Shortly before the judge's decision, a federal jury unanimously found GEO liable for violating Washington's Minimum Wage Act. It awarded \$17.3 million to more than 10,000 individuals detained at the Northwest ICE Processing Center for back wages owed.

The office filed its lawsuit against GEO in September 2017, alleging that its labor practice with detainees violated Washington law by paying workers at a private detention facility less than the minimum wage, and that GEO unjustly enriched itself by doing so.

Located on Tacoma's tideflats, the Northwest ICE Processing Center is the fourth-largest immigration detention center in the country. GEO holds detainees at the facility while they undergo proceedings to determine their immigration status. GEO's Northwest ICE Processing Center has the capacity to house up to 1,575 immigrant detainees.

Upholding rent and eviction protections for low-income tenants and college students

In January, the Attorney General's Office filed a lawsuit against the collegiate sorority Alpha Omicron Pi for unlawfully charging University of Washington (UW) students more than \$6,000 in rent even though the students could not access or live in sorority housing due to the COVID-19 pandemic. Alpha Omicron Pi, a national, Tennessee-based sorority, also illegally charged late fees and threatened students with suspensions of their sorority memberships and damage to their credit if they did not pay.

Alpha Omicron Pi owns the "Greek Row" house used as housing for the UW chapter members. The UW chapter house can house approximately 80 members. Ferguson's lawsuit asserted that Alpha Omicron Pi's charges and late fees violated Gov. Jay Inslee's emergency proclamation related to the COVID-19 pandemic.

At the time, the governor's emergency proclamation specifically prohibited landlords from charging rent to tenants when the pandemic resulted in tenants losing access to the property. It also prohibited landlords from threatening to refer individuals who are unable to pay rent to collection agencies, and blocked landlords from charging late fees for past due rent.

Nine UW students complained to the Attorney General's Office's COVID-19 eviction moratorium enforcement team, via the office's online complaint form.

The lawsuit asserted Alpha Omicron Pi violated the Washington Consumer Protection Act when it assessed fees it knew to be prohibited under the moratorium and threatened loss of membership and referral to a debt collector. The Consumer Protection Act prohibits tactics designed to unfairly pressure consumers or misrepresent consumers' rights.

Also in January, a Hayden, Idaho-based rental company paid the Attorney General's Office \$500,000 to resolve a lawsuit over unlawful evictions. The lawsuit asserted the company violated the governor's emergency evictions proclamation. The proclamation established a temporary moratorium on evictions for the inability to pay rent as Washingtonians coped with the ongoing COVID-19 pandemic. The proclamation specifically prohibited landlords from threatening to evict tenants for unpaid rent during the emergency.

"Fortunately, time is running out for the GEO Group in Washington. The Legislature voted this year to ban most private detention facilities in the state, slating the detention center for closure in 2025, when its contract with the federal government ends. Good.

If the federal government won't end its dependence on privately run immigration detention facilities and prisons — which invariably place profit over people with little public accountability — the state is right to step in".

- Seattle Times Editorial Board, 11/11/2021

Whitewater Creek Inc. is a real estate company that, through a number of related entities, manages and owns 1,000 low-income housing units across 12 housing complexes in eastern Washington. Many of their properties were developed with millions of dollars in taxpayer funding in the form of tax-credit equity and tax-exempt notes authorized by the Washington State Housing Finance Commission. Evidence gathered by the Attorney General's Office revealed that Whitewater Creek personnel verbally threatened at least five residents at properties it owns and manages.

As a result of the legally enforceable agreement, Whitewater Creek was required to train employees on tenants' rights. Additionally, the company must give the Attorney General's Office notice for the next three years whenever it initiates eviction proceedings or refers a tenant to its landlord-tenant attorneys for non-payment of rent.

Ensuring pregnant employees receive accommodations

In the first case brought to trial by the Attorney General's Office under the 2017 "Healthy Starts Act" in January, a Tacoma judge ordered two FedEx contractors and their owner to pay over \$41,000 in penalties for firing a pregnant employee immediately after she asked for an accommodation. An accommodation is a reasonable change to the working environment to accommodate the pregnancy and the health conditions after the birth of the baby.

The case involved an employee who asked her manager for a specific, legally required accommodation during the initial stage of her pregnancy. Her manager denied her request and immediately fired her over text message by writing, "Don't give me that crap that you can't work because you're pregnant." The manager

then continued, "Either you don't want to or you want to but it doesn't matter anymore because you're no longer employed with us."

The judge ordered the two companies, Colmar and DB Delivery, and owner Collin Heacox to pay \$41,672.36 to the employee. Further, the judge mandated that the companies provide employees with materials for both the Healthy Starts Act and Washington Law Against Discrimination, and conduct training on employees' rights under Washington law.

The Healthy Starts Act requires employers to provide certain accommodations for pregnant employees, including:

- Providing more frequent, longer or flexible restroom breaks;
- Changing a no-food-or-drink policy;
- Allowing more frequent sitting; and
- Limiting lifting to 17 pounds or less.

In addition to these mandatory accommodations, employees can ask for other accommodations they may need, such as job or schedule restructuring, reassignment to a vacant position, modifications to an employee's equipment or work station, providing assistance with manual labor, transfers to less dangerous or physical work, scheduling flexibility for prenatal visits, extra break time to express breast milk or other reasonable accommodations on a case-by-case basis. When a pregnant worker requests an accommodation that is not on the list of mandatory accommodations, the employer may ask for medical documentation of the pregnancy-related need, and may work with the employee to identify accommodations that both meet the employee's needs and avoid significant difficulty or expense for the business.

“Defendant should not be able to hide behind a policy of not creating light duty positions for employees with non-work-related disabilities when such a policy is unreasonable... if an employer creates light duty positions for one group of employees with disabilities, then the employer must create those positions for all employees with disabilities unless doing so would be unreasonable or an undue burden.

- The Hon. Judge John C. Coughenour, Matheson Flight Extenders Case

Ending Immigration Sweeps on Greyhound Buses in Spokane

In September, Greyhound Lines Inc. paid \$2.2 million to the Attorney General’s Office to resolve its lawsuit over the bus line’s practice of allowing U.S. Customs & Border Protection (CBP) agents on its buses to conduct warrantless and suspicionless immigration sweeps. Greyhound failed to warn customers of the sweeps, misrepresented its role in allowing the sweeps to occur and subjected its passengers to discrimination based on race, skin color and national origin, the lawsuit asserted.

The Attorney General’s Office used the \$2.2 million payment to provide restitution to passengers who CBP agents detained, arrested or deported after they boarded Greyhound busses at the Spokane Intermodal Center, and for partial reimbursement of the office’s litigation costs. Greyhound transported more than 420,000 passengers to or from the Spokane Intermodal Center between 2013 and 2020.

The consent decree, filed on the eve of trial in Spokane County Superior Court, also required Greyhound to enact a number of corporate reforms to end its unlawful conduct. For example, Greyhound had to create a clear corporate policy denying CBP agents permission to board its buses in Washington without warrants or reasonable suspicion. The national bus line also had to train its drivers and other employees on how to communicate that policy to CBP agents.

The office filed the lawsuit against the national bus line company in April of 2020 alleging that Greyhound allowed the sweeps aboard its buses since at least 2013. Greyhound publicly acknowledged the sweeps in 2018.

Ensuring workplace accommodations for all employees

In March, as a result of a lawsuit Ferguson filed in 2017, a California-based air cargo handler ended its practice of discriminating against pregnant and disabled employees, in violation of the Washington Law Against Discrimination. The company, Matheson Flight Extenders, also paid \$168,500, to compensate harmed employees.

Matheson provides terminal and ground handling services for charter, regional, national and international air carriers. It operates at over 30 locations around the U.S., including SeaTac and Spokane airports. An Attorney General’s Office investigation uncovered its practice of refusing to accommodate employees’ disabilities if they occurred outside work, and identified nine Washington employees subjected to this unlawful policy.

Under a legally binding agreement filed in U.S. District Court for the Western District of Washington, Matheson was also required to provide training on discrimination and civil rights laws to all managers and human resources staff who manage employees in Washington state. Further, Matheson had to create a specific policy for pregnancy and disability accommodations in Washington.

The resolution also required Matheson to offer light duty job assignments to pregnant employees and employees with disabilities not caused by a workplace injury on an equal basis as offered to employees who incurred workplace injuries.



The Arlene’s Flowers team poses for a photo with Mr. Ingersoll, Mr. Freed, their personal counsel, and counsel from the ACLU after an oral argument before the Washington State Supreme Court. From left to right: Deputy Solicitor General Alan Copsey, Deputy Solicitor General Becca Glasgow, Curt Freed, Michael Scott, Amit Ranade, Attorney General Bob Ferguson, Robert Ingersoll, Jake Ewart, Margaret Chen (ACLU), Elizabeth Gill (ACLU), Solicitor General Noah Purcell, Emily Chiang (ACLU)

Advocating for fair employment contracts

In April, the Attorney General’s Office filed a lawsuit against janitorial services company National Maintenance Contractors, asserting that National took advantage of immigrants with limited English proficiency and promised them the independence of business ownership. In reality, National locked its franchisees into contracts that often left them earning less than minimum wage, paying exorbitant fees and with little ability to advocate for themselves.

National provides cleaning services contracts. It then enters into franchise agreements with janitors — largely non-English-speaking immigrants — to do the work. Many of these franchisees are native Spanish and Russian speakers.

National tells these franchisees that they will be independent business owners, and earn a certain amount each month depending on the amount of

money they invest up front. For example, to earn \$1,000 per month, franchisees would buy one \$5,000 “business unit.”

The lawsuit asserted National violated the law in multiple ways. For instance, National deceived franchisees about the amount of income they would earn, in violation of Washington’s Consumer Protection Act. National’s conduct left many workers earning less than minimum wage. Also, National charged unreasonably excessive fees, in violation of the Consumer Protection Act.

It also unlawfully withheld information from franchisees, like not disclosing the amount a business paid National for the services. Additionally, National did not disclose that the company kept as much as 30 percent of that amount, which violated the Franchise Investment Protection Act.

The lawsuit seeks restitution for National’s approximately 250 Washington franchisees, and civil penalties against National.



Staff from the Attorney General's Office join state lawmakers and others on a tour of Washington State Patrol's crime lab.

Crime & Public Safety

The Attorney General's Office continued its commitment to improve public safety and protect Washingtonians from crime. This effort included a series of measures to end the state's sexual assault kit backlog and collect DNA evidence from registered sex offenders.

The office also continued its push for transparency and accountability in policing and was tasked with bringing charges against three police officers involved in the homicide of a Tacoma man. The office was also tasked with bringing charges against the Pierce County Sheriff for a case involving alleged false reporting and a false or misleading statement.

Recommending reforms to improve state's response to sexual assault

In December, the Sexual Assault Forensic Examination Advisory Group convened by the Attorney General's Office released a report recommending reforms to improve the state's response to sexual assault. The recommendations included:

- Addressing the shortage of sexual assault trauma nurses to ensure sufficient and appropriate care for survivors;
- Increasing victim-centered, trauma-informed training for prosecutors to improve interactions with survivors of sexual assault who are asked to testify; and
- Establishing a consistent statewide process for collecting DNA from offenders who will not serve a term of confinement.

Additionally, the report highlighted the progress made by Attorney General Ferguson's Sexual Assault Kit Initiative and legislative appropriations aimed at clearing the state's rape kit backlog. The report detailed several examples of cold cases solved as a result of testing the kits that, until the initiative, languished in the evidence rooms in local law enforcement agencies.

A bipartisan group of legislators serve on the advisory group, including Rep. Tina Orwall, D-Des Moines, Rep. Gina Mosbrucker, R-Goldendale, Sen. Manka Dhingra, D-Redmond, and Sen. Ann Rivers, R-La Center.

Filing Charges against the Pierce County Sheriff

In October, the Attorney General's Office submitted charging documents filing misdemeanor charges against Pierce County Sheriff Ed Troyer. Troyer is charged with one count of false reporting, and one count of making a false or misleading statement to a public servant. Attorney General Bob Ferguson filed these charges in Pierce County District Court.

If convicted, the standard sentencing range for both offenses, with no prior criminal history, is up to 364 days in jail and up to a \$5,000 fine.

In April, Gov. Jay Inslee referred a criminal investigation to the Attorney General's Office related to Troyer's conduct. The Attorney General's Office does not have authority to initiate criminal investigations, unless it receives and accepts a referral from a county prosecutor or the governor.



Recovering stolen unemployment funds

In October, the Attorney General's Office announced the recovery of \$495,000 stolen from the Washington Employment Security Department, which made Washington the first state to use its asset forfeiture power to recover stolen funds. The Attorney General's Office returned the money to the Washington unemployment insurance trust fund.

During the pandemic, sophisticated fraud rings stole billions of dollars from at least 11 states, including Washington. While multiple states suffered substantial losses, Ferguson was the first state attorney general to exercise state asset forfeiture powers to recover stolen funds. The Attorney General's Office initiated a unique investigation searching for bank accounts where fraudsters had not yet withdrawn all stolen funds, and launched a legal effort to reclaim these funds for the state.

King County Superior Court Judge Johanna Bender granted the first motion for forfeiture, ordering TD Bank to transfer back to Washington \$495,000 from 120 accounts where the stolen funds had been deposited. The bank did not oppose the motion.

Ferguson's office continued to pursue similar recoveries involving other large banks. To assist in the investigation, Ferguson's office retained former FBI Agent Gregory Coleman, the case agent responsible for the "Wolf of Wall Street" investigation.

Charging three police officers in the death of Manuel Ellis

In May, the Attorney General filed felony charges against three Tacoma Police Department officers involved in the homicide of Manuel Ellis. The Attorney General charged Christopher Burbank and Matthew Collins with Second-Degree Murder and Timothy Rankine with First-Degree Manslaughter. Ferguson filed the charges in Pierce County Superior Court.

If convicted, the standard sentencing range for Second-Degree Murder with no prior criminal history is 10 to 18 years in prison. The standard range for First-Degree Manslaughter with no prior criminal history is 6.5 to 8.5 years. The maximum sentence for both offenses is life in prison. Warrants have been issued for the three officers' arrest.

This was the first time the Washington Attorney General's Office has criminally charged police officers for the unlawful use of deadly force, and just the second time homicide charges have been filed in Washington against law enforcement officers since Washingtonians adopted Initiative 940 in November 2018.

Mr. Ellis was killed on March 3, 2020, in Tacoma while being detained by Tacoma Police. The investigation was originally handled by the Pierce County Sheriff's Office. Months later, it was revealed that Pierce County Sheriff's personnel were involved in Mr. Ellis' detention. Subsequently, Gov. Jay Inslee directed the Washington State Patrol to investigate Manuel Ellis' death and referred the charging decision to the Attorney General.

The charges were based on the evidence available at this time. The office's investigation remains ongoing.

Charging a former Spokane County employee for theft of public funds

In October, a former Spokane County employee was arraigned on charges that she fraudulently obtained \$1.38 million from Spokane County by filing fictitious claims on behalf of 45 individuals over a 10-year period.

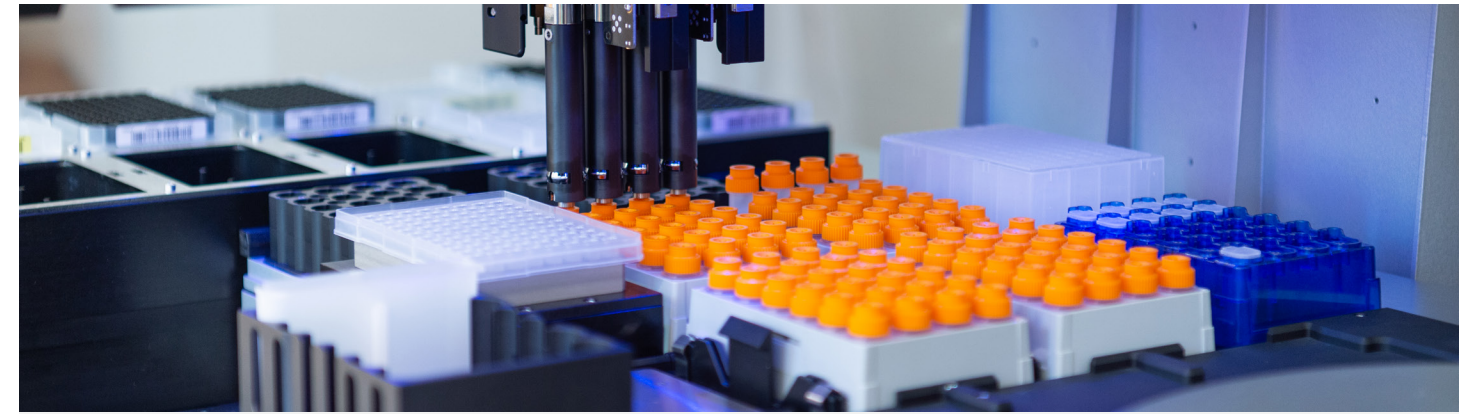
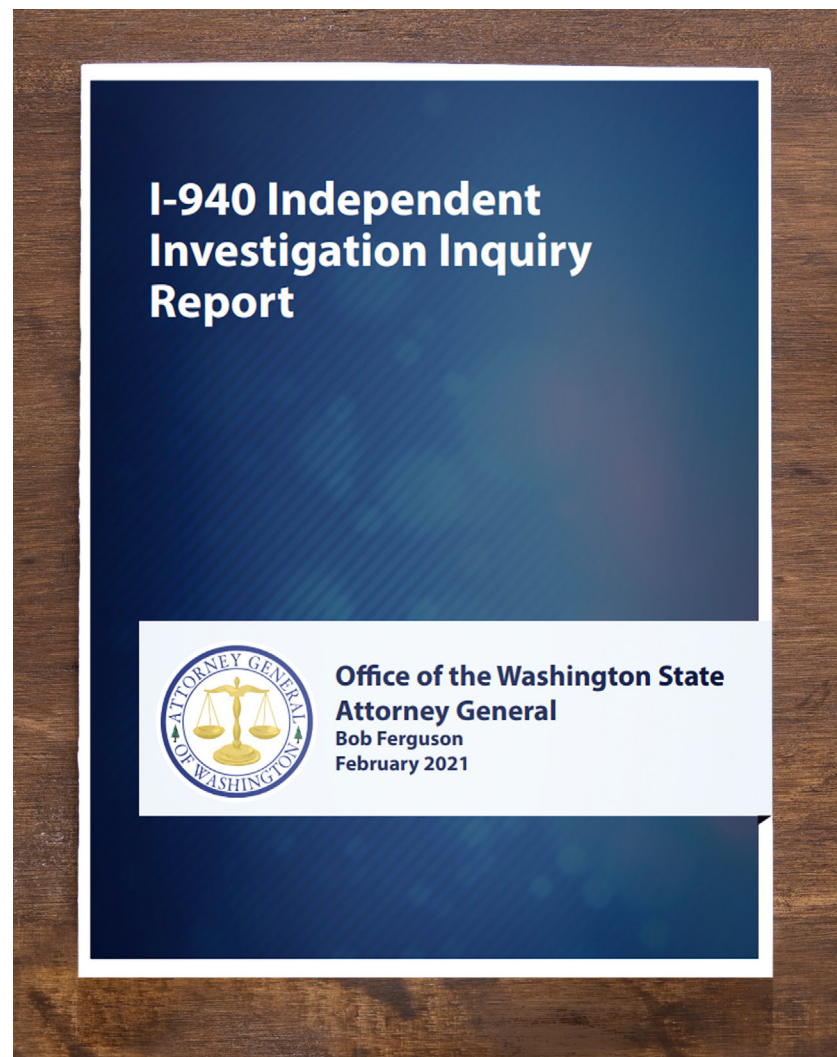
Rhonda Sue Ackerman was charged with one count of theft in the first degree, a Class B felony, in Spokane County Superior Court.

Ackerman was an employee in Spokane County's Department of Risk Management when the alleged fraud occurred between 2007 and 2016.

An internal investigation and subsequent investigation by the Washington State Auditor, as well as a criminal investigation by the Attorney General's Office and the Spokane Police Department, identified the alleged fraud. The Internal Revenue Service also conducted a criminal investigation.

The charging documents allege that Ackerman filed fake claims on behalf of 45 different claimants and requested claim payments from her office. She then allegedly directed the claimants, many of whom were relatives or friends of her son, to cash the checks and deliver the bulk of the funds back to Ackerman.

The Spokane County Prosecutor's Office referred the matter to the Attorney General's Office, since the accused and several witnesses in the case are or have been employees of the county, and the funds were taken from the county.



Washington State Patrol Crime Lab. Photo courtesy of WSP

Releasing a report on police use of deadly force

In February, the Attorney General's Office released the I-940 Independent Investigation Inquiry Report. Ferguson's inquiry into investigations reviewing police use of deadly force in the first half of 2020 found that the majority of investigating teams complied with most of the state's new independent investigation requirements. However, some investigations failed to include at least two non-law enforcement community representatives and comply with other key requirements.

The independent investigation requirements apply to investigations of officer-involved use of deadly force incidents that result in significant bodily harm or death, occurring after Jan. 5, 2020.

The Attorney General's Office identified 22 in-scope investigations into police use of deadly force between January and June, conducted by 14 investigative teams that were required to comply with the new rules on independent investigations.

Ferguson's report found:

- The involved agency did not participate in any of the 18 investigations;
- Five of the 18 investigations fully complied with the I-940 independent investigation requirements, including involving at least two non-law enforcement community representatives;
- Several investigative teams that failed to comply with all of the requirements subsequently reported improved processes to comply with the new regulations; and
- Community representatives who shared their experiences with the Office of the Attorney General reported that serving as community representative was a positive experience, noting the transparency and professionalism of the investigative teams.

Collecting more DNA evidence to help solve cold cases

In August, the Attorney General's Office announced that its lawfully owed DNA project identified 635 registered sex offenders who illegally failed to provide DNA samples after their criminal conviction. The office is working with local law enforcement around the state to collect DNA samples from these offenders and 345 of those offenders had provided DNA samples to law enforcement.

Local law enforcement agencies working with the Attorney General's Office determined that they could not collect samples from 225 of the 635 sex offenders who failed to provide samples. Of those 225 offenders, 107 died or left the state. Ninety-eight failed to register as sex offenders and their whereabouts are unknown.

Lawfully owed DNA is defined as a DNA sample from a qualifying criminal offender who should have their sample in the nationwide Combined DNA Index System (CODIS), but from whom a sample has never been collected or submitted to a lab for testing. Washington law requires all currently registered sex and kidnapping offenders to provide DNA samples. Some offenders fail to comply with this part of their criminal sentence.

The office launched the lawfully owed DNA project in October 2019. The project is a partnership with the U.S. Department of Justice and local law enforcement aimed at identifying and collecting court-ordered DNA samples. Collected samples are entered into CODIS where they can be used to help identify the perpetrators of unsolved rapes, murders and other crimes.

The office has prioritized these resources on offenders convicted of sex offenses and violent crimes, and individuals currently under supervision by the Department of Corrections.



Environmental Protection Division Chief Bill Sherman speaks at a press conference.

Protecting The Environment

Protecting Washington's environment continued to be a top priority of the office. The office engaged in a range of actions to protect the environment and hold accountable those who commit environmental crimes. This work is handled by multiple divisions and units including the Environmental Protection Division, Ecology, Public Lands & Conservation, and Complex Litigation.

Holding major mining companies accountable for their pollution

In June, U.S. District Court Judge Rosanna Malouf Peterson issued a summary judgment in the office's federal lawsuit against two gold mining companies over years of water pollution stemming from the Buckhorn Mountain gold mine. Judge Peterson dismissed the companies' main defenses, writing in the ruling that there was "no support" for their claims that the Attorney General's Office cannot enforce all of the mine's Clean Water Act permit.

The lawsuit, filed in May 2020, asserts the companies, Crown Resources and Kinross Gold, violated the Clean Water Act by discharging illegal levels of pollutants into creeks in Okanogan County flowing into the Kettle River. The companies could face millions of dollars in penalties for their pollution.

The lawsuit asks the court to require Crown to meet the terms of their permit, remediating damage from years of pollution. The lawsuit asks the court to award monetary penalties and attorney's fees. The maximum penalty under the Clean Water Act is \$54,800 per violation, per day, for up to five years. The Attorney General's Office estimates that the potential Clean Water Act penalty could be in the millions of dollars.

Crown Resources and its parent company, Kinross Gold, own Buckhorn Mountain gold mine, a 50-acre underground mine in Okanogan County located approximately 100 miles northeast of Twisp and about four miles from the Canadian border. From 2008 to 2017, the companies extracted approximately \$1.3 billion in gold from the mine's miles of underground tunnels. A majority of these tunnels lie below the water table. Ore extraction stopped in 2017, but contaminants continue to be released from the mine.

The lawsuit was filed with consultation from the Washington State Department of Ecology. Okanogan Highlands Alliance, a citizen group that has long monitored water quality issues at the Buckhorn mine, filed a similar lawsuit in April 2020.

Blocking repeal of the Clean Power Plan

In January, a panel of federal judges, including a Trump appointee, blocked the Trump Administration's effort to repeal the Clean Power Plan and replace it with the so-called "Affordable Clean Energy" (ACE) rule, which would not require significant carbon emission reductions. The ruling came in an August 2019 challenge brought by Ferguson and a coalition of 22 states and seven local governments.

In its decision, the U.S. Court of Appeals for the District of Columbia Circuit found the Trump Administration's replacement rule was arbitrary and capricious, and both the replacement rule and the process the Environmental Protection Agency (EPA) went through in order to adopt it "hinged on a fundamental misconstruction" of the Clean Air Act.

In 2015, the EPA under the Trump Administration adopted the Clean Power Plan to reduce greenhouse gas emissions from existing power plants. Its replacement required states to set performance standards for coal power plants but did not require carbon emissions reductions. The ACE rule incentivized the continued use of coal-fired power generation and did nothing to address the climate change harms caused by carbon pollution from coal-fired power plants.

In Washington state, the rule could have caused an increase in carbon emissions. Carbon dioxide is a powerful greenhouse gas. Washington has already seen adverse impacts of climate change, including rising sea levels, increased flooding, increased wildfires and ocean acidification.

Enforcing the Washington Animal Trafficking Act

In July, the Attorney General announced that a King County antique business and one of its owners pleaded guilty to trafficking in species threatened with extinction under a voter-approved initiative that banned the sale or transfer of products made from certain endangered species.

International Antique & Art Importers Inc., which operates as Ming's Asian Gallery & Antiques, pleaded guilty to one felony count of violating the voter-approved Washington Animal Trafficking Act (WATA). The business paid \$8,000, which included a \$4,000 criminal wildlife penalty. The penalty helps fund future enforcement actions.

Additionally, business owner Doreen Russell pleaded guilty to a gross misdemeanor violation of WATA. The judge sentenced her to two years' probation, and ordered her to perform 240 hours of community service. Russell also paid \$6,000, including a \$2,000 criminal wildlife penalty.

Following an investigation, state and federal Fish & Wildlife officers executed a search warrant on Ming's Asian Gallery & Antiques, then located in Redmond. They found more than 100 items suspected of containing endangered animal species. Investigators sent a sample of

eight of these suspect items to the U.S. Fish & Wildlife Service's forensic laboratory for genetic testing. Testing confirmed that six of the eight were illegal to sell or trade — five of the items were made out of elephant ivory, and one was made of sea turtle shell. Investigators also seized sales records and documents from the business, which included information regarding the Washington Animal Trafficking Act — evidence that the defendants were aware of the law's restrictions on selling prohibited items.

Several species of elephants and marine turtles are endangered or critically endangered worldwide.

In 2015, Washingtonians adopted WATA by initiative when more than 70 percent of Washington voters approved I-1401. WATA makes it a felony or gross misdemeanor, depending on value, to sell, purchase, trade or distribute parts of specific endangered or vulnerable species of elephant, rhinoceros, tiger, lion, leopard, cheetah, pangolin, marine turtle, shark or ray.

Advancing environmental justice

On March 23 and 24, the office and Gonzaga University School of Law convened a symposium, titled "Environmental Justice: Race, Poverty and the Environment," to discuss environmental justice issues around Washington and the work being done to address them. The goal of the symposium was to provide a platform for communities disproportionately impacted by structural racism, climate change and pollution.

The online, two-day event included a series of panel discussions that shined a light on the work these communities across the state are doing to pursue environmental justice. The panels focused on topics in four major areas: air, water, land and the built environment, and racism. Panelists discussed their ongoing environmental justice work, examined the latest research and discussed ways to improve environmental protections that meaningfully involve the communities affected most.

The symposium featured keynote addresses from Jacqueline Patterson, director of the NAACP Environmental and Climate Justice Program, and Fawn Sharp, president of the Quinault Indian Nation and president of the National Congress of American Indians. The office and Gonzaga University School of Law Dean Jacob Rooksby provided welcome and closing remarks.

Research shows that Black, Indigenous, people of color and low-income communities face



the worst of the impacts from environmental problems and climate change. For example, low-income housing is more likely to be located near sources of air and water pollution, like highways, landfills or hazardous waste sites. A research team led by the University of Washington and the University of Minnesota found that air pollution disproportionately harms Black and Hispanic Americans — air pollution that's generated mainly by white Americans. Environmental justice recognizes that disproportionately impacted communities must be meaningfully involved in creating environmental protections.

This symposium is part of the Attorney General's Office Environmental Justice Initiative, launched last year for the 50th anniversary of Earth Day. As part of this initiative, the office's Environmental Protection Division has shifted more of its resources to environmental justice work and hired an Assistant Attorney General dedicated to environmental justice affirmative litigation and advocacy.

In July, Senate Bill 5141, the Healthy Environment for All (HEAL) Act, went into effect. The HEAL Act is the first of its kind in Washington, defining environmental justice in state law, creating a coordinated approach to implementing environmental justice across state agencies, and centering communities most affected by environmental harms and resulting public health harms. As part of the Attorney General's Environmental Justice Initiative, the office affirmatively opted-in to implementing



the HEAL Act, being the first and only state agency outside of the seven mandates agencies to do so. The office's Policy Team leads the implementation of the HEAL Act and hired a Policy Analyst to do this work. An internal workgroup consisting of client advice divisions, affirmative litigation divisions, the office's tribal liaison, and policy staff began convening on a regular basis to collaborate on ways to further environmental justice at the office.

Protecting the Clean Water Act

In October, the office announced that a court vacated the Trump Administration's attempt to dismantle key environmental protections in section 401 of the Clean Water Act.

The judge's ruling, which blocked this rule entirely nationwide, was the office's 43rd win against a Trump administration action. Over half of these wins were in environmental protection related cases.

The ruling was part of the July 2020 lawsuit protecting the Clean Water Act. Washington, New York and California co-led a broad

coalition of 17 other states and the District of Columbia in filing a lawsuit against the new section 401 rules, which handcuffed states' ability to police a wide range of water pollution and related environmental damage.

On July 13, 2020, the U.S. Environmental Protection Agency published final changes to rules implementing section 401 of the Clean Water Act regarding states' certification of water quality. This section allows states and tribal nations to protect health and human safety within their geographic boundaries by making permitting decisions related to the water quality impacts from federally-approved projects. For example, Washington has long used Section 401 to ensure that federally-licensed hydropower projects incorporate critical water quality protections.

The Trump Administration rule handicapped states' abilities to regulate water quality, reversing fifty years of long-held and effective state and tribal water quality regulation.



AG Ferguson speaks with representatives of Hanford Challenge and UA Local 598.

Protecting Washingtonians' Health & Safety



Protecting the safety and health of Washingtonians continued to be a priority for the Office in 2021. In addition to work related to the COVID-19 pandemic, the office continued its efforts to combat the opioid epidemic, protect Washington youth from the harmful effects of tobacco and vapor products and stand up for the health and safety of Hanford workers.

Taking the fight over Hanford workers' rights to the Supreme Court

In September — two days after Labor Day — the Biden Administration announced it would continue a Trump-era lawsuit challenging a bipartisan Washington state law designed to make it easier for Hanford workers to access the compensation benefits they earned when they develop certain illnesses from working at the site contaminated with radioactive waste. The Trump administration lost at both the district and appeals court. Despite the losses, the Biden administration announced it would appeal the case to the U.S. Supreme Court.

Oral arguments will take place in 2022.

In 2018, the Washington state Legislature passed House Bill 1723, making it easier for Hanford workers to access workers' compensation benefits when they develop certain illnesses associated with their work. The law created a presumption that Hanford workers became ill because of an exposure to chemicals at work. Firefighters and first responders have similar presumptions established in state law.

In December 2018, the Trump administration filed a lawsuit challenging the law. The federal government argued that the law violated "intergovernmental immunity," a legal doctrine that prevents states from regulating federal operations or property. However, in 1937 — more than eight decades ago — Congress gave states broad authority to apply their workers' compensation laws to federal projects.

In June 2019, Judge Stanley A. Bastian for the U.S. District Court for the Eastern District of Washington granted Washington's motion for summary judgment. In that order, Judge Bastian ruled that Congress authorized Washington to pass laws providing special protections for Hanford workers and therefore did not violate intergovernmental immunity.

The Trump administration appealed, and in August 2020, a panel of the Ninth Circuit Court of Appeals unanimously upheld the law. The panel ruled that Congress gave authority to the states to provide workers' compensation benefits to injured contractors on federal lands.

Ending a medical monopoly in Bellingham

In August, the Attorney General's Office filed a consent decree that ended Bellingham Anesthesia Associates' (BAA) illegal dominance of the local health care market.

During the two decades BAA operated with exclusive contracts, it became the dominant provider of anesthesiologists in Whatcom and Skagit counties. Local patients and medical providers had no choice other than a doctor from BAA. BAA's monopoly limited the choices medical facilities and surgeons could make and also limited the options available for local patients. By controlling the local health care market, BAA did not have to compete to provide enhanced services, offer more options or reduce its prices.

BAA also forced all of its doctors to sign overly broad non-compete agreements. Many physicians were also shareholders in BAA, and their non-compete agreements barred them from practicing anesthesia in medical procedures in the area for three years. Doctors who did not own shares of the business had 18-month non-compete agreements.

BAA prevented employees who left from establishing a competing practice, and providers from outside the area did not have a financially viable path to open a competing practice due to BAA's control of the market. BAA's contracts also effectively prohibited certified registered nurse anesthetists from entering the market, which, in many cases, would have given medical providers an equally capable but far more affordable option.

The consent decree required BAA to cease illegally requiring physicians to sign three-year non-compete contracts. It also limited BAA's current and future employees' non-compete time to nine months and shareholder time to one year. The legally binding agreement allowed BAA to keep exclusive contracts with hospitals that need anesthesiologists on constant standby, but it required BAA to cancel contracts with outpatient surgical centers, medical clinics and other medical providers without a need for daily and nightly emergency coverage.

The company also paid \$110,000 in costs and fees to the Attorney General's Office.



AAG Lisa Erwin shows a photo of transvaginal mesh device during a 2016 press conference announcing a lawsuit against Johnson & Johnson.

Garnering tens of millions from producers of risky medical mesh devices

In March, the Attorney General's Office announced that Boston Scientific, a medical device manufacturer, would pay more than \$8.8 million to Washington state for misrepresentations and failure to include serious risks in the instructions and marketing materials for surgical mesh devices.

The office led a coalition of 48 attorneys general in the case against Boston Scientific. It was Washington's third resolution against companies that produced surgical mesh devices. In total, the Attorney General's Office garnered approximately \$20 million for Washington women who received transvaginal mesh.

Washington directed more than \$11 million to Washington women who received transvaginal mesh devices as the result of an initial claims process after the Johnson & Johnson and Bard recoveries.

In addition to the monetary payment, the legally binding agreement required Boston Scientific to implement corporate reforms that would prevent the company's harmful conduct

from happening again. The corporate reforms included mandatory training for independent contractors, agents and employees that sell, market or promote mesh medical products; clear disclosures about complications to health care providers and clear descriptions of complications in terms reasonably understandable to a patient in marketing materials intended to reach patients.

The money was added to a larger restitution fund for women who received transvaginal mesh devices, established after Johnson & Johnson paid \$9.9 million to Washington on the eve of trial in April of 2019. Ferguson added to that fund in September of 2020 when mesh device manufacturer Bard paid \$2.38 million to Washington.

All women who received transvaginal mesh implants in Washington are eligible to receive funds from the recovery. Between all major transvaginal mesh manufacturers in the United States, tens of thousands of Washingtonians were implanted with transvaginal mesh devices and are eligible to receive restitution. However, the restitution fund is separate from and not related to any recovery Washingtonians receive in a personal injury lawsuit or class action lawsuit regarding surgical mesh devices.

Ending a COVID-19 "protection" scam

In February, The Attorney General's Office announced that PurEnvironment, a Utah-based mold remediation company, pleaded guilty to environmental crimes charges regarding the company's false claims that its products could provide "90+ day protection" against COVID-19. King County Superior Court Judge Gregg H. Hirakawa sentenced the company to a year of probation, ordered it to pay a \$15,000 fine and required it to come into compliance with state and federal regulations.

As the COVID-19 pandemic began in early spring 2020, the company claimed on its website and in statements to the press that one of its mold-inhibiting pesticides could "completely rid" homes and businesses of the virus and protect against it for 90 days. PurEnvironment made claims that its mold-remediation services could "completely rid your home and business's surfaces of the COVID-19." The company's website told consumers that EverPURE, one of its mold-inhibiting products, could protect against COVID-19 for 90 days.

The products that PurEnvironment branded as EverPURE were never approved to treat any virus, let alone COVID-19. Those pesticides are mold inhibitors, only approved to inhibit the growth of odor- and stain-causing bacteria, mold, mildew and algae.

No individuals or businesses were known to have actually hired or paid PurEnvironment for these services.

The Attorney General's Office Environmental Protection Division investigated the case with EPA's Criminal Investigation Division.

Stopping illegal vaping sales to minors in Washington state

In June, the Attorney General's Office announced a legally binding agreement with a California-based company caught in a sweep of online vaping retailers. The company, E-Juice Vapor Inc., paid \$375,000 to resolve an August 2020 lawsuit after its initial refusal to cooperate with the investigation.

The resolution concluded the Attorney General's Office 2019-2020 investigation into online vaping retailers. The Attorney General's Office caught seven retailers violating Washington's online age verification law. The seven retailers signed judgments requiring them to pay just over half a million dollars, which went toward continued enforcement of Washington's vaping product laws.

The six other companies that cooperated with the investigation agreed to pay the following amounts to the Attorney General's Office:

- VanVal Vapor, based in Spokane, paid \$30,000
- Zenith, based in New York, paid \$50,000
- Local Vape, based in Henderson, Nev., paid \$25,000
- Northland Vapor, based in Moorhead, Minn., paid \$7,000
- WOV, based in Castle Rock, Colo., paid \$20,000
- Vaping Zone, based in Columbia, S.C., paid \$40,000

The companies signed legally binding agreements to change their advertising and online sales practices to comply with Washington's law.

Unlike the six other companies, E-Juice Vapor did not cooperate in the initial phase of the investigation and did not provide information about its sales into Washington.

After assembling a list of 148 online sellers of vapor products, Attorney General's Office investigators posed as minors or used false identifying information to attempt to make purchases of nicotine-containing vapor products. Washington's law requires stringent age verification for online sales of vapor products. For example, vapor product sellers must verify the buyer's age using a third-party service to crosscheck and confirm the buyer's identity. Seven of the online sellers illegally sold products into the state without verifying the ages of the purchasers.



Continuing the office's campaign to combat the opioid epidemic



Rose Dennis, who lost her son Matthew to opioid addiction speaks at a press conference. The AGO announced its lawsuit against drug manufacturer Purdue Pharma for its role fueling the opioid epidemic in Washington.

Lawsuit against opioid distributors heads to trial

After rejecting a national settlement offer from McKesson Corp., Cardinal Health Inc. and AmerisourceBergen Drug Corp., as well as opioid manufacturer Johnson & Johnson, in July 2021, the Attorney General's Office prepared in earnest for a trial that began in November against the three largest distributors of prescription opioids in Washington state.

"The settlement is, to be blunt, not nearly good enough for Washington," Attorney General Bob Ferguson said in July.

The office filed the lawsuit against the distributors in March of 2019, accusing the three Fortune 15 companies of failing to alert law enforcement when they received suspicious opioid orders, and shipping those orders with little or no investigation, significantly contributing to the supply of opioids and fueling the state's opioid epidemic. The companies made billions of dollars while feeding the devastating epidemic, shipping huge amounts of oxycodone, hydrocodone and other prescription opioids into Washington even

when they knew or should have known those drugs were likely to be diverted.

Each of these distributors brings in more gross revenue than the annual budget of the entire State of Washington.

Opioid distributors are required to monitor the size and frequency of prescription opioid orders to identify suspicious orders that could be diverted into the illegal drug market. Distributors are required to stop these suspicious shipments and report them to the federal Drug Enforcement Agency.

The opioid crisis devastated Washington communities and shattered families. The epidemic has hit every state — and it hit Washington especially hard. Since 2006, more than 10,800 Washingtonians have died of opioid overdoses.

The lawsuit seeks civil penalties from the companies for each violation of the Consumer Protection Act. He will also ask the court to order the distributors to disgorge the proceeds of their illegal conduct. Sales of opioids are worth billions every year nationwide.

A separate trial against Johnson & Johnson is expected to take place sometime in 2022.

Washington successfully appeals Purdue bankruptcy plan

Washington is one of 48 states that sued Purdue Pharma, the maker of OxyContin, for fueling the opioid epidemic. Washington's lawsuit asserts Purdue embarked on a massive deceptive marketing campaign to convince doctors and the public that OxyContin is effective for treating chronic pain and has a low risk of addiction, all without evidence to support its claims. This deceptive marketing resulted in the deaths of Washingtonians and devastation to Washington families.

The lawsuit, filed in 2017, contends Purdue conducted an uncontrolled experiment on the American public without any reliable clinical evidence that opioids are effective at treating chronic pain. To doctors and patients, Purdue consistently downplayed the risks of addiction from long-term use and deceptively represented opioids as safe for treating long-term chronic pain.

After Washington defeated a motion to dismiss the case in 2018, the office began preparing for trial against the opioid maker.

Facing thousands of lawsuits from across the country, and on the eve of trial, Purdue Pharma declared bankruptcy in late 2019.

An audit of Purdue introduced during the bankruptcy proceedings in late 2019 showed that the Sackler family pulled nearly \$11 billion out of Purdue since 2008.

Purdue's bankruptcy plan, approved Sept. 1, 2021, by U.S. Bankruptcy Judge Robert Drain, requires the Sackler family to pay \$4.3 billion over nine years to the group of states, municipalities and private plaintiffs, including Washington, that sued or have claims against the company.

Ferguson announced in September of 2021 that, along with the eight other attorneys general, Washington would appeal the bankruptcy plan. The AGs asserted that the plan was inadequate, and did not provide sufficient accountability. For example, it would have only garnered Washington state about \$70 million. As a result of the challenge, a federal judge vacated the bankruptcy plan in December.

Purdue consultant McKinsey pays Washington \$13.5 million

As a result of an investigation launched by Washington, McKinsey, a multinational consulting firm that worked with Purdue Pharma, will pay \$13,465,833 to the Washington State Attorney General's Office. Attorney General Ferguson directed the entire amount to be invested in treatment, prevention and other efforts to address the opioid epidemic in Washington.

As a consultant for Purdue Pharmaceuticals, McKinsey discussed ways for Purdue to "turbocharge" sales of OxyContin. McKinsey proposed that Purdue pay rebates for overdoses linked to the pills they sold. After McKinsey came under scrutiny for its role in the opioid epidemic, two senior partners at McKinsey discussed purging records related to Purdue.

In addition to paying nearly \$13.5 million, McKinsey is required to enact additional corporate reforms. At Washington's insistence, the consent decree with McKinsey allows local Washington jurisdictions to bring their own suits against the company. This provision differs from 47 other states who resolved investigations into McKinsey, as their agreement with the company prohibited local jurisdiction lawsuits.



AAG Tad Robinson O'Neill answers questions during a press conference announcing the office's lawsuit against three opioid distributors.

"The federal government is proposing the sale of the National Archives and Records Administration's building in Seattle as a way to generate some quick cash. This is outrageously shortsighted."

- Union-Bulletin Editorial Board, 11/14/2022



AG Ferguson discusses a federal lawsuit at the U.S. District Court in Seattle.

Federal Litigation

In 2021, the office focused its federal litigation efforts on wrapping up lawsuits that it filed during the Trump Administration. This included a Freedom of Information Act lawsuit in a case to keep the National Archives in Seattle and a lawsuit to keep former President Trump from diverting funding from Naval Base Kitsap.

National Archives FOIA lawsuit

In 2019, a little-known federal agency, the Public Buildings Reform Board (PBRB), identified a dozen federal properties around the U.S. as "High Value Assets" and recommended their sale.

Among those properties — many of which involved abandoned or unused warehouses or buildings — was the National Archives building in Seattle, a building housing critical historical documents of the Pacific Northwest, including extensive tribal records. PBRB did not consult with local, state or tribal officials in making its initial selection.

The Attorney General's Office pushed back on the decision, beginning with a letter from Ferguson in February urging the federal government to reconsider the decision. This effort eventually culminated in a lawsuit joined by 29 federally recognized tribes, Alaskan tribal entities, and tribal communities from Washington, Oregon, Idaho and Alaska, as well as nine Oregon community organizations, historical preservation societies and museums. This effort was separate, though informed by, a series of federal Freedom of Information Act lawsuits against the agencies involved in the decision,

The lawsuit successfully blocked the building's sale in early 2021. In the wake of that successful lawsuit, the Biden administration backed away from the sale in April.

But, the Attorney General's Office wasn't finished uncovering the details around the original decision, and the communications between the agencies about the Seattle Archives.

The office continued to file Freedom of Information Act requests with the PBRB, the National Archives and Records Administration, the Office of Management and Budget and the General Services Administration to uncover their communications. When they did not comply, Ferguson filed lawsuits to force them to produce the records. As they are produced, these records have shone a light on the original decision to sell the archives, and illustrate the agencies' annoyance with the AGO's lawsuit.

For example, in one of the documents produced by the lawsuits, "... What's the big deal," one official

wrote in an email. "...No one really cares," another official responds, "except the WA AG because his father-in-law was a historian."

For the record, Attorney General Ferguson's father frequented the Seattle Archives.

Border wall funding

In 2019, former President Donald Trump declared a "national emergency" to reallocate congressionally approved funds to build his long-promised border wall despite the fact that Congress repeatedly refused to approve the funding he requested. Congress even voted with a bipartisan majority to overturn President Trump's "emergency" declaration, but the then-president vetoed their legislative action.

Among the funds he sought to divert: \$89 million in congressionally approved military construction funding meant for Naval Base Kitsap. Washington's Bangor submarine base is home to the U.S. Pacific Fleet's Trident ballistic missile submarines. The Trump Administration's plan would have subverted a congressionally approved \$88.96 million project to build a much-needed pier and maintenance facility at the base, complete with a boat shop, small-craft fueling station and storage tank, and permanent berthing for two 250-foot blocking vessels. The vessels, which escort and provide security for submarines between the base and dive points in the Strait of Juan de Fuca, currently have no dedicated pier space, forcing them to operate in a "nomadic state," according to the Department of Defense.

The Attorney General's Office sued to block the Trump Administration from diverting those funds. In February of 2020, Judge Barbara Rothstein in the U.S. District Court for the Western District of Washington reversed and permanently blocked the Trump Administration's unlawful decision to divert the funds.

On his first day in office in January, President Joe Biden terminated the national emergency, ordered the federal government to halt all border wall construction projects and released the remaining funds back to their congressionally approved projects — including the funding for Naval Base Kitsap.

Assistant Attorney General Mina Shahin from the Consumer Protection Division answers viewer questions about robocalls during a series of "Tip Offs to Rip Offs" virtual events. The Attorney General's Office partnered with AARP to host three events across the state.

Protecting Consumers

Every Washington consumer and business benefits from the vital role our office plays in ensuring fair market competition by enforcing consumer protection and antitrust laws. The office also provides a range of complaint mediation, and delivers education and outreach services designed to inform Washingtonians about their legal rights.

Holding illegal robocallers accountable

In 2021, the office took multiple actions to hold illegal robocallers accountable. In May, the office filed a lawsuit against a Corvallis, Ore.-based company, Global Grid Telecom, and its owner for illegally robocalling Washingtonians with deceptive recorded messages. Ironically, the calls attempted to sell a purported robocall-blocking service.

The lawsuit asserts Global Grid Telecom violated the Washington Automatic Dialing and Announcing Device Statute and the Consumer Protection Act when the company robocalled people, and also further violated the Act when Global Grid Telecom targeted consumers on the Do Not Call Registry and made deceptive claims in its solicitations to them.

The company made 54,410 calls into Washington state. The company called 16,808 Washingtonians more than once. One Washingtonian received 23 robocalls from Global Grid Telecom. The company made 46,332 robocalls to Washington telephone numbers on the Do Not Call Registry to advertise its service.

In a separate action in March, the office and a coalition of 39 other attorneys general and the Federal Trade Commission blocked the robocalling scheme of two deceptive telemarketers, Associated Community Services (ACS) and Directele. The companies paid \$495,000 to help fund legitimate charities as a result of the lawsuit.

The two companies made more than 1.7 million robocalls for sham charities into Washington state. The companies targeted 67 million consumers across the U.S. with 1.3 billion deceptive charitable fundraising calls.

The lawsuit asserts that ACS and Directele violated Washington's Consumer Protection Act by misrepresenting charitable solicitations, using false area codes for calls and making harassing telephone calls. The two companies promoted numerous organizations that falsely claimed to support homeless veterans, victims of house fires, breast cancer patients, children with autism or other causes used to entice support from people with good intentions. These nonprofits only received a small amount of the money raised, sometimes as little as one-tenth of one percent. Meanwhile, ACS and Directele managers or owners pocketed as much as 90 cents of every dollar solicited on behalf of the charities.

Getting refunds for timeshare owners

In September, the office announced that Kirkland-based timeshare exit company, Reed Hein & Associates LLC, must stop its deceptive timeshare exit practices and pay \$2.61 million to Washington as a result of the lawsuit against the company.

The Attorney General's Office used Reed Hein's \$2.61 million payment to provide restitution to Washingtonians harmed by its illegal timeshare exit scheme and for partial reimbursement of the office's litigation costs.

The office had filed a lawsuit in 2020 that asserted that Reed Hein deceptively advertised a 100 percent money-back guarantee. In reality, many customers struggled to obtain refunds, and are still denied refunds even after the company failed to deliver for years.

More than 2,800 Washingtonians entered into contracts with Reed Hein, paying thousands in upfront fees, ranging from just under \$3,000 up to tens of thousands of dollars per "exit." Many of these individuals waited for an exit from their timeshare for years after signing their contracts.

Fighting Google's attempts to unlawfully eliminate competition

In July, the office filed an antitrust lawsuit against technology giant Google for using anticompetitive practices to insulate its app distribution service, Google Play Store, from competition. Google forced Android app developers to raise app prices in order to pay Google's exorbitant fees. These practices targeted all levels of the smartphone ecosystem, including device manufacturers, network operators and app developers.

Washington's Consumer Protection Act prohibits anticompetitive business practices that stifle or suppress competition. These practices cause unlawful monopolies that harm consumers. Reduced competition from monopolies drives up prices, inhibits innovation and reduces the quality of products and services.

Google's anticompetitive tactics include, among others, blocking non-Google Play Store apps from advertising on Google's ubiquitous search platforms. These practices have helped it dominate the Android app distribution market. Well over 90 percent of all Android apps are downloaded from Google Play Store.

Because of Google's exclusionary conduct, even large, sophisticated content distributors like Amazon have failed to create a competitive alternative to Google Play Store.

Fighting against an illegal conspiracy to inflate prices of chicken

In October, the office filed a lawsuit against 19 chicken producers accusing them of a wide-ranging illegal conspiracy to inflate and manipulate prices, rig contract bids and coordinate industry supply reductions to maximize profits.

The 19 companies named in the lawsuit account for approximately 95 percent of the “broiler” chickens sold in the United States — a term for virtually all chicken produced for meat. Broiler chickens are used for everything from chicken breasts people purchase at the grocery store, to chicken nuggets and chicken sandwiches they buy at fast food restaurants.

An estimated 90 percent of Washington consumers — about 7 million Washingtonians — buy products derived from the chickens these companies produce. In addition, Washington businesses, colleges, hospitals and nursing homes were impacted by the companies’ illegal conduct.

According to the U.S. Department of Agriculture, broiler chickens produced in the United States had a wholesale value of between \$21 billion and \$33 billion annually between 2008 to 2018.

The lawsuit accuses the companies of illegally engaging in a host of anticompetitive conduct to coordinate supply and manipulate pricing since at least 2008. The lawsuit asserts their conduct violates the Washington Consumer Protection Act and Washington state’s antitrust laws.



Combatting hidden fees

As part of the office’s Honest Fees Initiative, Bothell-based TV and broadband internet provider Wave paid \$900,000 to more than 23,000 customers who ordered the company’s services online. Wave failed to adequately disclose taxes and fees added to their bills, and did not clearly disclose its fees on some of its advertising.

Wave, which provides television and internet services in Washington, Oregon and California, did not clearly disclose all taxes and fees to customers when they signed up online. The Attorney General’s Office estimates that about 12,000 to 13,000 of the more than 23,000 customers who will receive bill credits are from Washington state.

In March, the Attorney General’s Office filed a legally enforceable consent decree in ordering Wave to clearly and conspicuously disclose all fees, surcharges and terms or conditions of its offers to consumers prior to them purchasing service. The consent decree resolved the Attorney General’s investigation into the company’s failure to adequately disclose fees during online sales and in its advertising.

The \$900,000 in consumer restitution went to more than 23,000 customers impacted by the hidden fees. Wave sent bill credits to these consumers along with a notice on their bill referencing the Attorney General’s investigation and the consent decree. Every current subscriber harmed by Wave’s conduct will receive direct restitution in the form of a credit.

Keep Fees Honest

Review your bills for hidden charges



Recouping money for pandemic-related event cancellations

In March, the office announced that as a result of its lawsuit, Seattle-based ticketing company Brown Paper Tickets would refund all consumers who purchased tickets to events canceled due to the COVID-19 pandemic, and pay back all money it owes to organizers of past events. An estimated 45,000 event organizers and ticket purchasers nationwide, and internationally, received a total of approximately \$9 million from the resolution.

From March 19, 2020, through February 23, 2021, the Attorney General’s Office received 1,200 complaints from consumers about the company’s conduct. An estimated 45,000 people were affected nationwide, according to the lawsuit. Many of these consumers were organizers and attendees of small, nonprofit or community-based events, like those at community centers, schools or children’s theaters.

The lawsuit, which the office originally filed in September, asserted that Brown Paper Tickets failed to pay organizers for events that occurred, including those before COVID-19 shutdowns, and did not refund consumers for tickets they purchased for entertainment and other events canceled due to the pandemic.

Stopping predatory “patent troll” practices

In May, the office filed a lawsuit against Landmark Technology A for its predatory “patent troll” practices that harm small businesses. Landmark unlawfully sent threatening letters in bad faith to over a thousand small businesses nationwide. In the letters, it demanded \$65,000 in patent licensing fees.

When five Washington small businesses refused to pay, Landmark sued them. The businesses settled to avoid the expense of a lawsuit.

Landmark does not make products. Its entire business model consists of demanding licensing fees from other companies. From January 2019 to July 2020, Landmark sent identical form demand letters to 1,176 small businesses nationwide, claiming the business infringed on Landmark’s alleged patent rights.

In the letters, Landmark claims it has rights to a vaguely worded patent related to loan processing and credit reporting. In 2014, the United States Patent and Trademark Office deemed this patent likely to be declared invalid. Nonetheless, the company broadly and aggressively misuses the patent claims, targeting virtually any small business with a website, seemingly at random.

Winning historic relief for Washington seniors

In March, following a trial in the office’s lawsuit against CLA Estate Services, Inc. and CLA USA, Inc., a King County Superior Court judge ruled that the companies must pay a total of more than \$6.1 million plus 12 percent annual interest to 1,100 Washington seniors for misleading them about estate planning and other deceptive conduct. The judge also required the company to pay \$6.5 million in civil penalties and more than \$1.8 million in attorney’s costs and fees.

The \$14.5 million total represents the highest ever trial award in a Washington state consumer protection case brought by the Attorney General’s Office.

In his findings and conclusions following the trial, the judge stated, “CLA used scare tactics to instill fear in seniors that they would be left vulnerable and their families unprotected unless they purchased CLA’s Lifetime Estate Plan and set up revocable living trusts, which in turn gave CLA agents access to their living rooms and their assets to aggressively market complex annuities.”

In March 2018, the office filed a lawsuit against CLA for operating a “trust mill” by misleading hundreds of Washington seniors about estate planning to persuade them to purchase high-commission insurance products. Critically, in addition to the historic monetary judgment, the court ordered CLA to stop this “trust mill” scheme.

CLA cannot misrepresent Washington’s probate or trust law to consumers. If the company sends representatives to consumers’ homes, it must disclose that the representatives are licensed insurance agents working on commission who will market annuities and other products during the meetings. CLA must obtain written consent from the consumer for such marketing practices.

Protecting student loan borrowers from Navient’s deceptive conduct

In March, a King County Superior Court judge ruled that Navient, the country’s largest student loan servicer, violated the Consumer Protection Act by engaging in unfair and deceptive conduct related to Washingtonians’ student loans. This was the first time a judge ruled that Navient broke a consumer protection law in a student loan servicing lawsuit filed by a state’s Attorney General or federal consumer protection agency.

The office has been litigating this case since January 2017, seeking accountability for Navient’s conduct, legally enforceable terms to prevent future unlawful conduct and financial restitution for Washingtonians harmed by the unlawful conduct.

The judge ruled that Navient's statements promoting co-signer release misrepresented the way Navient actually implemented the program. Navient deceptively promoted a "co-signer release" feature of private loans to entice family and friends to co-sign loans. Navient then put up arbitrary barriers and failed to disclose that very few borrowers ever achieve co-signer release.

Specifically, Navient told borrowers they could become eligible to remove a co-signer by, among other things, making a certain number of consecutive, on-time loan payments. However, if a borrower made payments in a lump sum ahead of their regular due date, then resumed making the remaining payments as regularly scheduled, Navient treated the break in payments as a disqualifying event for releasing their co-signer. Navient applied this requirement in ways reasonable borrowers could not have foreseen.

Stopping a veterans' charity scam and redirecting funds to a legitimate charity

In January, the office announced that a sham veterans' charity is legally required to pay \$95,000 to Washington state. Healing Heroes Network Inc. deceived donors into believing most of their donations would help provide medical care for wounded veterans. In fact, it spent less than one percent of individuals' donations on veterans' medical care. For example, in 2016, the charity received \$2.7 million in donations nationwide, yet spent only \$1,128 to fund veterans' medical care.

The consent decree resolved the lawsuit against the Florida-based charity and its directors, Stacey and Allan Spiegel, for misleading donors. Thousands of Washingtonians made donations to Healing Heroes Network, also known as the Injured America Veterans Foundation. Consistent with the donors' intent, the office donated the \$95,000 recovery to a nonprofit that legitimately helps veterans receive medical care: Intrepid Fallen Heroes Fund. This nonprofit helps veterans nationwide, including veterans in Washington, receive medical care. It helps build treatment centers and provide care for veterans suffering from post-traumatic stress and traumatic brain injury.

The consent decree also required Healing Heroes Network to permanently stop soliciting donations. Healing Heroes ceased its operations in 2018 after learning of the investigation. Its owners, Stacey and Allan Spiegel, were also legally prohibited from overseeing or managing any nonprofit organization for five years.

Blocking price-fixing of canned tuna

In February, the office announced a judge ruled that StarKist, a canned tuna manufacturer, engaged in a price-fixing scheme from November 2011 through December 2013.

The office filed a lawsuit in June 2020 asserting that StarKist, its parent company Dongwon Industries and former Bumble Bee Foods CEO Christopher Lischewski, engaged in a price-fixing conspiracy involving Bumble Bee, Chicken of the Sea and StarKist to drive up the price of packaged tuna, violating Washington's Consumer Protection Act. As a result, Washington residents paid millions more than they should have.

StarKist is the leading manufacturer of packaged tuna, accounting for 40 percent of the market share. Washington was the first state to sue StarKist for the price fixing scheme, and was the first to reach a legally binding agreement, in October 2020, with Lischewski.

The office filed a motion in January 2020 asking the judge to conclude, prior to trial, that StarKist had violated the Consumer Protection Act by participating in a conspiracy to fix the price of canned tuna.

Stopping LuLaRoe's unlawful pyramid scheme

In February, the office announced that LuLaRoe, a California-based multi-level marketing business that sells leggings and other apparel to a network of independent retailers, would pay \$4.75 million to resolve the office's consumer protection lawsuit asserting that the company was operating a pyramid scheme.

In January 2019, the office filed a lawsuit against LuLaRoe and several of its executives, asserting that the defendants made unfair and deceptive misrepresentations regarding the profitability of being an independent retailer for LuLaRoe. For example, one LuLaRoe executive claimed that "so many of our retailers are making amazing money doing this part time" and "a huge number of people" sell \$15,000 to \$20,000 each month. Later in the same call, she claimed LuLaRoe has "a bunch of people" that can sell up to \$150,000 per month. Instead of profiting, many of the company's independent retailers were left with debt and unsold merchandise they could not return without taking a loss.

The lawsuit asserted that LuLaRoe violated the Washington Antipyramid Promotional Scheme Act and the Consumer Protection Act. In addition to LuLaRoe's deceptive misrepresentations regarding profitability, The lawsuit challenged LuLaRoe's unlawful bonus structure and unfair refund policy.



AG Ferguson discusses the office's Veterans Independent Enterprises of Washington case with King 5's Susannah Frame. Photo courtesy of King 5.

The resolution, filed in King County Superior Court, prohibited LuLaRoe from operating a pyramid scheme. Additionally, the resolution required LuLaRoe to be more transparent with retailers to avoid future deception. For example, LuLaRoe must publish an income disclosure statement that accurately details retailer income potential.

Returning unpaid wages to veterans

In January, as a result of a lawsuit brought by the office, nonprofit organization Veterans Independent Enterprises of Washington (VIEW) received \$1 million — the maximum allowed under its insurance policy — to pay its creditors, including 74 veterans who were owed wages. The employees' claims range from \$192 to \$48,925 in unpaid wages, totaling \$310,489.37.

Former operations manager Rosemary Hibbler significantly contributed to VIEW's decline, neglecting VIEW's transitional housing for veterans, receiving more than \$850,000 from

VIEW bank accounts and misappropriating nearly \$200,000 from VIEW's debit card, including withdrawing money at local casinos and buying gambling credits.

Also as a result of the lawsuit, Hibbler was barred from ever working in Washington's charitable sector, or accepting a job where she handles money in any capacity. Hibbler did not admit to her misconduct, but "agrees that sufficient evidence exists" to support the allegations. The two former board members, Donald Hutt and Gary Peterson, whose neglect allowed Hibbler's misconduct, were also barred from working in the charitable sector.

At Ferguson's request, the court appointed a receiver to take over VIEW's operations. The receiver, Daniel Bugbee — himself a veteran — used the \$1 million to settle VIEW's estate and pay creditors, including wage claimants. Because of the Attorney General's Office lawsuit, VIEW paid all employees the wages they were owed. All distributions required final approval of the court.



Tulip Tribes Chair Teri Gobin leads the opening ceremony for an event where Governor Inslee signed several bills into law, including AG-request legislation to create the Washington State Missing and Murdered Indigenous Women and People Task Force.

Missing & Murdered Indigenous Women & People Task Force

The Attorney General's Office launched a first of its kind Missing & Murdered Indigenous Women and People Task Force. The task force will assess systemic causes behind the high rate of disappearances and murders of indigenous women and people. The task force will include tribes and tribal organizations, as well as state and local policy makers.

“ I am honored to join my sisters to fight the crisis of MMIW. We have a powerful unified voice to work with local, state, federal and tribal governments to build policy, laws and programs that are fully funded and supported by all. We have heard messages from across this great nation stating that we must develop better processes for data collection and management and integrate cultural teachings to better work with and collaborate with survivors, families, tribal nations and all levels of law enforcement. Because even one girl missing is too many, and we must all heal together.

- Washington State Rep. Debra Lekanoff, D-40

The Washington State Legislature created the Washington State MMIW/P Task Force as part of the effort to coordinate a statewide response to the urgent crisis of Indigenous people who go missing, are the victims of homicide or experience other types of gender-based violence in urban and tribal communities.

Tribes, community members and grassroots activists have done substantial work to identify current challenges regarding data, reporting practices, causes of violence, investigations, prosecutions and direct services that directly impact the rates of violence against tribal and urban Indigenous communities. The 25-member task force, coordinated by the Attorney General's Office, will build on these efforts to address barriers and provide recommendations to the Legislature to close these gaps.

Violence against Indigenous women and within Indigenous communities continues to be underreported and misunderstood throughout Indian Country and the United States. Complex issues around jurisdiction and data collection have created obstacles to understanding the

full extent of how many Indigenous women have gone missing, been murdered or been the victim of other types of gender-based crime over generations.

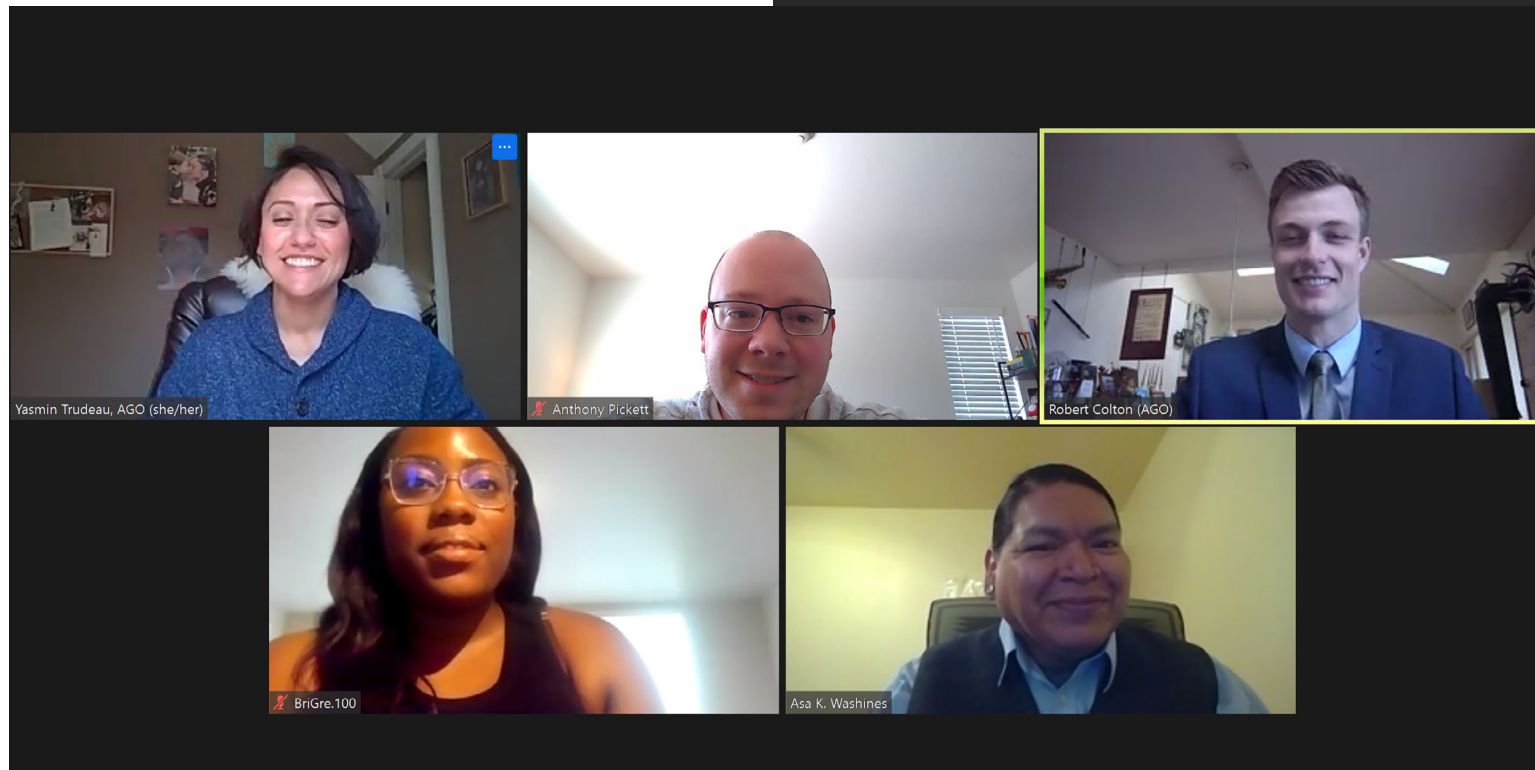
The task force combines the institutional and cultural knowledge of state agencies, tribal nations and Indigenous communities to center the experiences of victims and to approach the work in a way that is responsive to communities and grounded in Indigenous values.

The task force will assess the systemic causes that contribute to disproportionate rates of violence, provide recommendations for addressing barriers and review data collection and reporting protocols. Recognizing that tribal boundaries and communities would have extended far beyond contemporary borders, the task force will also address how the surrounding states and Canada are impacted by the jurisdictional and data gaps.

The task force held its first meeting in December of 2021. Its first report to the Legislature and Governor is due in August of 2022.

“ This work is urgent. Washingtonians are not truly aware of the number of Indigenous women who are missing and murdered. We need answers, we need good data and we need thorough investigations that can point the way toward solutions to prevent these crimes. It's important that the state put in place systems to track these cases to bring justice and to help families and communities heal. That's what the Attorney General's Office is empowered to do. This is a crucial step to make our society more responsive to the needs of victims and families.

- Washington State Sen. Manka Dhingra, D-45



2021 Legislative Team: Legislative Director Yasmin Trudeau, Executive Assistant Anthony Pickett, Legislative Analyst Robert Colton, Deputy Legislative Director Brittany Gregory, Tribal Liaison Asa Washines.

Legislative Priorities

Attorney General Ferguson's 2021 legislative priorities included strengthening the state Consumer Protection Act, requiring the collection and publication of data on the use of deadly force by law enforcement, prohibiting price gouging during emergencies and strengthening firearms laws.

"The independent investigations required under I-940 must be systemic, not discretionary decisions for local agencies. Ferguson's report proves that law enforcement agencies failed to show they can be trusted to carry out this new law alone. As Ferguson recommends, independent, consistent state-level oversight should hold agencies responsible for their compliance."

- Seattle Times Editorial Board, 03/02/2021

Passed

Consumer Protection Improvement Act

The Consumer Protection Act, Washington's law protecting consumers against unfair and deceptive business practices, included penalties that had not increased since they were adopted in 1970. Only five states had penalties lower than Washington. This legislation nearly tripled penalties for violations of the Consumer Protection Act to \$7,500 per violation, as well as creating a new, enhanced penalty of \$10,000 for violations that target vulnerable communities, including seniors, immigrants, BIPOC communities, individuals with disabilities and veterans. It also nearly doubles the penalties in the Consumer Protection Act for antitrust violations, which had not increased since the state adopted them in 1983.

Use of Force Data Collection

This legislation created a centralized, publicly accessible database containing all incidents of law enforcement use of deadly force in Washington state. Before the law, there was no single location where the public and lawmakers could obtain information about the use of deadly force by law enforcement officers. The legislation required agencies to collect and report key data regarding the incident, including the demographic characteristics of the officers and the members of the public.

Other Legislation

Prohibiting Price Gouging

As the COVID-19 pandemic took hold across Washington state, the Attorney General's Office received more than 1,300 complaints from residents about excessive price increases on items like face masks or hand sanitizer. Yet Washington did not have a specific law to prohibit price gouging during a state of emergency. This legislation has provided a clear and unambiguous

definition of price gouging and established civil penalties for violations. It also would have allowed businesses to recover any costs imposed outside of their control. While both chambers of the Legislature passed versions of this legislation, they failed to come to agreement on a final bill.

To be reintroduced

Banning the Death Penalty

This legislation eliminates the death penalty as a possible sentence for aggravated first-degree murder, and replaces it with life in prison without the possibility of parole.

Banning the Sale of Assault Weapons

This legislation bans the sale, manufacture, transfer, transport, and import of assault weapons in Washington state.

Banning the Sale of High Capacity Magazines

This legislation bans the sale, manufacture, transfer, transport, and import of high-capacity magazines in Washington state.

Free, Prior and Informed Consent

In May 2019, the office announced its historic policy that requires the Attorney General's Office to obtain free, prior and informed consent from Washington's 29 federally recognized tribal governments before initiating a program or project that affects tribes, tribal rights, tribal lands and sacred sites. This legislation would codify this policy, ensuring it cannot be unilaterally eliminated by future Attorneys General.

Repealing RCW 77.110

This legislation ensures the protection of off-reservation treaty rights and ongoing state-tribal cooperative agreements by repealing racist, anti-tribal and unenforceable language in state law that was passed by initiative in 1984. In 2021, the legislation passed the House unanimously, but failed to come to a vote in the Senate.



Attorney General Ferguson discusses a campaign finance lawsuit against Tim Eyman at a 2017 press conference.

Campaign Finance

The Attorney General's Office enforces the state's campaign finance disclosure laws to ensure free, open and fair elections in Washington.

“ In the history of the Fair Campaign Practices Act enforcement, it would be difficult for the court to conceive of a case with misconduct that is more egregious or more extensive than the misconduct committed by defendant Eyman in this matter.

- Judge James Dixon

Judge orders Tim Eyman to pay millions for “numerous and blatant violations” of campaign finance laws

In April, a Thurston County Superior Court judge ordered Tim Eyman to pay nearly \$2.9 million in costs and fees related to the office's campaign finance lawsuit against him. In February, the judge levied a separate civil penalty of \$2.6 million.

The judge ruled that Eyman's “numerous and blatant violations” were intentional. Eyman is a repeat violator of Washington state's voter-approved campaign finance laws. On multiple occasions, he illegally and intentionally concealed hundreds of thousands of dollars in campaign contributions that ended up in his personal bank account.

The Washington State Public Disclosure Commission (PDC) previously had investigated Eyman and found evidence that he had engaged in an illegal kick-back scheme. The PDC referred the case to the Attorney General's Office for enforcement. At that time, the PDC Chair called it “one of the most egregious” violations the PDC had ever seen in its nearly 50 years of existence.

In a previous judgment against Eyman, the judge wrote: “In the history of the Fair Campaign Practices Act enforcement, it would be difficult for the court to conceive of a case with misconduct that is more egregious or more extensive than the misconduct committed by defendant Eyman in this matter.”

Moreover, the judge ruled that Eyman's illegal conduct was “part of a pattern of violations, which resulted from a knowing and intentional effort to conceal, deceive, mislead and engage in collusive behavior [as defined by the law].”

The judge also ruled that Eyman deposited checks into his personal account that were made out to his initiative committee. Eyman, he ruled, “benefitted personally” from his unlawful conduct.

The judge prohibited Eyman from directing the finances of any political committee. The order does not prevent Eyman from

conceiving, drafting and promoting initiatives. He is prohibited from deciding how political committees spend their money, negotiating with vendors, and directing financial kickbacks into his personal bank account.

Forcing Google to pay for continued campaign finance violations

In June, the Attorney General announced that Google would pay \$423,659.76 to Washington's Public Disclosure Transparency Account for violating the state's campaign finance disclosure law, which Washingtonians adopted by initiative in 1972.

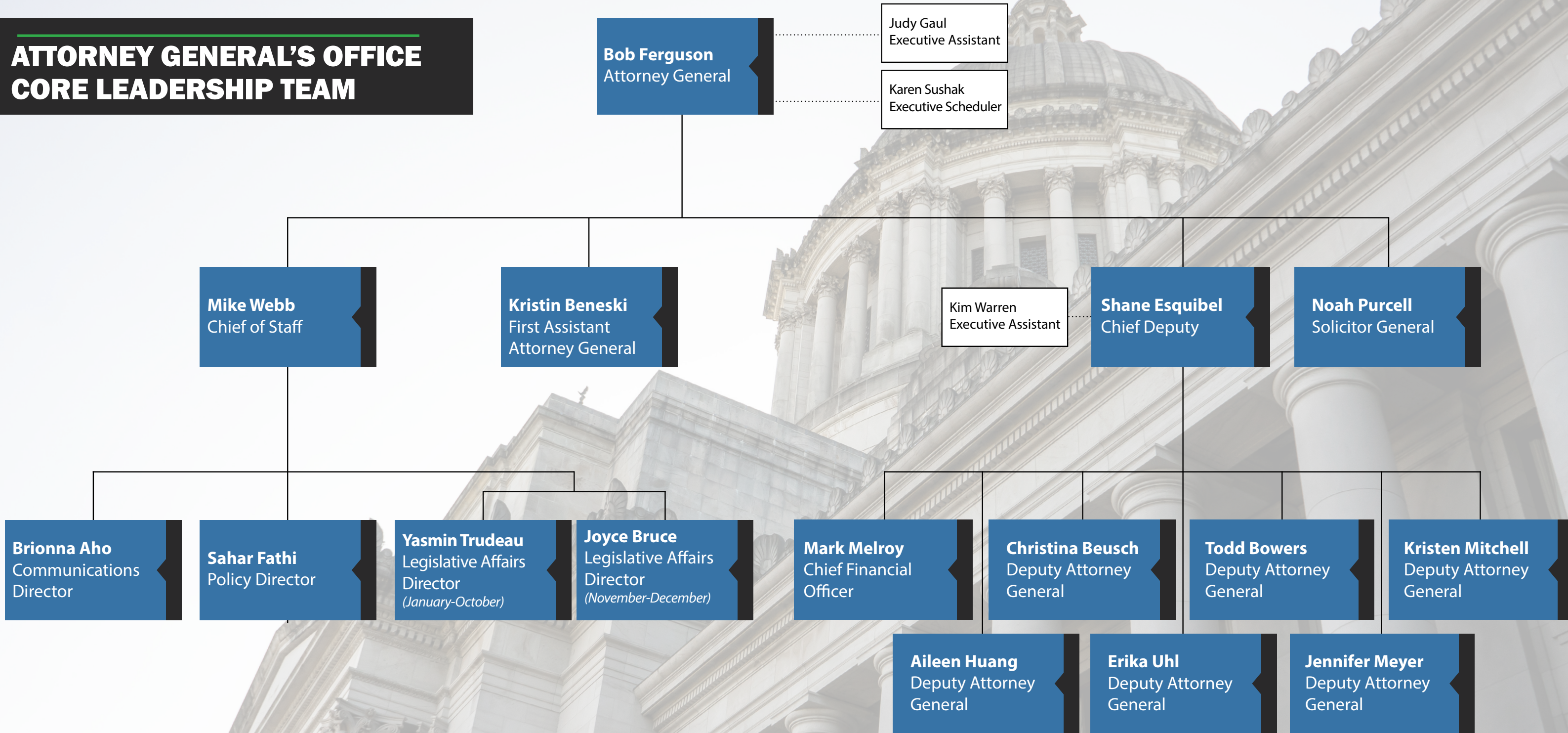
Washington's voter-approved Fair Campaign Practices Act requires political advertisers to retain records related to political ads because the public has a right to inspect the records, including the cost of the ad, the sponsor, and the person paying for the advertisement. The lawsuit followed Google's failure to retain and disclose state political ad records.

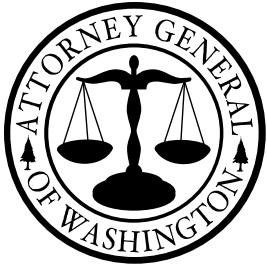
It was the second time the office took legal action against Google for violating Washington's voter-approved law on political advertising. In June 2018, the office filed a lawsuit against Google for similar conduct that resulted in Google paying a \$200,000 judgment and an additional \$17,000 to reimburse the state's attorney fees.

During that lawsuit, Google announced a moratorium on political ads for Washington state and local elections. The office never requested that Google stop selling political ads in Washington. Google's voluntary policy was not required by the consent decree signed by the court when the case resolved.

Despite Google's announced voluntary ban, Washington political ads continued to appear on the company's advertising networks. Google hosted these ads without retaining and disclosing records regarding those ads, as required by law. From June 4, 2018 until the filing of the second lawsuit, 57 Washington candidates and political committees reported 188 payments related to ads on Google's advertising networks — a total of \$461,334.

ATTORNEY GENERAL'S OFFICE CORE LEADERSHIP TEAM





Washington State Attorney

General's Office

Olympia, WA 98504

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OFFICE DIVISIONS 2021



WASHINGTON STATE ATTORNEY
GENERAL'S OFFICE



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The Attorney General's Office is organized into a number of key divisions that collectively represent more than 230 state agencies, boards and commissions.

Under state law, the specific duties of the Office of the Attorney General include:

- Representing the State of Washington before the Supreme Court, the Court of Appeals and trial courts in all cases that involve the state's interest.
- Advising the Governor, members of the Legislature and other state officers on legal issues, and, when requested, giving written opinions on constitutional or legal questions.
- Protecting the public by upholding the Consumer Protection Act, enforcing laws against anticompetitive business practices, representing the public interest in utility matters, and serving as Counsel for the Environment in the siting of energy facilities.
- Investigating and prosecuting persons accused of crimes if requested.

Attorney General's Office Mission, Vision & Values

MISSION
The Office of the Attorney General will provide excellent, independent, and ethical legal services to the State of Washington and protect the rights of its people.

ANTI-RACIST COMMITMENT
The Office of the Attorney General is committed to recognizing, addressing, and eradicating all forms of racism within the scope of its work and operations. Conversations about race require courage, respect, and compassion. We recognize that when we enter into these conversations, we may not always be comfortable and may need to lean into the discomfort. As an agency that strives to be anti-racist, it is our goal to identify, discuss, and challenge racial inequity in the workplace and the impact it has on our employees, and, within our authority, combat racism that impacts the people of the State of Washington.

VISION
The Office of the Attorney General will be the best public law office in the United States.

- VALUES**
All staff in the Office of the Attorney General are guided by the following core values:
1. We will deliver high quality legal services and remember that we serve the people of the State of Washington.
 2. We will conduct ourselves with integrity, professionalism, civility, and transparency.
 3. We will promote a collegial, diverse, inclusive, and anti-racist workplace that values, respects, and supports all of our employees.
 4. We will foster a culture of belonging that upholds the dignity of every employee in the agency.

LEGAL DIVISIONS

Agriculture and Health

Division Chief: Eric Sonju, Senior AAG

Overview: The Agriculture & Health Division provides legal counsel to the Department of Health, the State Board of Health, and 28 health professional regulatory boards, commissions and advisory committees; the Department of Agriculture and 23 agricultural commodity commissions; the Department of Commerce; the Department of Archaeology & Historic Preservation; and several other entities. Division attorneys, with the assistance of division professional staff, provide client advice and representation, primarily in a wide variety of areas involving administrative litigation. Those include the regulation of health professionals and facilities; the protection of environmental and public health; the regulation of agricultural activities, food processing and pest eradication; the preservation of historic and archaeological resources; and the promotion of renewable energy and the state's economy and infrastructure.

Legal Highlights: In 2021, the Agriculture & Health Division responded to countless requests for legal advice on a diverse array of issues and represented its client agencies in many new cases. Division attorneys, with key support from professional staff, continued to be on the frontline of the state's response to the COVID-19 pandemic. Attorneys provided legal advice on a wide variety of novel and emergent issues to the Departments of Health and Commerce and the Governor's Office, including vaccine distribution, face covering and testing orders, gubernatorial emergency proclamations, lowering regulatory barriers to surging health care facility and staff capacity, infection control measures in farmworker housing, and administering grant programs to address the pandemic's harmful economic impacts.

The division's other important work continued unabated as well. The division opened a total of 206 matters, including more than 160 disciplinary cases against licensed health professionals and unlicensed individuals for engaging in unprofessional conduct and unsafe practices. Division attorneys advised their agency clients on rulemaking and other matters related to the regulation of the health care sector and the protection of our economic, cultural, and environmental resources, including on the implementation of the historical Health Environment for All (HEAL) Act.

Antitrust

Division Chief: Jonathan Mark, Senior AAG

Overview: The Antitrust Division enforces state and federal competition laws that foster innovation and the public's ability to choose amongst a range of safe and effective products, services, and labor. The division analyzes proposed acquisitions, mergers, and affiliations for potential anticompetitive issues. It also investigates and coordinates investigations of antitrust issues with other state and federal enforcers. This enables the division to prevent and address harm from price fixing, bid rigging, monopolization, anticompetitive mergers and other conduct that interferes with fair competition.

Legal Highlights: The division filed several enforcement actions in 2021. It filed a lawsuit against Google for its use of anticompetitive practices that insulate its app distribution service, the Google Play Store, from competition and force Android app developers to raise app prices for consumers in order to pay exorbitant fees demanded by Google. It also filed a lawsuit against 19 broiler chicken producers and a data reporting service, alleging they conspired to drive up the price of chicken purchased in restaurants and grocery stores, causing consumers to overpay by millions of dollars.

The division filed a lawsuit against Bellingham Anesthesia Associates for its use of unlawful non-compete clauses and exclusive contracts with area medical providers to dominate 90% of the market for physician-administered anesthesia services in Whatcom and Skagit counties. It resolved this lawsuit with a Consent Decree that requires it to stop requiring three-year non-compete contracts and to pay \$110,000.

The division completed its second year of managing a new premerger notification program for healthcare providers. The program, established by statute, requires hospitals, hospital systems, and provider organizations to provide 60 days' advance notice to the Attorney General's Office of any proposed material change, such as a merger, acquisition, or contracting affiliation. The premerger notification program has caused at least one set of parties to abandon a proposed transaction, after the division expressed concerns.

The division continued to assist in the administration of

\$2.5 million in *cy pres* grants awarded to local healthcare providers for patient services on the Kitsap Peninsula, as part of the resolution to the division's lawsuit against CHI Franciscan. These funds ensured that the affected community had increased healthcare resources in place to draw upon during the COVID-19 pandemic.

Bankruptcy and Collections Unit

Section Chief: Susan Edison, Senior AAG

Overview: The Bankruptcy and Collections Unit of the Revenue and Finance Division encourages compliance with the state's tax laws by supporting the state agencies' efforts to aggressively pursue money owed to the state. The unit litigates bankruptcy cases under Chapter 11 and Chapter 13 of the Federal Bankruptcy Code and fights to ensure the state's priority in any recovered claims. The unit also handles a significant number of collection actions against the bonds of contractors who are delinquent in tax payments. The unit provides client advice on a daily basis to revenue agents as they work to collect unpaid taxes.

Legal Highlights: The unit collected a total of \$7,439,177.63 for its clients in 2021. Contributions of \$484,707.52 came from the contractor bond program, which opened 67 cases to collect delinquent taxes owed to the Departments of Revenue and Labor & Industries and 5 cases on behalf of employees of contractors to collect unpaid wages. The unit also opened 72 bankruptcy files, primarily for cases under Chapters 11 and 13, recovering \$3,896,609.56 for client agencies. The unit's participation in 48 other legal cases resulted in recoveries totaling \$2,271,821.74.

Children, Youth, and Families

Division Chief: Carrie Wayno, Senior AAG

Overview: The newly created Children, Youth, and Families Division provides advice and representation to the Department of Children, Youth, and Families (DCYF) and coordinates with four other divisions statewide performing similar work. The division's 25 attorneys and 23 professional staff advise DCYF regarding the operation of its early learning, child care and foster care licensing, child welfare, and juvenile rehabilitation programs. The division also represents DCYF in four local counties. This work touches on issues such as civil rights, Indian child welfare, contracts, confidentiality and information sharing, and child abuse and neglect. The division also represents

DCYF in dependency cases in which the goal is to safely reunify children removed from their homes due to allegations of child abuse or neglect, and in the alternative, identify an appropriate alternate permanent home. The division represents DCYF in permanency cases including both termination of parental rights and guardianship cases. The division handles this juvenile litigation in four local counties—Thurston, Grays Harbor, Lewis, and Mason Counties—and appeals of orders from these counties, as well as administrative appeals of foster care and child care administrative decisions. Division members also regularly provide legal training to DCYF staff, coordinate trainings for attorneys representing DCYF statewide, and contribute to stakeholder and court improvement meetings.

Legal Highlights: Division litigation ranges from a federal court class action lawsuit involving several hundred foster youth to a dependency case involving one family. Litigation now handled in this division challenged DCYF's foster care licensing requirement that prospective foster parents support LGBTQ+ foster children. Another challenged conditions of confinement in juvenile rehabilitation facilities. In 2021, a division unit opened 220 new dependency cases (each involving one family), 78 new termination of parental rights cases, and 12 guardianship cases, which were litigated by remote means, in-person, and in hybrid formats. The division also opened 37 new dependency and termination of parental rights appeals and provided appellate support to the other four divisions representing DCYF. Division members also joined an effort to provide attorney training on race, bias, and disparity in the child welfare system, and worked closely with court partners to update judicial resources regarding remote hearings, and about changing legal requirements.

Civil Rights Division

Division Chief: Colleen Melody, Senior AAG

Overview: The Wing Luke Civil Rights Division investigates and files affirmative enforcement actions to protect and defend the civil rights of Washingtonians. In addition to litigation on behalf of the people of the state, the division administers and enforces the pregnancy accommodation provisions of the Healthy Starts Act and the employment provisions of the Fair Chance Act. The division also serves as enforcement counsel to the Washington State Human Rights Commission.

Legal Highlights: The division took enforcement action in an array of civil rights matters in 2021, including in the areas of employment, housing, commercial transactions, government services, and police practices. The division won a significant trial victory against The GEO Group, the operator of a for-profit immigration detention center in Tacoma, for failing to pay employed detainees the minimum wage and for unjustly enriching itself through abusive labor practices. The division also reached a favorable resolution against Greyhound Lines, which must now cease allowing U.S. Customs and Border Protection agents to board Greyhound buses to conduct immigration sweeps. In addition to these resolutions, the division initiated litigation in a range of cases, including a lawsuit against janitorial services company National Maintenance Contractors over its unlawful and deceptive franchise agreements that take advantage of immigrants. The division also filed suit against the travel insurance company Allianz for its discriminatory treatment of policyholders who have to cancel or change travel plans because of a mental health event.

In addition to prosecuting these lawsuits and a number of cases for the Human Rights Commission, the division concluded its enforcement work related to Governor Inslee's emergency proclamation prohibiting evictions and related residential housing practices during the COVID-19 pandemic. Between April 2020 and the end of 2021, the division filed three lawsuits to enforce the proclamation and fielded 11,300 complaints and inquiries from Washingtonians about their rights and obligations under the proclamation.

Complex Litigation

Division Chief: Jeff Rupert, Senior AAG

Overview: The Complex Litigation Division pursues complex affirmative cases for the state on a variety of subject matters and defends agencies against class actions, multi-party lawsuits, multi-claim lawsuits and lawsuits against elected officials. The division often works in conjunction with other divisions.

Legal Highlights: In 2021, the division litigated a wide range of cases in conjunction with numerous other divisions. The division began its multi-month trial against McKesson Corp., Cardinal Health Inc. and AmerisourceBergen Drug Corp. in November. The division handled the appeal of Purdue Pharma's

bankruptcy and reached a \$13.5 million resolution with McKinsey, a multinational consulting firm that worked with Purdue. The division represented the state in a number of remaining actions against the Trump administration. It also handled campaign finance cases involving Tim Eyman, as well as Google, and resolved the long-running case against the Grocery Manufacturers Association with a \$9 million settlement. The division defended numerous cases challenging the Governor's emergency orders. In addition, the division worked on a number of certified and putative class actions, cases seeking systemic changes to certain agencies, injunctive actions, and torts.

Consumer Protection

Division Chief: Laura Clinton, Senior AAG

Overview: The Consumer Protection Division enforces laws that protect Washingtonians from unfair or deceptive business practices as well as laws that provide special protections to active duty servicemembers. The division investigates and prosecutes individuals and businesses for conduct that impacts Washington consumers. Every year, the division recovers millions of dollars for consumers in addition to other financial relief such as debt forgiveness, obtains injunctive relief preventing future misconduct, and requests monetary penalties against offending businesses. The division further supports individual consumers directly through its Consumer Resource Center, the automobile Lemon Law Unit, and the Manufactured Housing Dispute Resolution Program.

Legal Highlights: Over the course of the year, the division's litigation efforts obtained over \$57 million in monetary relief on a wide gamut of cases. In January, a judge ruled a sham charity that deceived donors into believing their donations would provide medical care for wounded veterans would pay almost \$1 million dollars to legitimate charities that serve veterans. Division attorneys also brought claims against LuLaRoe, a California-based multi-level marketing business, for operating a pyramid scheme in Washington. That action resulted in a \$4.75 million settlement. In the spring, the division took two estate planning companies to trial, and a King County Superior Court judge ordered them to pay more than \$14.5 million for misleading Washington seniors. In October, the division settled a lawsuit against Reed Hein, also called the "Timeshare Exit Team," and the company will pay \$2.61 million to be divided among

2,800 Washington consumers. In November, the division successfully stopped Amazon from selling regulated pesticides to Washingtonians. As part of the settlement, Amazon agreed to pay \$2.5 million and institute numerous reforms to its online marketplace. The division also brought cases under the Honest Fees Initiative, and was instrumental in creating the agency's first anti-robocall task force.

The division's direct service programs assist the public with resolving individual complaints against businesses. The Lemon Law program aids new vehicle owners who have substantial problems with warranty repairs and it returned \$7.5 million to consumers. Similarly, the division's Consumer Resource Center received 21,627 consumer complaints and over 30,000 consumer calls, and helped Washington consumers recoup \$10.5 million through its informal complaint resolution programs.

Corrections

Division Chief: Tim Lang, Senior AAG

Overview: The Corrections Division advises and represents the Department of Corrections (DOC), the Indeterminate Sentence Review Board (ISRB), and the Governor's Clemency & Pardons Board. The work of the division includes defending the lawfulness of criminal convictions and sentences in habeas corpus, personal restraint, and post-sentence review proceedings. The division also provides legal advice and defends the state in § 1983 and other litigation concerning prison operations and other aspects of the state corrections system. Corrections attorneys appear frequently in federal and state trial and appellate courts, and the division has a significant appellate practice, including at the Ninth Circuit Court of Appeals and Washington Supreme Court.

Legal Highlights: Despite most staff continuing to work remotely due to the pandemic, the division litigated hundreds of state and federal court matters in 2021. In total, there were approximately 405 new trial and appellate matters opened and 463 cases closed. The division also handled 150 community custody revocation matters before the ISRB.

Litigation highlights included successful defense of significant COVID-19 litigation in *Rush v. DOC and DOH*. Division staff's work led to the denial of class

certification and preliminary injunctive relief then eventual dismissal of the case on summary judgment regarding the state's provision of COVID-19 vaccines to incarcerated individuals. Division attorneys also successfully defended the ISRB in a personal restraint petition seeking release of an individual serving a life sentence for the notorious 1980 SeaTac Barn Door Tavern murders (*Pauley*), and successfully defended DOC in civil rights litigation filed on behalf of five incarcerated individuals who claimed to have been transferred to another prison and placed in solitary confinement for participating in a food strike (*Augustine*).

Non-litigation highlights included participating in a stakeholder workgroup formed to assist with planning for *Blake* resentencings, which referenced the Washington Supreme Court decision declaring the state's simple drug possession statute unconstitutional, and continuing to represent DOC in ongoing negotiations with Disability Rights Washington over access to care, housing, and property items by transgender and gender non-conforming persons in DOC custody.

Criminal Justice Division 2021

Division Chief: John Hillman, Senior AAG

Overview: The Criminal Justice Division protects public safety through the civil commitment of sexually violent predators, investigation and prosecution of criminal offenders, and providing legal advice and representation to the Washington State Patrol (WSP) and Washington State Criminal Justice Training Commission.

Legal Highlights: The division's affirmative litigation units faced numerous pandemic-related obstacles in 2021, including significant interruptions in court operations. Despite this, the Sexually Violent Predator (SVP) Unit resumed its trial work in April and tried four cases in 2021, with three resulting in the civil commitment of individuals alleged to be sexually violent predators. Thirteen new SVP Petitions were filed in 2021, double the number filed in any of the previous five years.

The Criminal Litigation Unit (CLU) also experienced interruptions in court operations that prevented any criminal cases from getting to trial but this did not reduce the unit's workload. CLU charged 12 defendants with crimes in 2021, including three

police officers accused of murder and manslaughter for the death of Tacoma citizen Manuel Ellis (*State v. Burbank, Collins, and Rankine*); charging the Pierce County Sheriff with false reporting (*State v. Troyer*); and a large embezzlement case (*State v. Ackerman*). The CLU also litigated pretrial issues in previously charged cases throughout 2021, including *State v. David Nickels* (murder) and *State v. Bond & Jackson* (wage theft investigation and prosecution).

The Homicide Investigation Tracking System (HITS) Unit collects data on violent crime and assists local law enforcement with investigative support. In 2021, HITS performed 32 Case Comparisons, responded to 60 information requests and several consultations on unresolved homicides. HITS collected information for its database on 386 murder cases, 86 rape cases and 958 crime data cases. The unit sent out 716 bulletins on behalf of law enforcement, and in several cases this led to the quick identification and apprehension of dangerous suspects. HITS also provided subject matter expertise and data to the Missing and Murdered Indigenous Women and People Task Force, and planned and coordinated the Washington Law Enforcement Medal of Honor Ceremony in October 2021.

The Sexual Assault Kit Initiative (SAKI) project continued to fund testing of Washington's backlog of sexual assault kits, resulting in a total of 9,479 kits submitted for testing by the end of 2021 and 2,325 DNA profiles uploaded to the national database by the WSP Crime Lab. The SAKI Team also aided in the collection of DNA from convicted Washington offenders who owe a DNA sample, including 370 registered sex offenders.

Ecology

Division Chief: Andy Fitz, Senior AAG

Overview: The Ecology Division represents the Department of Ecology, the Energy Facility Site Evaluation Council, the Puget Sound Partnership, the Pollution Liability Insurance Agency, and the State Conservation Commission. The division resolves disputes, provides advice, and represents the state before courts and administrative tribunals on permitting, legislation, rulemaking, and enforcement matters. The largest areas of practice are water resource management and cleanup of contaminated sites. The division also assists the Department of

Ecology in oversight of the U.S. Department of Energy's cleanup of mixed radioactive and hazardous waste at the Hanford Nuclear Reservation.

Legal Highlights: The division advised and represented Ecology on hundreds of matters. These included advising Ecology on the implementation of a number of ground-breaking legislative initiatives to address climate change and environmental justice, including the Climate Commitment Act, the adoption of low carbon fuel standards, and the Healthy Environment for All Act. The division advised on orders and negotiated court-entered settlements that result in millions of dollars in environmental cleanup work being undertaken, including the removal of 35,000 industrial waste drums from the Pasco Landfill Site and significant property redevelopment efforts that include the creation of new affordable housing. Division attorneys are also working with the agency to address the impact of per- and polyfluoroalkyl substances on the environment and public water supplies and support natural resource damage recovery efforts to restore water and land damaged by pollution.

Division attorneys handled complex litigation in federal and state courts, including serving as the lead in a multistate lawsuit over a federal rule that weakened the Clean Water Act, defending a No Discharge Zone determination for Puget Sound, and preparing for the final phase of litigation in the long-running *Pakootas v. Teck Metals Ltd.* Case. This case concerned liability under federal and state law for domestic pollution from a Canadian smelting complex. The division continued its traditional work of supporting Ecology's regulatory enforcement efforts, including defending the appeal of a more than \$1 million nuclear waste penalty. Division attorneys also completed work on the historic *Ecology v. Acquavella* case, which closed out a 45-year long adjudication of water rights in the Yakima River Basin.

Education Division

Division Chief: Aileen Miller, Senior AAG

Overview: The Education Division provides a full range of legal services to the state's education agencies, boards, commissions, community and technical colleges and regional universities. Division attorneys represent the client agencies in a variety of administrative and court proceedings and provide

legal interpretation and guidance on a broad array of issues, including conflict resolution, business transactions and compliance with many overlapping federal and state laws. Education attorneys also prosecute professional misconduct cases related to teacher licensing and help enforce consumer protection regulations for private vocational schools.

Legal Highlights: The COVID-19 pandemic heavily impacted all of Washington's education agencies, their students, and employees. Education attorneys worked on numerous COVID-19 related issues including interpretation of Governor Proclamations, reopening of higher education institution campuses, masking, and the availability of the COVID vaccine and associated mandates, incentives, and requests for accommodation. Attorneys also advised on labor relations matters, bid protests, implementation of the new federal Title IX regulations, the confluence between free speech and unlawful harassment, and the first implementation of the charter school renewal process.

Environmental Protection Division

Division Chief: Bill Sherman, Senior AAG

Overview: The Environmental Protection Division brings affirmative civil and criminal actions to protect Washington's environment, natural resources and human health, using the Attorney General's independent authority under state and federal law.

Legal Highlights: The Environmental Protection Division, in partnership with the Consumer Protection Division, secured a \$2.5 million settlement and consent decree with Amazon.com to resolve the company's improper sales of regulated pesticides without a license. In addition to the payment, Amazon was required to obtain a license in the future if it restarts sales of these regulated pesticides, and to enact specific and legally enforceable corporate reforms, including putting safeguards in place on its site to block illegal sales of these pesticides.

In ongoing litigation against Crown Resources, Inc., for the company's violations of the Clean Water Act at the Buckhorn Mine, the division prevailed in a motion for partial summary judgment, dismissing two of the company's defenses and clarifying the state's burden in prosecuting the case. The division also obtained a favorable report and recommendation

from a magistrate judge in ongoing litigation against the U.S. Navy for violations of the National Environmental Policy Act (NEPA) stemming from the increase in EA-18G "Growler" jet fleet siting near communities, wildlife populations, and historic resources on Whidbey Island.

Litigation successfully prompted federal action in response to two multistate cases led by our office. First, our suit against the White House Council on Environmental Quality over the rollback of regulations implementing NEPA resulted in the issuance of an interim final rule and a draft rule reinstating NEPA protections. Second, our suit against the Department of Interior for improperly opening the North Slope of the Arctic National Wildlife Refuge to oil and gas drilling caused the federal government to pause leasing activity and prepare a supplemental environmental review for the leasing program.

Finally, the division successfully prosecuted six environmental crimes in 2021, including those dealing with asbestos, trafficking in endangered animals, derelict vessels, shoreline violations, and illegal pesticide use. This includes successfully conducting the first jury trial for a violation of the Washington Animal Trafficking Act. At this time, the environmental criminal program has secured 44 convictions, and restitution, fee, and fine orders totaling over \$5 million.

Government Compliance & Enforcement

Division Chief: Stacia Hollar

Overview: The division's 28 attorneys and 21 professional staff litigated over 1,000 matters before state and federal courts and administrative tribunals.

Legal Highlights: Division staff contributed to public safety by: successfully prosecuting a number of health care providers for sexual misconduct and boundary violations; prosecuting doctors, dentists, and veterinarians who practiced below the standard of care; and handling opioid over-prescription and diversion cases. Staff also handled a number of COVID-19 related cases involving medical practitioners who refused to mask, gave out false information about vaccines, or who prescribed medication that is not proven effective for treating COVID-19.

Staff also represented the Liquor and Cannabis Board in cases against liquor licensees that failed to comply with COVID-19 related restrictions. Staff also litigated cases enforcing the state's ethics and campaign finance laws, successfully represented the Criminal Justice Training Commission in peace officer decertification hearings, and prosecuted financial professionals engaged in fraud on behalf of the Department of Financial Institutions. Staff helped the Washington State Patrol (WSP) obtain monetary recoveries in civil forfeiture matters, and advised WSP troopers statewide in numerous vehicle impound hearings.

Finally, staff provided a significant amount of advice to its numerous clients, including: assisting the Insurance Commissioner with emergency rulemaking involving a temporary prohibition on the use of credit scoring in personal lines of insurance; assisting the Gambling Commissions with negotiating numerous sports wagering tribal compacts; and advising various state agencies on issues of diversity, equity and inclusion.

Labor and Industries

Division Chief: Lionel Greaves IV, Senior AAG

Overview: The Labor and Industries Division, together with partners in the Tacoma, Spokane and Regional Services divisions (collectively "LNI"), represents and advises the Department of Labor & Industries (DLI). Specific DLI responsibilities include but are not limited to Washington's state fund and self-insured workers' compensation programs, the collection of premiums to fund workers' compensation, wage and hour requirements, industrial safety and health enforcement, the regulation of contractors and building trades and crime victim claims. The division is one of the largest in the office, with over 100 personnel and has over 200 AGO employees contributing to programmatic work at any given time.

Legal Highlights: LNI has a high-volume litigation practice, as exemplified by the fact that it opened approximately 7,000 matters in 2021. As an example, LNI began representing DLI in workplace safety enforcement litigation against Amazon, which was one of the first regulatory actions in the nation addressing the excessive injury rates in Amazon warehouses. LNI secured an order from the Board of Industrial Insurance Appeals upholding one million dollars in citations against an employer who jeopardized their workers' health by violating COVID safety rules. LNI filed a joint enforcement lawsuit against three cannabis retailers and their parent corporation, for wage and hour violations. LNI is advising on significant rules protecting workers

from both heat and wildfire smoke exposure. In the era of climate change, DLI has issued some of the most protective emergency rules in the nation. LNI continues to defend orders providing injury coverage to workers and their families who are suffering from radiological exposures at Hanford, as well as workers who contracted COVID-19.

In addition, LNI is responsible for advising and representing DLI in a wide range of legal work:

- Administering workers' compensation benefits for 2.6 million eligible workers and 187,000 employers, including handling nearly 6,000 appeals.
- Ensuring safety for 3.3 million workers, including advising on policy and defending hundreds of citations.
- Returning \$1.7 million to workers through wage complaint investigations and enforcement.
- Assessing over \$17 million in premiums, penalties and interest for unregistered employers who were not contributing to insurance coverage for their workers and collecting \$275.1 million in delinquent premiums overall.
- Enforcing public safety and regulatory laws in the areas of electrical work, contractor registration, plumbing, boilers, factory-assembled structures, elevators and amusement rides.

Labor and Personnel

Division Chief: Valerie B. Petrie, Senior AAG

Overview: The division provides advice and representation in the specialized area of labor and employment law to nearly every Washington state agency, elected official, board, commission and institution of higher education. Attorneys have expertise in a variety of employment issues, including labor relations, public disclosure, wage and hour laws, immigration, Family Medical Leave, disability and reasonable accommodation, employee misconduct and discipline, and prevention of discrimination and sexual harassment. The division provides legal representation in a variety of settings, including hearings before independent arbitrators, administrative personnel boards, labor commissions, the Washington State Human Rights Commission, the Equal Employment Opportunity Commission, and state superior, federal and appellate courts.

Legal Highlights: The division handled interest arbitrations, which are hearings in which an employer and employee union present cases to an arbitrator to resolve disputes over the final terms of a collective bargaining agreement. The division also was involved in defending the

state in multiple lawsuits relating to exclusive bargaining representation and union dues deduction provisions. Additionally, throughout the COVID-19 pandemic, the division provided extensive advice and representation to state agencies and higher education institutions on emerging labor and employment issues related to COVID-19, to include workplace exposures to the virus, mandatory telework, state and federal paid leave options for employees while teleworking, employee screening and wellness checks, protective equipment, employee safety, and mandated vaccinations.

Licensing and Administrative Law

Division Chief: Eric Peterson, Senior AAG

Overview: The Licensing and Administrative Law Division's work touches the lives of all Washingtonians and focuses on promoting public safety, protecting the economy, and preserving public integrity and trust. The division prosecutes administrative actions against individuals and businesses under licensing and regulatory laws governing drivers and approximately 45 professions and businesses, and handles issues relating to unemployment, paid family and medical leave, long-term care benefits and taxes, recreational marijuana, and liquor. The division has 18 state agency and board and commission clients.

Legal Highlights: The division assisted the Employment Security Department (ESD) with implementing multiple unemployment benefit programs that, by the close of 2021, awarded more than \$21 billion in benefits to more than 1.2 million Washingtonians. The division also assisted ESD after a data breach of a State Auditor's Office vendor, which exposed personal information of 1.3 million unemployment claimants. The division defended litigation against ESD relating to its pandemic claims processes and response, successfully negotiating a resolution to clear backlogs and improve the experiences of unemployment claimants. The division worked with the Complex Litigation Division to investigate and recover unemployment benefits imposter fraud losses from financial institutions, in pioneering use of state forfeiture law.

The division continued to assist ESD with implementing the paid family and medical leave program, which launched for benefits in 2020. The division advised ESD on preparing for launch of the long-term support services (WA Cares) program, related rulemaking and legislation,

and ESD's processing of more than 344,000 exemption applications. The division also helped to defend litigation challenging the program. The division advised and represented ESD on H-2A agricultural laborer health and safety and wage payment issues, including negotiating a settlement with a large employer to improve COVID-19 safety protocols.

The division helped to defend class action claims relating to the suspension of drivers' licenses and advised the Department of Licensing (DOL) on licensing applications by national electric car manufacturers. The division continued to assist DOL and the Liquor and Cannabis Board (LCB) with enforcing the Governor proclamations, and advised on pandemic-related issues. The division defended a challenge against the Lottery Commission's "Shot of a Lifetime" effort to increase vaccination rates. The division represented LCB in negotiating marijuana compacts with tribes, and in a constitutional challenge against restrictions on cannabis advertising, and defended multiple challenges against LCB's enforcement rules.

Medicaid Fraud Control

Division Chief: Larissa Payne, Senior AAG

Overview: The Medicaid Fraud Control Division criminally and civilly prosecutes provider fraud as well as the abuse and neglect of persons in residential facilities and in connection with the provision of healthcare services.

Legal Highlights: In 2021, the division received approximately 2,266 referrals: 1,952 regarding abuse and neglect and 314 for fraud. The division referred out approximately 594 matters to other agencies. It also continued to diversify its case mix and opened 471 investigations: 337 civil and 134 primarily criminal. The Division obtained six criminal convictions (four fraud and two abuse and neglect), filed eight criminal cases (five fraud and three abuse and neglect), and settled seven civil matters. It recovered \$3,770,714.02 comprised of \$257,912.18 for in-state civil cases, \$3,399,826.01 for global cases and \$112,975.83 in criminal restitution.

Public Counsel Unit

Unit Chief: Lisa W. Gafken, Senior AAG

Overview: The Public Counsel Unit represents customers of companies regulated by the Utilities and Transportation Commission (UTC), including Washington's investor-owned electric, natural gas,

water, and telecommunications utilities and companies transporting people, property, and solid waste. Public Counsel advocates for consumers by presenting evidence, legal arguments, and policy recommendations to the UTC when companies request rate changes, propose mergers, propose changes in services, present policy issues, or violate regulatory requirements. Public Counsel also participates in the UTC's rulemaking and policy dockets to ensure that the customers' voices are represented.

Legal Highlights: In 2021, Public Counsel represented consumers in major rate cases before the UTC involving Washington Water Service Company, Cascade Natural Gas Company and NW Natural Gas Company. Public Counsel also intervened in Puget Sound Energy's request for approval on a sale in which owner Canada Pension Plan Investment Board would sell its 31.6% interest to Ontario Teacher's Pension Plan Board and Macquarie Washington Clean Energy Investment L.P. The unit also represented customers in PacifiCorp's request for a "power cost only rate case." Public Counsel addressed water rate cases brought by Cascadia Water, Pedersen Family LLC, and Roche Water and transportation matters involving Super Friends Moving, LLC, Lugg, Clutter, Alaska Amphibious Tours, Waste Management, and Peninsula Sanitation. Lastly, Public Counsel participated in UTC rulemaking proceedings to implement the Clean Energy Transformation Act (CETA), which was adopted by the Legislature in 2019 and requires utilities to provide carbon-neutral energy to customers by 2030 and carbon-free energy to customers by 2045.

Public Lands and Conservation Division

Division Chief: Phil Ferester, Senior AAG

Overview: The division represents the Commissioner of Public Lands, Department of Natural Resources (DNR), Forest Practices Board, Department of Fish and Wildlife and its Commission (WDFW), and State Parks and Recreation Commission. The division provides a broad spectrum of client advice, dispute resolution, and litigation services to agency clients in matters before state and federal courts and administrative tribunals.

Legal Highlights:

Makah v. DNR: The Makah Tribe challenged a large land exchange, claiming that DNR failed to adequately consider their access and hunting concerns, and that DNR violated the State Environmental Policy Act

(SEPA) by relying on a categorical exemption from environmental review. The Court of Appeals ruled in favor of DNR on both issues. The court also determined that the case avoided impacts to treaty rights for three other tribes.

Conservation Northwest, et al., v. State of Washington, et al.: Conservation Northwest challenged decisions approving a decadal sustainable harvest level and a marbled murrelet long-term conservation strategy, and sought to change trust duties applicable to DNR-managed forest lands. The State Supreme Court unanimously upheld the dismissal of the group's claims against the state, reaffirmed the nature of the trust, and accorded DNR broad discretion to administer it.

Wild Fish Conservancy v. WDFW: The State Supreme Court upheld WDFW's marine aquaculture permit authorizing Cooke Aquaculture to switch its net pens from Atlantic Salmon to sterile, all-female steelhead. The court found that WDFW's environmental analysis was comprehensive and not clearly erroneous. This case also addressed a unique aspect of SEPA regarding the study of alternatives when an impact statement is not necessary.

Snoqualmie Indian Tribe v. State: A U.S. District Court dismissed this lawsuit that alleged violation of asserted hunting and gathering rights under the Point Elliott Treaty. The court held that the Tribe's claim was barred by res judicata, based on prior federal case law holding that the Tribe lacked treaty status for purposes of exercising treaty fishing rights. The Ninth Circuit affirmed and the U.S. Supreme Court denied further review.

Fire Cost Recoveries: In the Taneum Creek Fire, which started due to target shooting, the division recovered 91% of the \$137,805 in suppression costs by accepting a settlement offer from five insurance providers.

Regional Services

Division Chief: Karen M. Dinan, Senior AAG

Overview: The Regional Services Division offices in Yakima, Wenatchee, Vancouver, Port Angeles, Kennewick, Everett and Bellingham serve state agencies and institutions in surrounding communities. With 163 employees, the division is the largest in the office. By having attorneys and professional staff in the communities where these state agencies operate, the office is able to conserve costs and deliver excellent legal

services with expertise and knowledge about the local communities and court systems. Attorneys in these offices represent multiple agencies and attorneys and professional staff are adept in a wide variety of practice areas. The division's clients include the Departments of Children, Youth and Families; Labor and Industries; Social and Health Services; Employment Security and Department of Licensing, as well as 17 state educational institutions.

Legal Highlights: Along with a significant amount of client advice, division attorneys and professional staff handled a great number of litigation matters both in court and in administrative settings. Coming out of the pandemic and returning to work, the division is still working hard to achieve permanency for children and ensure that injured workers receive the benefits they are entitled to under the law. Despite the unique circumstances of the ongoing pandemic and the continued modified court operations, in the last year the division has filed 1,150 dependency petitions on behalf of Washington's children and litigated nearly 600 industrial insurance appeal matters. Division staff continue to demonstrate a commitment to providing a high level of legal representation, which protects the interests of the citizens in our local communities.

Revenue and Finance

Division Chief: Cam Comfort, Senior AAG

Overview: The Revenue and Finance Division provides legal services to the Department of Revenue, Department of Retirement Systems, State Investment Board, Office of Administrative Hearings, Office of Financial Management, Office of State Actuary, and Office of the State Treasurer, as well as other boards and commissions. The division's range of legal work is broad, challenging, and complex, encompassing most aspects of state government operations involving finance. For example, the division provides legal advice and litigation services on matters involving excise and property taxes, unclaimed property, public pensions and deferred compensation, investment of state trust funds, and financing, budgeting, and accounting. The division's Revenue Unit also plays an important role in implementing the historic 1997 tobacco litigation master settlement agreement.

Legal Highlights: The division successfully handled several appeals before the Washington Court of Appeals and the Washington Supreme Court, involving a wide

variety of complex and challenging legal issues. These issues include: whether imposing a business and occupation tax surcharge on highly profitable banks with net incomes exceeding \$1 billion violates the dormant Commerce Clause; whether tax reporting instructions issued by the Department of Revenue are reviewable under the Administrative Procedure Act; whether federal law preempts the real estate excise tax as applied to sales of private residences owned by non-Natives located on leased trust land; whether the retail sales tax applies to CrossFit services; and whether to apportion revenue earned from designing aircraft interiors for an airplane manufacturer to the location of the manufacturer in Washington or to the locations of the airlines ordering the manufacturer's planes. The division also successfully represented the Department of Retirement Systems (DRS) in an appeal involving whether DRS had a statutory duty to inform a petitioner's employer that the petitioner was no longer eligible for duty disability retirement payments and was able to return to work. Finally, the division is working closely with the Solicitor General's Office to defend the capital gains tax that the Legislature enacted during the 2021 session.

Social and Health Services Olympia

Division Chief: Natalie King, Senior AAG

Overview: The Social and Health Services Olympia Division represents five state agencies in their missions to provide benefits, protection and care to some of our state's most vulnerable and disenfranchised residents. The division's 26 attorneys and 39 professional staff provide legal services, advice and representation to the Department of Social and Health Services' many programs and functions. These include mental health services and the state psychiatric hospitals, adult protective services, home and community services for elderly and individuals with disabilities, services to individuals with developmental and intellectual disabilities, income assistance, revenue recovery and child support, vocational rehabilitation and the Special Commitment Center. We provide legal services to Health Care Authority programs, such as public employee benefits, school employee benefits, Medicaid and other medical assistance programs, alcohol and drug rehabilitation and behavioral health. Other clients include the Health Benefit Exchange, the Department of Veterans Affairs and the Department of Services for the Blind.

Legal Highlights: The division's litigation ranges from federal court class action cases involving thousands of individuals to administrative appeals involving a single individual. Recent cases included a challenge to Washington's long-term care benefit program — the first program of its kind in the country — and a challenge to the adequacy of the state's mental health services. Other examples of cases included: contract disputes with medical providers and managed care organizations; appeals related to eligibility for certain medical services; lawsuits brought by legal advocacy organizations on behalf of Medicaid recipients and disabled individuals; complex civil rights challenges by residents of the Special Commitment Center for sexually violent predators; civil and felony commitment hearings and trials; guardianship petitions on behalf of vulnerable adults; and appeals of vulnerable adult abuse or neglect findings.

Social and Health Services Seattle

Division Chief: Mary Li, Senior AAG

Overview: The Social and Health Services Seattle Division represents the Department of Social & Health Services (DSHS) and the Department of Children, Youth, and Families (DCYF) in King County. The division includes 35 attorneys and 35 professional staff. The work primarily involves abused, neglected, and at-risk children; vulnerable adults; and licensed facilities, including childcare, foster homes, adult family homes and assisted living facilities.

The division represents the state in dependency cases where a child is alleged to be abandoned, abused, neglected and/or has no capable parent. The goal of dependency is to safely reunify families by addressing issues including substance abuse, domestic violence, physical or sexual abuse, mental illness and poverty. If a child cannot be safely returned home, the division represents the state in permanency litigation, including termination of parental rights and guardianship cases. The division also represents DCYF in Child In Need of Services (CHINS) cases, where, due to family conflict, a child or a parent is requesting the child's out of home placement on a short-term basis.

The division represents DSHS Adult Protective Services in cases involving vulnerable adults alleged to be abused, neglected and/or financially exploited. This includes guardianships, protection orders, and appeals. The division's work involving licensed facilities includes DCYF and DSHS administrative litigation that usually arises

from allegations of abuse, neglect, maltreatment or other issues concerning the care of children and adults in licensed facilities.

Legal Highlights: Since 2020, the division has opened new dependencies on about 400 children per year and it files about 200 permanency petitions per year. The division also provides docket coverage on nine dependency calendars, two family treatment court calendars and two CHINS calendars per week.

In addition to litigation, the division provides case-specific advice to DCYF and DSHS and participates in ongoing case planning. During two years of fully remote work, the division developed efficient ways to work without paper and without wet signatures. The division worked with the court to ensure that emergencies were heard in a timely manner and that cases could be heard remotely or in a manner consistent with health and safety. Since we returned to in-person work in April 2022, most court appearances have continued to be remote.

Solicitor General's Office

Solicitor General: Noah Purcell

Overview: The Solicitor General's Division oversees the state's participation in appellate cases before the U.S. and Washington state Supreme Courts and other federal and state courts. Attorneys in this division also prepare and issue Attorney General Opinions in response to inquiries from state officials, coordinate legal advice on issues of statewide significance and manage the state's involvement with amicus curiae, or "Friend of the Court," briefs in all courts. The division carries out the Attorney General's duties in preparing ballot measure materials and represents the state in litigation involving voter initiatives and referendums. The division also serves as legal counsel to the Governor, Secretary of State, Lieutenant Governor, Administrative Office of the Courts and Office of Public Defense.

Legal Highlights: In 2021, the division partnered with other divisions to help achieve important legal victories. We worked with the Revenue Division to prevail in a case before the Washington Supreme Court defending a new tax on large banks passed by the legislature. We won several cases challenging the outcome of the 2020 election. We worked with the Complex Litigation Division to overturn the Purdue Pharmacy bankruptcy plan, which would have provided immunity to the former owners — the Sackler family. This victory resulted in over \$100 million in additional funding for Washington to combat the opioid epidemic.

We successfully defended the largest campaign finance penalty ever imposed in U.S. history in our case against the Grocery Manufacturers Association. The division also aided in defending the Governor's emergency proclamations combatting the COVID-19 pandemic and argued numerous consequential cases in the state Supreme Court defending agencies like the Department of Children, Youth and Families.

Over the course of the year, the Solicitor General's Office also drafted hundreds of ballot titles, coordinated over 100 moot courts and issued five formal and several informal Attorney General Opinions.

Representative Opinions:

- The Attorney General's Office issued five formal Attorney General Opinions in 2021. These opinions addressed legal questions involving:
- Whether elected officials are "employees" for purposes of Washington's Paid Family and Medical Leave Act.
- Whether licensed engineers have the authority to stamp and sign architectural drawings.
- Providing fire and emergency services to persons and property within the reservation of a federally-recognized Indian tribe.
- The authority of local governments to prohibit or restrict the release of a person involuntarily committed to a state hospital or facility.
- The authority of the Board of Accountancy to discipline an employee of the State Auditor's Office.

Amicus Briefs:

The Attorney General's Office weighs in on important cases where Washington is not a party by filing amicus curiae, or "Friend of the Court," briefs to advise the court of the state's views on the issues in the case. The office signed onto 77 amicus briefs, 20 of which we drafted. The following are a few highlights of briefs written during 2021:

International Brotherhood of Teamsters Local 2785 v. Federal Motor Carrier Safety Administration, Ninth Cir. No. 18-73488

Arguing that the Federal Motor Carrier Safety Administration lacked authority to preempt state-mandated meal and rest breaks.

AIMS v. Garland, Ninth Cir. No. 21-70544

Arguing for state "right to try" laws that allow access to investigational medical treatments for eligible patients who

lack time to wait for federal approval.

In addition, below are examples of amicus briefs Washington joined:

Dobbs v. Jackson Women's Health, U.S. Supreme Court, No. 19-1392

Defending longstanding constitutional protections of a woman's decision whether or not to terminate her pregnancy.

New York State Rifle & Pistol Ass'n v. Bruen, U.S. Supreme Court, No. 20-843

Defending regulation of concealed carry of firearms.

Carson v. Makin, U.S. Supreme Court, No. 20-1088

Defending the state's flexibility to decide how to fund schools and whether to fund religious education.

Spokane

Division Chief: Amy Flanigan, Senior AAG

Overview: The Christine O. Gregoire Spokane Division provides a wide range of legal services in Eastern Washington. Clients served include the Department of Children, Youth and Families (DCYF), Department of Social & Health Services (DSHS), Labor & Industries, Department of Transportation, Department of Licensing, Employment Security Department (ESD) and Corrections; the Eastern Washington State Historical Society, and various institutions of higher education, including Eastern Washington University, Big Bend Community College and the Community Colleges of Spokane. The division also handles Medicaid Fraud cases, provides state agencies with advice and representation on labor and personnel matters and defends lawsuits filed against the state.

Legal Highlights: The division continued to perform excellent legal work representing clients in the areas listed above. In 2021, the Social and Health Services Section filed 450 dependency petitions, 20 Title 13 guardianship petitions, and 223 termination petitions in its eight counties. It also filed 45 matters on behalf of Adult Protective Services. It also handled developmental disability matters, and other challenges to DSHS and DCYF's various programs, as well as civil commitment hearings and show cause hearings for Eastern State Hospital.

The paralegals in the Labor and Industries Section, who mediate claims before the Board of Industrial Insurance Appeals, received 593 new cases for mediation, and the Labor and Industries Section attorneys received 277 new cases for litigation. This section also handled cases seeking to uphold worker safety violations. The Corrections section handled a high volume of cases, including two cases involving class certifications and one involving vaccine distribution to the entire inmate population.

The Education team aided in a presidential search and in a project involving the repatriation of an osteology collection, which included tribal members. The Labor and Personnel group continued to advise on a multitude of COVID-19 issues. The labor attorney appeared before administrative hearings, in superior court, and at the court of appeals on cases related to paid family medical leave benefits, ESD unemployment benefits, and licensing actions. The transportation attorney handled cases along the North-South Corridor, including a jury trial. The Torts section moved cases to trial, obtained defense verdicts in one matter and numerous dismissals at summary judgment.

In 2021 the Division on-boarded 23 new staff members, 12 of whom were new to the Attorney General's Office.

Tacoma Division

Division Chief: Laura L. Wulf, Senior AAG

Overview: The Tacoma Division provides a wide range of legal services in matters arising primarily out of Pierce and Kitsap Counties. The division represents a number of state agencies, including the Departments of Labor and Industries (DLI); Licensing; Employment Security; Children, Youth and Families (DCYF); and Social and Health Services (DSHS). The division also contains a torts section defending a variety of state agencies in both state and federal courts. It also has offices for staff in the Complex Litigation Division. Attorneys in the torts section include the primary risk management advisor for the state Department of Corrections. Division members are widely recognized for their community service work, including pro bono legal services and service on non-profit or government boards and commissions.

Legal Highlights: Division attorneys continue to provide high-level client advice and handle significant appellate cases in the areas of termination of parental

rights, workers' compensation, occupational safety and health, employment standards and tort law. In 2021, the division's DCYF section was involved in filing approximately 550 new dependency matters, 170 termination of parental rights actions, and 52 guardianship petitions for children in foster care.

The section continues to be a leader in Family Recovery Court programs in Pierce and Kitsap Counties, and paved the way for the state's first Infant-Mental Health courts in Pierce and Kitsap Counties. DLI Paralegals have been assigned to 897 lead cases and resolved 427 (47%) of those cases, while attorneys in the section continued leadership roles in the statewide Superior Court trial program, the appellate program, employment standards/prevaling wage program and the Industrial Insurance Discrimination and Claim Suppression programs.

These included updates to policies to implement the Minimum Wage Act rules and the Isolated Worker statute, advice to DLI to address public facing information about the use of leave during the COVID-19 pandemic, and helping DLI develop updates to employment standards policies. This work also included assisting in its investigation of wage theft allegations and litigating COVID related Washington Industrial Safety and Health Act violations.

Torts

Deputy Attorney General: Jennifer S. Meyer

Overview: Torts Division lawyers defend state agencies, officers, and employees against personal injury or civil rights lawsuits for money damages in state and federal courts. Division lawyers also evaluate claims prior to litigation for potential settlement and provide risk management advice to state agencies. Many areas of state government operations are the subject of claims including child welfare services provided by the Department of Children, Youth and Families, highway design and maintenance by the Department of Transportation and community supervision by the Department of Corrections to name some. In FY22 more than 800 claims were referred to the division for investigation and almost 300 personal injury or civil rights lawsuits were filed against state employees and agencies.

Legal Highlights: Torts lawyers and professional staff (including paralegals, legal assistants, and

investigators) are responsible for all aspects of litigation including initial investigation, discovery, civil motion practice, trial, and appeal. As with most years, 2021 saw almost half of the division's cases resolved with zero payout to the plaintiff, thereby preserving state resources. In consultation with agency clients and where appropriate, division attorneys use early work up and evaluation to negotiate mediated resolution of claims where liability is not contested, thereby reducing defense costs. Lawyers using early resolution skills resolved 34 such matters this past fiscal year. Eight cases went to trial and 21 cases were argued at the appellate courts, including two matters heard by the Washington State Supreme Court.

Transportation and Public Construction

Division Chief: Bryce Brown, Senior AAG

Overview: The Transportation and Public Construction Division represents and advises the Department of Transportation (WSDOT), Washington State Ferries, Transportation Commission, County Road Administration Board, Transportation Improvement Board, Traffic Safety Commission, Department of Enterprise Services, Military Department, WaTech, Recreation and Conservation Office, and the State Building Code Council. The division's workload includes a mix of litigation and client advice on a wide range of issues, including contract development and enforcement, real property acquisition and leasing, condemnation, bid protests, construction claims, environmental and property damage litigation, development/land use issues, state purchasing of goods and services, complex IT acquisitions, constitutional issues related to activities on the Capitol Campus, and emergency management preparation and response activities.

Legal Highlights: In 2021, several members of the division continued to spend significant time providing advice to the State Military Department's Emergency Management Division, the Governor's Office, and the Department of Enterprise Services. This legal advice was for responses to COVID-19; seasonal disasters; the use of the National Guard in crowd, protest and riot control, including providing advice in the preparation of more than 85 emergency proclamations; the purchase and provision of personal

protective equipment; and the review of federal contracts. Staff attorneys also resolved dozens of construction and lease contract issues and disputes for the Department of Enterprise Services and WSDOT, which included changes to proclamations addressing state COVID-19 vaccination policies.

The division also provided legal support to WSDOT regarding several "mega projects" like SR 520 Montlake, the I-405 Corridor, and the SR 509/SR 167 Gateway. The division assisted WSDOT's implementation of its culvert correction program and helped develop a "Progressive Design Build" contracting process that allowed expedited delivery of the program. The division also represented WSDOT in complex litigation matters, including a utility relocation payment dispute for the I-5 HOV Project in the Tacoma area and the filing of eminent domain actions. The division also provided legal advice and guidance to resolve "prompt pay" claims between contractors and subcontractors, and to develop a veteran's business program to increase their participation in projects that state "gas tax" dollars fund.

University of Washington

Division Chief: David Kerwin, Senior AAG

Overview: The University of Washington Division provides comprehensive legal services to the University of Washington (UW), which operates three campuses (Seattle, Tacoma, and Bothell) and a large medical enterprise. UW enrolls more than 60,000 undergraduate, graduate, and professional students, employs over 55,000 faculty and staff, and is ranked among the best higher education research institutions in the country.

The division is comprised of 19 attorneys, organized into three teams: general practice, employment, and healthcare. The division provides legal advice and representation across a variety of specialized areas related to UW's broad array of operations and activities, including healthcare, employment law, labor relations, student affairs, real estate, business law, intercollegiate athletics, public finance, bonds, intellectual property, tax, benefits, gifts and trusts, and constitutional law. The division's 11 professional staff are integral to its responsibility to provide UW with legal advice and representation.

Legal Highlights: The division provided legal advice to the Board of Regents, the President, the Provost, the Bothell and Tacoma campus chancellors, and various deans, officers, directors, and administrators on a range of legal issues. A few examples to illustrate the scope and breadth of the division's work over the course of the year are:

- Advised on aspects of restructuring the relationship between Seattle Cancer Care Alliance and UW, and the creation of the Fred Hutchinson Cancer Center, including governance, legislation, and conditions of participation, antitrust, finance, management, data sharing, and philanthropy.
- Advised on a broad range of COVID-related issues, including return to work/school, vaccination storage/distribution, implementation of the governor's vaccination proclamation, review of medical/religious exemption requests and the impacts on clinical environments, student vaccination requirements, and more.
- Advised on various intercollegiate athletic issues, including the national college sporting association's name, image, and likeness policy and a new draft bill.
- Advised on diversity, equity and inclusion matters as UW looks for ways to pursue those initiatives within the confines of state and federal law.
- Advised on several large real estate projects and accompanying issues, including a 150-unit affordable housing project, a welcome center, and a bid protest lawsuit.
- Advised on a variety of labor and personnel matters, including faculty grievance procedures, bargaining matters, unfair labor practice complaints, discrimination claims, accommodation matters, and remote work.

Utilities and Transportation

Division Chief: Jeff Roberson, Senior AAG

Overview: The Utilities and Transportation Division provides legal services to the Washington Utilities and Transportation Commission (UTC). The UTC regulates the rates, services, and practices of a wide range of investor-owned utilities and common carriers, including telecommunications companies (excluding wireless, internet, and cable companies); electricity, natural gas, and water utilities; solid waste companies;

pipelines; railroads; in-state household goods movers; bus companies, and private ferries. It also regulates the rates for marine pilotage. The division's work focuses primarily on administrative and judicial regulatory litigation (including rate cases, merger proceedings, and conservation and clean energy proceedings) and client advice related to the constantly changing state and federal regulatory landscape governing industries regulated by the UTC.

Legal Highlights: In 2021, the division represented the UTC in energy rate cases or limited issue rate filings brought by Avista Corporation, Cascade Natural Gas Corporation, and PacifiCorp; represented the UTC in multiple complaint proceedings against CenturyLink (now Lumen); represented the Commission in complaint or penalty assessment cases against First Student and Clutter, resulting in the UTC imposing substantial penalties in those two cases. At the Superior Court and appellate levels, the division represented the UTC in the appeal of a decision governing the unpermitted collection of solid waste, and represented the UTC in enforcement proceedings against Lugg, Inc., an unlicensed household goods carrier. Outside litigation, the division represented the UTC in a six-state negotiation regarding PacifiCorp's cost-allocation methodologies and providing a significant amount of advice as to changes to the public service laws made by the legislature in 2019 (ESSB 5116) and 2021 (SB 5295).

Washington State University

Division Chief: Nathan Deen, Senior AAG

Overview: The Washington State University Division provides a full range of legal services to the state's land grant university, including its multiple campuses, offices, and research facilities statewide. The division provides advice on a wide variety of legal issues, many of which are unique to higher education. Areas of practice include: risk management, research, intellectual property, health care, health and veterinary sciences, public records, open meetings, student affairs, athletics, employment, fundraising and development, public works, contracting, constitutional rights, civil rights, Title IX, real estate, construction, and international programs.

ADMINISTRATIVE DIVISIONS

Facilities & Safety

Facilities and Safety Director: Karen Cowan

Overview: The Facilities Division oversees the management of the office's facility needs that include 16 leased buildings statewide, as well as managing the state's safety and security programs, the agency's 117 vehicles, the agency's fleet of 154 copy machines, and the agency's Commute Trip Reduction Program. The division develops and implements the agency's six-year facility plan, manages agency leases, facilities-driven contracts, space allocations and provides support for office design. They are also responsible for providing ergonomics assessments and adjustments, office moves and rearrangements, and managing the ACE Reuse Center.

The Safety Office directs the safety and security of agency staff and facilities, and it manages the agency's safety program. This office develops, manages, tracks, and maintains agency, division, and building safety plans and documents; coordinates with building safety committees regarding training, drills, and best practices; represents the agency on interagency committees and workgroups; and oversees agency safety programs, such as threats and security, radios and communications, training, and equipment and supplies.

The facilities team focuses on providing the highest level of customer service possible by working in an efficient manner and being good stewards of the state's resources.

Financial Services

Chief Financial Officer: Mark Melroy

Overview: The Financial Services Division provides accountability for the AGO's financial, budgetary and accounting practices. The division ensures financial records are complete, accurate and accessible to oversight agencies for state and federal compliance. The division is responsible for agency budget development and monitoring, accounting, payroll, contracts, grants, and purchasing functions. The

division contains three main units: Accounting; Contracts and Grants; Budget.

The Accounting Services Unit is responsible for all accounting, purchasing, payroll, travel, legal services billing and timekeeping functions. Related responsibilities include: depositing and distributing divisional settlements and recoveries; purchasing goods and equipment for the office; paying office invoices; processing payroll; reconciling timekeeping and producing the monthly legal services bill; negotiating our federal indirect rate; preparing the agency statewide cost allocation plan; and preparing the comprehensive annual financial report. Recently, the Unit has helped hundreds of AGO employees reconcile and correct timekeeping information that was used to process their furlough-related unemployment claims under the CAREs Act.

The Contracts and Grants Unit is responsible for the centralized management and oversight of all AGO procurements, contracts, and grants. This includes a variety of activities such as posting all competitive solicitations, managing the entire lifecycle of a contract (creation, execution, renewal and closeout); negotiating contractual terms and conditions; ensuring compliance of all grants and contracts; applying for new grant opportunities; monitoring grantees; reporting; training to AGO staff and grantees; and creating policies, procedures and forms. This unit is also responsible for the AGO's Special Assistant Attorney General program which handles contracts with outside law firms to assist client agencies when there is a need for specialized expertise or when a conflict arises.

The Budget Unit is responsible for all agency budget functions. This includes requesting funding from the Governor's Office of Financial Management and the Legislature; setting the billing rates for the office; monitoring expenditures, monitoring fund cash balances; forecasting fund balances and revenue; projecting office and division expenditures and staffing usage and needs; reviewing legislative bills and assessing and articulating the impacts to the office.

General Services

General Services Director: Karen Cowan

Overview: The General Services Division provides facility, safety and office support services to Bristol Court, Olympia, Seattle and Tumwater staff. General Services offers high quality services broken into two categories: reception and production.

The General Services reception staff are responsible for greeting internal and external customers via phone or in person. They provide conference room reservations and audio/video support to building staff. The reception staff provide and maintain security access to the building and are essential in mitigating situations that require an increase in safety awareness. Reception staff receive and route legal documents throughout the state.

The General Services production staff provide high quality finished products such as copies, prints, scanning projects, bindery services, trial & exhibit posters, audio/video conversion & duplication, training materials and much more.

The division is also responsible for maintaining building fleet vehicles, overseeing the Commute Trip Reduction program, and processing facilities requests. General Services processes all incoming and outgoing mail for division staff.

Human Resources

Chief Human Resources Officer: Rochelle LaRose

Overview: The Human Resources Division provides comprehensive human resources-related programs and services to managers, employees and candidates for employment. The division's goal is to promote effective and efficient human resource management throughout the office by supporting applicants and employees, assisting managers in administering collective bargaining agreements and civil service rules, and recruiting, developing and retaining a diverse, highly qualified and highly competent workforce.

Highlights: The division continued in 2021 to provide support and leadership to the organization during the course of the coronavirus pandemic. The team developed an approach and led the process for implementing an agency policy requiring vaccination. This called for significant increases in requests for consultation and personnel actions. The training team continued to provide comprehensive training resources to employees working remotely as well as in the physical workplace.

The Attorney General's Office saw increased turnover and pronounced challenges with recruiting due to a very tight labor market. While many areas of the office have encountered challenges, the difficulty to fill vacant legal support positions remains a significant challenge. The Human Resources team deployed an agency-wide screening and interview panel process to streamline the recruitment process and ensure that applicants are placed in areas where legal support vacancies are impacting core operations. Additionally, the team worked with key customers and stakeholders to modify the minimum qualifications for the legal assistant classification, so that the office has a broader and more diverse applicant pool.

Information Services

Chief Information Officer: Rick Griffith

Overview: The Information Services Division provides support and consulting for legal technologies including litigation software, eDiscovery and legal research. Additionally, the division manages the delivery of all AGO computer and telephone network infrastructure and the operation of all network hardware and software platforms to provide AGO staff access to their work products and communications. The division provides IT business analysis, IT project management, custom software development, business intelligence and data management services. Data security and disaster recovery are key to the maintenance and operations of the office's voice and data systems. The division ensures compliance with state governance policies and standards, and ensures that all electronic services function properly and securely.

Legislative & Tribal Priorities

Legislative Directors: Yasmin Trudeau & Joyce Bruce

Overview: The Legislative team leads the effort to define and advance the Attorney General's legislative priorities by cultivating relationships with legislative members, stakeholders, state agencies and internal division staff to pass legislation. The team also collaborates with the policy staff, public affairs, and other appropriate office contacts to ensure external messaging is informed by policy and legislative development.

2021 Tribal Work Highlights

AGO Tribal Liaison: Asa Washines

AGO MMIW/P Policy Analyst: Annie Forsman-Adams
In 2021 the Attorney General's Office announced the formation of a Missing and Murdered Indigenous Women and People (MMIW/P) Task Force. The task force assesses

systemic causes behind the high rate of disappearances and murders of indigenous women and people. It also coordinates with representatives of federal, state, local and tribal law enforcement to discuss how to address the human rights crisis of MMIW/P.

Policy Team

Policy Director: Sahar Fathi

The Policy Team grew in 2021 and in the second half of the year added 12 new staff to the team. The team also hosted seven interns, clerks and fellows.

The team wrote five reports on behalf of the agency and created one public tool for landlords and tenants in Washington. In total, this was 61 pages of reports and seven policy recommendations.

The team coordinated and drafted 96 sign-on letter memos. This was an average of one sign-on memo every 2.6 business days.

The team managed and facilitated meetings for 9 task forces and working groups. The team also provided assistance to another division in convening one advisory group. There were 47 meetings for these groups in 2021.

Task Forces and Working Groups Appointed by the Washington State Legislature

- Law Enforcement Data Collection Advisory Group
- Sexual Assault Coordinated Community Response Task Force
- Washington State Missing and Murdered Indigenous Women and People Task Force
- Office of Military and Veteran Legal Assistance (OMVLA) Advisory Board

Internal AGO Work Groups

- AGO Worker Protection Work Group
- AGO Opioid Work Group
- AGO Civil Legal Aid Work Group
- AGO Environmental Justice Work Group
- HB 1310 Work Group

Policy-Supported Group (led by Criminal Justice Division)

- Sexual Assault Forensic Examination Best Practices Advisory Group (SAFE)

In addition, the Policy Team coordinated and led the Environmental Justice Symposium in March, which had over 650 attendees. The team also facilitated the National Archives Public Meeting, which had over 300 attendees.

OMVLA received an AmeriCorps VISTA grant for three

staff in 2021. Through the M.E.D.A.L. program, OMVLA responded to 208 requests for civil legal assistance from veterans, service members, and their families from January 1 to December 31. As of December 31, OMVLA had 64 attorneys and limited license legal technicians signed up to volunteer. The OMVLA program also conducted 4 CLEs with at least 900 participants.

In 2021, the Tipline Team was established and hired during the fall. From September through December, the Tipline Team met with officials from 13 states to learn about their tipline programs. They also met with six community organizations and four state agencies to discuss coordination and to avoid duplication of efforts.

Public Affairs

Director of Communications: Brionna Aho

Overview: The Public Affairs Unit is responsible for the office's external communications. The unit communicates the work of the AGO through press conferences, news releases, guest columns, audio and video, the external website, social media, presentations, newsletters and the annual report. The unit also provides AGO media training, staffs internal and external committees and task forces, and drafts and designs AGO documents for the public, internal audiences and the Legislature.

Public Records & Constituent Services

Director: LaDona Jensen

Overview: The Public Records and Constituent Services Unit handles four essential programs for the Attorney General's Office and in 2021, employees did so remotely. The unit's three Public Records Officers processed 754 complex records requests. The Constituent Correspondence Liaison reviewed, distributed and responded to more than 5,400 emails and letters on behalf of the Attorney General. The Garnishment Liaison received and routed nearly 4,500 state employee garnishment documents per statute while guiding state agency payroll staff through wage withholding procedures. The Records Retention Specialist oversaw archiving practices for the Attorney General's Office and provided valuable input on revisions to the agency-specific records retention schedule. In addition to these core programs, the unit provides training on public records processes and software to all internal staff. Lastly, the unit is leading the office's work on the legislatively mandated public records data-reporting project.



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