WASHINGTON STATE ATTORNEY GENERAL'S OFFICE

ANNUAL REPORT 2020

AG Ferguson speaks at the 2020 Latino Legislative Day Event.

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.

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.

Letter from AG Ferguson

Dear Washingtonians,

This year has brought a number of unprecedented challenges to our office and our state. The COVID-19 pandemic brought a number of rapid changes to our health care systems, our businesses, our government agencies and our day-to-day lives.

As a result of the pandemic – and to protect the health and safety of AGO employees, our client agencies and members of the public we interact with – I directed most AGO employees to work from home beginning in March.

The way AGO employees responded to this unprecedented directive impressed and humbled me. In the face of numerous challenges, our employees went above and beyond to support fellow colleagues, provide excellent legal services to client agencies, and stand up for the rights of Washingtonians.

Our Consumer Protection Division and Consumer Resource Center protected Washingtonians from various pandemic-related scams and price gouging of essential supplies. Our Wing Luke Civil Rights Division enforced Governor Inslee's eviction moratorium and stood up for Washingtonians on the brink of becoming unhoused. Divisions throughout the office provided pandemic-related legal counsel to state agencies on topics ranging from face covering and testing orders to unemployment benefits.

On top of this added workload, our office continued to stand up against numerous unlawful actions brought by the Trump Administration by filing several lawsuits to protect civil rights, health care and the natural environment for all Washingtonians.

All of this work, and much more, is made possible by the 600 attorneys and 700 professional staff in our office, who are handling approximately 20,000 legal matters at any given time. We continue to work diligently to improve public safety, fight for civil rights, defend the environment, stand up for workers, protect consumers, and provide legal counsel to state agencies.

This Annual Report highlights our accomplishments in 2020 – both the high-profile work that receives public attention and the critical behind-the-scenes public service we do every day on behalf of our clients and the people of Washington state.

These accomplishments are a testament to the employees of the Attorney General's Office, who are dedicated to continuing the office's tradition of excellence and independence.

As a fourth-generation Washingtonian, I am honored to lead this team of devoted, talented public servants.

Bob Ferguson, Attorney General

AG Ferguson discusses the work of the Attorney General's Office and the value of public service with a group of legislative interns in Olympia.

BY THE NUMBERS

200+

The Attorney General's Office represents more than 200 state agencies, boards and commissions

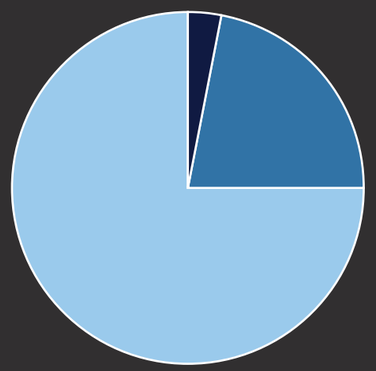
20 THOUSAND

Approximately 20,000 open legal matters at any given time

1,300

The office is made up of approximately 1,300 dedicated attorneys and professional staff

CONSUMER PROTECTION:



$80.2 MILLION
TOTAL IN RESTITUTION, CONSUMER SAVINGS, & PENALTIES

- **$2.6 MILLION*** - Restitution & Consumer Relief
- **$17.6 MILLION**** - Informal Complaint Resolution Recoveries
- **$60 MILLION** - Civil Penalties Returned to State General Fund

*Litigation benefit to consumers in the form of cash refunds, debt forgiveness, bill credits, etc.
**Includes recoveries from the Consumer Resource Center and Lemon Law arbitration program.

13 OFFICE LOCATIONS

serving communities & client agencies throughout Washington state

FEDERAL LITIGATION

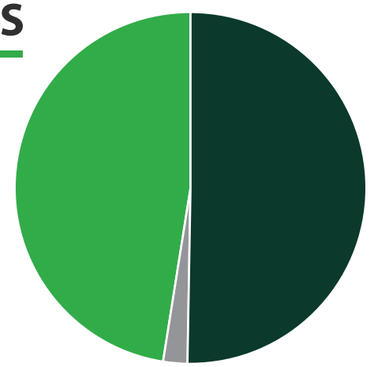
Beginning with the office's successful lawsuit to block the Trump Administration's first travel ban in January of 2017, our office has continued to take a leading role in challenging unlawful and unconstitutional actions by the federal government. Since the travel ban litigation, the office has filed a total of 99 lawsuits against the Administration.

99 CASES FILED TOTAL

45 CASES FILED IN 2020

CURRENT FEDERAL CASE STATUS

- **50 Cases Ongoing**
- **47 Legal Victories***
- **2 Losses**



*47 legal victories total. 35 of these cases are complete and can not be appealed. 12 can be appealed.

AG Ferguson speaks to members of the Washington State Medical Association during the 2020 legislative session.

Responding to the COVID-19 Pandemic

The COVID-19 pandemic forced an uptick in the legal advice the office provided to state agencies, boards, commissions, and public universities and other public institutions. The office weighed in on issues such as mask mandates, eviction moratoriums, CARES Act funding and student aid.

The office also provided direct support to Washingtonians by investigating COVID-related price gouging and scams, and enforcing statewide mandates and eviction moratoriums.

Providing Counsel to State Agencies

The following list highlights the multi-faceted legal work attorneys and staff provided during the pandemic:

- Attorneys from the Agriculture and Health Division provided legal advice on isolation and quarantine authority; face covering and testing orders; gubernatorial emergency proclamations; lowering regulatory barriers to aid surging demand for health care facilities; infection control measures in farmworker housing and vaccination program administration.
- The Wing Luke Civil Rights Division played the lead role in enforcing Gov. Inslee's emergency proclamation prohibiting evictions during the COVID-19 pandemic. Since April 2020, the division has filed three lawsuits to enforce the proclamation and fielded nearly 8,500 complaints and inquiries from Washingtonians about it.
- The Consumer Protection Division received 25,491 complaints in 2020, which was a 50% increase over the previous year. The increased volume consisted largely of complaints directly related to the COVID-19 pandemic. The Consumer Resource Center received over 1,360 price gouging complaints in 2020.
- The Education Division worked on schools' transitions to remote instruction and remote workplaces and interpreted evolving federal guidance, legislation and state proclamations. Attorneys and staff advised the University of Washington's Medical Center on regulatory issues arising from the pandemic, including compliance with statewide proclamations, waivers of federal and state law due to the public health emergency, campus and community testing and vaccine rollout to clinicians and first-responders.
- The Labor and Industries Division lobbied for multiple Temporary Restraining Orders against businesses that operated in violation of emergency safety rules. Attorneys defended record-setting citations against employers whose violations led to virus outbreaks and worker deaths.
- The Licensing and Administrative Law Division assisted the Employment Security Department (ESD) in navigating federal and state unemployment benefit programs. ESD provided more than $13 billion in assistance to more than 1 million Washingtonians who filed unemployment benefits claims. The division assisted with the response to the 2020 cyber fraud of unemployment benefits, then worked with law enforcement and financial institutions to attempt to recover those funds. Also, attorneys and staff worked with ESD to provide more than $500 million in paid leave benefits that went to more than 100,000 Washingtonians.

Ensuring Students Receive Aid

In April, without congressional authorization, the U.S. Department of Education announced that only college students who were eligible for federal financial aid could receive Coronavirus Aid, Relief & Economic Security (CARES) Act grants. The following month, our office filed a challenge to the department's decision in the U.S. District Court for the Eastern District of Washington. Our office also filed a motion for a preliminary injunction, asking the court to immediately block the department's restrictions on the grants.

Under its Higher Education Emergency Relief Fund, the CARES Act appropriated more than $12 billion to higher education institutions across the nation to prevent, prepare for and respond to the COVID-19 pandemic. The CARES Act required that states disperse at least 50 percent of the funds to students as emergency grants for expenses related to the disruption of campus operations. There was nothing written into the act that allowed the Department of Education to make its ruling on restricting those funds.

According to the Washington State Board of Community & Technical Colleges, nearly 52,000 of the state's 363,000 community and technical college enrollees are adult basic education students, the majority of which would not have been eligible for CARES Act funding under the department's stringent rule. The Department of Education's restriction would have excluded many of those 52,000 students.

In June, a federal judge in Spokane agreed with the Attorney General's Office and blocked the decision.

Protecting COVID Funding for Washington's Schools

In July, our office filed a federal lawsuit in Seattle challenging an unlawful U.S. Department of Education rule that would have deprived Washington's public elementary and secondary schools from receiving Coronavirus Aid, Relief & Economic Security (CARES) Act funding. The CARES Act allocated about $13.5 billion to assist public schools and private schools with low-income families to purchase personal protective equipment, cleaning supplies, technology for online classes, meal programs and more. Washington state received $216 million of the CARES Act money for elementary and secondary schools.

The lawsuit asserted that the department's rule was unlawful and in violation of the Administrative Procedure Act, as well as Article I of the U.S. Constitution, which gives exclusive "power of the purse" to Congress.

In August, a federal judge in Seattle granted the request to block the rule, not only in Washington state but nationwide.

Protecting Washingtonians from Evictions

On March 18, 2020, Gov. Jay Inslee issued Emergency Proclamation 20-19, titled "Evictions," to help preserve and maintain life, health, property or the public peace by prohibiting certain residential evictions and related actions statewide. Actions prohibited under Emergency Proclamation 20-19 include serving fourteen-day notices to pay or vacate. The governor renewed and expanded the proclamation throughout the year.

In May 2020, our office announced that Nevada-based JRK Residential Group Inc. would pay nearly $350,000 — including almost $300,000 directly to tenants in the form of refunds, payments and rent forgiveness — to resolve a lawsuit our office filed the month before over its violations of the state's emergency eviction moratorium. This lawsuit was the first filed to enforce one of Gov. Jay Inslee's emergency proclamations.

Our office asserted that JRK Residential violated the proclamation by issuing Notices to Pay or Vacate in April 2020 to at least 14 tenants of The Boulders at Puget Sound, a multi-building Tacoma apartment complex containing over 700 units. The lawsuit also asserted that JRK sent unfair, deceptive and harassing communications to approximately 1,400 Washington state tenants.

In January 2021, our office announced a Hayden, Idaho low-income housing provider, Whitewater Creek, would pay $50,000 after evidence revealed they illegally threatened tenants in April 2020 with eviction. In order to resolve the lawsuit, Whitewater Creek entered into a legally enforceable agreement to make the payment and took additional accountability measures to avoid future violations of law.

An August 2020 lawsuit contained emails that showed a company owner wanted tenants to know they would be evicted for unpaid rent and/or fees as soon as courts reopened for eviction proceedings. Whitewater Creek personnel did not disclose to its tenants that the eviction moratorium protected them from being threatened with future eviction.

Also in January 2021, our 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.

Nine UW students complained to the Attorney General's Office after the owner of the sorority gave students three options for their fall 2020 housing. All of the choices it gave the students violated the emergency proclamation. The students voted to close the house but the owner demanded they still pay thousands of dollars in housing fees.

As of January 25, 2021, the Attorney General's Office:

- Received 6,716 eviction complaints
- Contacted 5,243 tenants
- Contacted 3,491 landlords
- 38 current attorneys from various divisions have helped process the complaints coming into the Civil Rights Division
- 10 attorneys have come out of retirement to help with the complaints

Flawless Record Defending the Governor's Pandemic Orders

From early 2020 through spring of 2021, Washington state residents or groups, along with some national advocacy organizations, brought 28 lawsuits against orders Gov. Jay Inslee made during the state of emergency. These orders ranged from mask and social distancing mandates to eviction moratoriums.

The Attorney General's Office defended the governor's orders and proclamations in state and federal courts and its record, by late spring 2021, was 18-0. The office won three additional cases in the trial courts, which are currently pending on appeal.

These cases included:

- ***Cuevas v. Inslee:*** A Wenatchee city council member and others brought a lawsuit in Chelan County challenging the governor's constitutional right to declare a health emergency. The plaintiffs asserted that only local health boards had that authority. Groups in Lewis, Whitman and Douglas counties filed similar lawsuits at around the same time as Cuevas. A Chelan County Superior Court judge rejected the idea there was no state of emergency in Washington and agreed with the Attorney General's Office that both the governor and the Department of Health had authority to make statewide orders, and had acted reasonably. Cuevas did not appeal and dropped his case, then the other groups dropped their lawsuits in the three other counties.
- ***Slidewaters v. Inslee and the Department of Labor and Industries***: A waterpark in Chelan County, represented by the Freedom Foundation, brought a case in June 2020 also challenging the governor's powers under a state of emergency. A judge in the U.S. District Court for the Eastern District of Washington ruled the governor had the power under a global pandemic to restrict business needs. Slidewaters appealed the ruling to the U.S. Court of Appeals for the Ninth District.

- ***Harborview Fellowship v. Inslee***: A church in Gig Harbor filed a lawsuit against the state because it did not want to limit the capacity of its church for services. A judge dismissed the case due to lack of standing because no agency had threatened the church with any enforcement actions. The fellowship did not appeal the decision.
- ***El Papel v. Inslee***: Three Seattle-area landlords filed lawsuits against the governor and the City of Seattle, alleging violations of the Contracts Clause of the U.S. Constitution and that the moratorium amounted to a physical taking of property by the government. After asking for a preliminary injunction to stop the moratorium, the judge concluded the landlords were unlikely to win on the merits of their case. The judge said the moratorium was temporary and offered avenues for the landlords to receive compensation.

Stopping a COVID Vaccine Scam

In April, our office warned a Seattle-based business to stop selling and administering a so-called COVID-19 "vaccine." In a social media post, Johnny Stine, owner of North Coast Biologics, claimed to have developed a "vaccine" that has made him immune to COVID-19, and offered his "vaccine" for $400. Stine sold and administered the vaccine to about 30 people, most of whom were Washingtonians.

Stine began selling the vaccine via his Facebook profile in March, around the time COVID-19 began to peak in the country and Seattle. In a letter to Stine, our office noted that, at the time in early spring, no effective treatment or vaccine for COVID-19 had been identified.
In June, our office filed a lawsuit against Stine asserting he violated the Consumer Protection Act when he made unsupported claims about his supposed "vaccine" and administered it to dozens of Washingtonians without taking proper steps to evaluate its safety or effectiveness.

Just over a week after filing the lawsuit, Stine entered a legally binding agreement to repay his victims and the agreement permanently barred him from marketing vaccines without testing and evidence.

As part of that consent decree, Stine cannot market future vaccines without rigorous testing and sound scientific evidence. It also required Stine to pay $8,500 to the state for the cost of bringing the case, and another $30,000 suspended based on his compliance with the agreement.

The Attorney General's Office separately reached out to individuals who bought the "vaccine" and facilitated refunds.

Standing up to Price Gouging

In March, the Attorney General warned Amazon sellers who significantly raised prices on coronavirus-related products like hand sanitizer and N95 masks that continuing their conduct could result in a lawsuit under the state Consumer Protection Act.

The Attorney General's Office sent nine warning and 14 cease-and-desist letters to price-gouging businesses in 2020. Our office warned the businesses that failing to stop exorbitant price gouging could result in a lawsuit.

The Attorney General's Office sent the letters to Washington-based retailers who significantly raised prices on coronavirus-related products between January and February. For example, one seller based in Spokane raised the price of an 8-ounce bottle of hand sanitizer from just over $3.50 in January to an average price of more than $25 — a more than 600 percent increase.

In early April, our office launched an awareness campaign to encourage Washingtonians to report price gouging in three easy steps: "See It, Snap It, Send It."

The office used the Consumer Protection Act's general prohibition against unfair and deceptive business practices to combat price gouging, but courts still have not concretely defined what level of price increase constitutes as "unfair and deceptive."

Securing Refunds for Cancelled Travel Plans

In December, the Attorney General's Office announced that music travel company Voyageurs International would pay more than $464,000 for full refunds to 235 Washington students who signed up for the company's 2020 European tours.

The company, which organizes yearly tours to Europe for high-school musicians, unlawfully charged 235 Washington students at least $1,900 in cancellation penalties after the COVID-19 pandemic resulted in the company cancelling its July European tours. The company also illegally retained a $775 fee, for a total of $2,675 per student, from 23 students who signed up to extend their tour to Greece.

Voyageurs deceived customers by sending them a letter claiming the company "paid out more than $1,900 per student for the upcoming tour season that it cannot recoup." That statement was false. In reality, the company was able to recoup more than 60 percent of what it charged consumers. It further deceived Washington families in a letter it sent to those who canceled their trips by providing false information about cancellation costs — a violation of the Consumer Protection Act's prohibition on unfair and deceptive business practices.

Members of the Wing Luke Civil Rights Division gather for a virtual meeting: Patricio Marquez, Keely Tafoya, Yesica Hernandez, Mitch Riese, Anna Alfonso, Alma Poletti, Caiti Hall, Brian Sutherland, Allie Lard, Judy St. John, Marsha Chien, Courtney Harmon, Chalia Stallings-Ala'ilima, Andrea Brenneke, Neal Luna, Lane Polozola, Colleen Melody, Ashley McDowell.

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.

Contesting the Former Administration's Targeting of Dreamers

In late August, the Attorney General's Office updated a lawsuit seeking to halt an unlawful Trump Administration policy that would have gutted the Deferred Action for Childhood Arrivals (DACA) program.

Prior to the lawsuit, on July 28, Acting Secretary of the Department of Homeland Security (DHS) Chad Wolf wrote a memo stating he wanted to limit DACA while he decided whether to fully rescind the program. Specifically, Wolf's memo ordered DHS to reject all new DACA applications, change the renewal period from two years to one and prohibit current DACA recipients from traveling outside the U.S. without DHS approval.

The updated lawsuit asserted that no reasonable explanation supported the Wolf memo and it failed to consider the harms caused by the undue limits to the DACA program, a violation of the Administrative Procedure Act. The decision illegally curtailed protections for Washington's nearly 17,000 DACA recipients, also known as "Dreamers," and about 800,000 nationwide.

The lawsuit also asserted that Wolf could not have legally made this kind of decision because he unlawfully took his post as acting secretary. When the Trump Administration appointed Wolf, it circumvented long-standing order-of-succession laws for federal agency officers. Earlier in August, the Government Accountability Office released a finding that the federal government improperly appointed Wolf and two other appointees to their positions.

In November, a federal judge granted the office's motion for summary judgment and ruled that the proposed DACA rollback violated federal law.

Ensuring International Students Kept Their Visas

In July, the Attorney General's Office filed a lawsuit in Seattle challenging the Trump Administration's proposed visa rule for international students. Approximately 27,000 international students attend higher education institutions in Washington state and spend approximately $1 billion in state each year.

The rule would have required every college and university to decide whether they would hold classes in-person, remotely or implement a hybrid model with both in-person and remote classes. The rule would have revoked student visas for all international students attending colleges and universities holding classes remotely.

Acting Deputy Secretary of Homeland Security Ken Cuccinelli said the purpose of his agency's directive was to "encourage schools to reopen."

The lawsuit asserted the rule was unlawful and harmful to Washington students, universities and community colleges. It would have harmed nearly every Washington state higher education institution, reduced state revenues and threatened public health and safety. The office also filed a Temporary Restraining Order, seeking an immediate halt to the Trump Administration directive's implementation.

On July 14, four days after the Attorney General's Office filed its lawsuit, the administration announced it would rescind its new visa rule for international students after multiple federal lawsuits challenged the rule.

Keeping Immigrants' Access to Health Care During the Pandemic

In March, the Attorney General's Office led a coalition of 17 attorneys general and 45 state and local elected officials to call on the Trump Administration to delay its "public charge" rule at the beginning of the COVID-19 outbreak.

Federal law allows many lawful immigrants to apply for public benefits, such as health care, if they have been in the country for at least five years. The Trump Administration's rule created a "bait-and-switch" where immigrants who used their legally entitled public assistance benefits would jeopardize their chances of later renewing their visa or becoming permanent residents.

State estimates showed that more than 140,000 lawfully present Washingtonians, including many U.S. citizen children, would have lost health insurance as a direct result of the rule. Washington state is home to approximately 455,000 children who are U.S. citizens and have at least one immigrant parent. These families would have likely refrained from applying for services they needed out of fear the federal government would have used it against their parents.

The coalition's first letter, directed to the Department of Homeland Security (DHS) and U.S. Citizenship and Immigration Services (USCIS), blasted the administration for discouraging people from accessing health care they were entitled to in the midst of a public health crisis.

In March 2021, the Biden administration asked the Supreme Court to withdraw consideration of the case and it did so.

Ensuring an Accurate 2020 Census

In July, the Attorney General's Office joined a coalition of 21 attorneys general, 10 cities, including Seattle, and five counties to file a lawsuit in U.S. District Court for the Southern District of New York against proposed Trump Administration changes to the 2020 Census. The lawsuit came just three days after former President Donald Trump issued a memorandum detailing his administration's intent to exclude undocumented immigrants for the purposes of apportioning Congressional seats to the states.

The president's action would have led to the loss of state congressional seats and presidential electors in the Electoral College, skewed state electoral districts, reduced federal funds to state and local jurisdictions and degraded the quality of census data that states and local jurisdictions rely on to perform critical governmental functions.

On Sept. 10, a panel of federal judges unanimously declared unlawful the administration's actions to remove undocumented immigrants for the purpose of congressional apportionment. On Dec. 18, the U.S. Supreme Court vacated their decision, ruling that the states' claims were not yet ripe for adjudication. However, the Supreme Court expressed no view on the merits of the case and it left open the potential for the former president to fulfill policies in the census memorandum.

The Biden administration revoked the memorandum on Jan. 20, 2021 as one of its first executive actions.

Investigating Police Use-of-Force in the State

In June, the Attorney General's Office launched a statewide inquiry into all investigations of the use of deadly force by law enforcement for the preceding months of 2020. The inquiry followed media revelations that the Pierce County Sheriff's Office investigation into the death of Manuel Ellis failed to comply with the legal requirements for independent investigations into police use of deadly force.

In November 2018, Washingtonians passed Initiative 940 with nearly 60 percent of the vote. I-940 requires "completely independent" investigations of all instances when law enforcement uses deadly force resulting in death or substantial bodily harm. I-940's independent investigation criteria went into effect in January 2020. Deadly force refers to firearms discharges and incidents resulting in death or serious physical injury.

In February 2021, the office released the results from the I-940 Independent Investigation Inquiry Report. The inquiry 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 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 improved processes to comply with the new regulations; and
- Community representatives who shared their experiences with the Attorney General's Office reported that serving as community representative was a positive experience, noting the transparency and professionalism of the investigative teams.

Releasing a Report on Hate Crimes in Washington

In July, the Attorney General's Hate Crime Advisory Working Group released a report to the Legislature and Gov. Inslee that outlined a comprehensive approach to better address hate crimes in Washington. The group called on the state to improve training for law enforcement, create new avenues for prosecutors to charge crimes and for schools and employers to improve education about hate and bias.

Washington state law defines a hate crime as an assault, threat, or property damage motivated by race, color, religion, ancestry, national origin, gender, gender identity or expression, sexual orientation or mental, physical or sensory disability. State data showed an increase in reported hate crimes from 175 in 2002 to 534 in 2018, though such crimes are historically underreported.

In the report, the group called for an ongoing statewide coordinating unit to combat hate and bias within the Attorney General's Office. This unit would develop a public website to provide information and reporting options, create a public awareness campaign and offer interactive workshops to bring together law enforcement and communities impacted by hate crimes, among other activities.

The census needs to count how many people live in America. The question of citizenship status is wholly superfluous to this mission, as Locke said with the authority of experience. Although a 1978 law offers the assurance census responses that identify individuals cannot be shared with other federal authorities for 72 years, the administration has broached norms so overzealously on immigration matters that it cannot be trusted to respect this restriction.

- Seattle Times Editorial Board, 06/18/2019

The Legislature created the working group with support from the Attorney General's Office during the 2019 legislative session. The 15-member, bipartisan working group, with diverse membership including law enforcement and affected communities, adopted its 20 recommendations without any dissenting votes. Most votes were unanimous. There were three abstentions.

The Hate Crimes Advisory Working Group fulfilled its statutory obligation with the report and only met informally after the report's release.

Preventing Warrantless and Suspicionless Immigration Sweeps

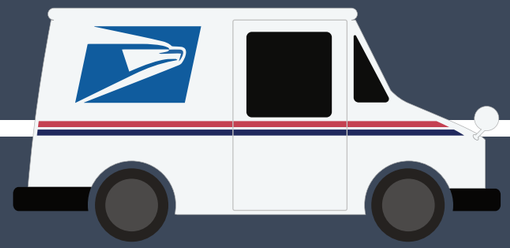
In April, the office filed a lawsuit in Spokane County Superior Court against Greyhound Lines, Inc. The lawsuit seeks to hold the bus line accountable for its practice of allowing U.S. Customs & Border Protection (CBP) agents to board its buses and conduct warrantless and suspicionless immigration sweeps.

The lawsuit asserted that Greyhound's practices violate the state Consumer Protection Act and the Washington Law Against Discrimination. It also demanded that Greyhound change its practices by providing adequate notice to customers about the risk of warrantless and suspicionless immigration sweeps.

The lawsuit came after more than a year of urging Greyhound to protect its customers from CBP agents' warrantless and suspicionless immigration sweeps on its buses. The office contacted Greyhound in early 2019 and insisted the company provide adequate notice to its customers of the risks of the sweeps, enact a clear corporate policy denying CBP permission to board its buses without warrants or reasonable suspicion and provide training for its drivers on communicating that policy to agents.

Greyhound continually refused to implement these changes to protect its customers. The lawsuit asserted Greyhound allowed the sweeps aboard its buses since at least 2013. Greyhound publicly acknowledged the sweeps in 2018 and has publicly acknowledged since at least mid-2018 that CBP immigration sweeps on its buses harm Greyhound's passengers.

Despite public statements in February that it would no longer allow the warrantless sweeps, Greyhound had not updated its public-facing policies. The company continued to fail to provide adequate notice to its customers that it will likely subject them to warrantless searches. Greyhound also suggested on its website that the company had no choice but to allow federal immigration officials to board its buses and conduct the sweeps, despite CBP's own contradiction of Greyhound's claim.



Protecting the U.S. Postal Service & the Integrity of the 2020 Election

Solicitor General Noah Purcell speaks about the office's lawsuit to protect the U.S. Postal Service outside of the U.S. District Courthouse in Seattle.

Soon after being appointed to lead the U.S. Postal Service in the summer, former businessman and Republican fundraiser Louis DeJoy implemented drastic operational changes at the Postal Service. DeJoy's changes, including eliminating or reducing staff overtime, halting outgoing mail processing at state distribution centers and removing critical mail sorting equipment, threatened the timely delivery of mail to millions of Americans who rely on the Postal Service for everything from medical prescriptions to ballots.

DeJoy also stopped the longstanding Postal Service practice of treating all election mail as first-class mail regardless of the amount of postage.

In August, the Attorney General's Office led a coalition of 14 states to file a lawsuit over the changes. The coalition included battleground states, including Michigan, Nevada and Wisconsin.

The lawsuit asserted that the postmaster general unlawfully implemented the drastic changes.

Impacts to vote-by-mail

The changes at the Postal Service came as President Donald Trump continued to claim without evidence that widespread vote-by-mail would lead to a fraudulent election. Washington state has allowed elections to be conducted completely by mail-in ballot since 2005, and mandated the practice statewide in 2011. The state has not experienced voter fraud at any significant level.

Across the country, record numbers of American residents were requesting absentee ballots in the midst of the COVID-19 pandemic. At the same time, the removal of high-speed sorting machines and staff shortages imperiled the timely delivery of ballots, both to voters and back to election officials.

These delays greatly increased the likelihood that mailed-in votes would miss election deadlines and threatened to disenfranchise a large swath of voters. While Washington state counts ballots that are postmarked by Election Day, even if they arrive after, other states require that ballots be received on or before Election Day to be counted.

Impacts to seniors, veterans

The changes also impaired critical mail services that many seniors and veterans rely upon, impacting the timely delivery of everything from prescriptions to Social Security benefit checks.

For example, the policy changes impacted our country's veterans, who reported much longer wait times to receive mail-order prescription drugs. The U.S. Department of Veterans Affairs, which provides broad health care services to veterans nationwide, fills about 80 percent of veteran prescriptions by mail. The VA processes about 120 million mail-order prescriptions per year — 470,000 a day. The Postal Service makes daily prescription deliveries to 330,000 veterans across the country.

Judge grants nationwide injunction

Just one month after the states sued, a federal judge in Yakima granted their motion for a nationwide injunction forcing the U.S. Postal Service to immediately halt drastic operational changes. Along with blocking DeJoy's most damaging operational changes, Judge Stanley A. Bastian ordered the Postal Service to continue its longstanding practice of treating all election mail as First Class mail, regardless of the paid postage.

Judge Bastian also ordered DeJoy to abide by his public commitment to suspend policy changes that would impact mail service until after the election.

Election mail still an issue

On Oct. 30, as Election Day drew perilously near, the Attorney General's Office requested a hearing before Judge Bastian to update him after data supplied by the Postal Service still showed unacceptably low on-time delivery rates in battleground states.

Generally, election mail delivery had improved since the states had won their injunction in September. But some areas continued to experience delays. For example, the data showed that on-time delivery of ballots sent by voters in Michigan's Detroit District had dipped as low as 57 percent over the previous week. By comparison, national on-time delivery had been at 93 percent or higher.

As a result of the data, Judge Bastian ordered the Postal Service to perform nightly sweeps for ballots in Wisconsin and the Detroit region in Michigan, and to take "extraordinary measures" to deliver ballots in time to be counted.

"The heart" of DeJoy's actions

Washington's lawsuit successfully protected the integrity of mail-in voting from drastic changes at the Postal Service, in addition to blocking damaging operational changes that impacted seniors, veterans and everyone else who uses the mail.

In ruling for the states, Judge Bastian cut right to the core of DeJoy's changes.

"Although not necessarily apparent on the surface," Judge Bastian said, "at the heart of DeJoy's and the Postal Service's actions is voter disenfranchisement."

"The full federal government should be working diligently to ensure the Postal Service can provide a strong foundation for this growing mail-election architecture. But that's not happening. The timing could not be worse. Less than three months remain before election day; less than two months remain before the first ballots reach early voters.

- Seattle Times Editorial Board, 08/12/2020

Leonard Forsman, Chairman of The Suquamish Tribe, speaks at a press conference on a judgment that requires the U.S. Navy to stop scraping the hulls of decommissioned ships in a way that releases metals and other contaminants into Sinclair Inlet. The resolution is a result of a lawsuit from our office, The Suquamish Tribe, Puget Soundkeeper Alliance and the Washington Environmental Council.

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. Much of the office's environmental work in 2020 continued to focus on defending federal environmental rules and standards that the Trump Administration has vowed to roll back. This work is handled by multiple divisions and units including the Environmental Protection Division, Ecology and Complex Litigation.

Navy hull scraping win

In January 2020, a judge ordered the U.S. Navy to stop scraping the hulls of decommissioned ships in a way that releases metals and other contaminants into Sinclair Inlet near Bremerton. The Navy was also required to begin a multi-million dollar project to reverse the environmental damage caused by scraping decades of marine buildup off the hulls of ships.

This resolution is the result of a lawsuit from the Suquamish Tribe, Puget Soundkeeper Alliance, the Washington Environmental Council and the Attorney General's Office. The coalition lawsuit asserted that the military branch violated the federal Clean Water Act and the state Water Pollution Control Act by releasing toxic substances into Puget Sound without a permit.

The lawsuit followed the Navy's January 2017 efforts to blast marine debris off the hull of the ex-U.S.S. Independence, a 60,000-ton decommissioned aircraft carrier, before transport and scrapping. In doing so, the Navy released approximately 73 dump-truck loads of solid materials into Puget Sound. The cleaning also released a significant amount of metals from the ship's "anti-fouling" hull paint that are highly toxic to marine life, such as copper and zinc. This contamination can harm marine life up and down the food chain. For example, copper can harm salmon's ability to navigate to spawning streams or to avoid predators.

Environmental Justice Initiative

Research shows that Black, Indigenous, people of color and low-income communities face the worst of the impacts of 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.

In honor of the 50th anniversary of Earth Day in April 2020, the Attorney General's Office launched an Environmental Justice Initiative, including a partnership with Gonzaga University to hold an environmental justice symposium. In addition, the office's Environmental Protection Division has shifted more of its resources to environmental justice work, and is hiring an attorney who will focus solely on environmental justice litigation efforts. The office has hired policy research fellows who will study environmental injustices, including those related to housing.

At a 2016 press conference A.G. Ferguson, joined by Environmental Protection Division Chief Bill Sherman and Governor Inslee, announces a lawsuit against Monsanto. The lawsuit asserted that the company produced PCBs for decades while hiding what they knew about the toxic chemical's harms. As a result of this litigation, Monsanto will pay $95 million for the harms caused to Washington state.

ANWR lawsuit

In September 2020, the Attorney General's Office led a coalition of 15 states filing a federal lawsuit against the Trump Administration to protect America's pristine and undeveloped Coastal Plain of the Arctic National Wildlife Refuge from oil and gas development.

The Coastal Plain is a 1.6 million-acre national treasure, unparalleled in its biological significance for hundreds of species, including caribou, threatened polar bears and millions of birds that migrate to and from six continents and through the lower 48 states. The area is sacred to the indigenous Gwich'in people and is particularly vulnerable to environmental stressors, including climate change, which has caused thinning sea ice and thawing of permafrost in the region.

Despite that, the Trump Administration's Department of the Interior authorized an oil and gas drilling program that would cause irreparable damage to one of the few remaining wild places in the nation. The administration's decision made the entire Coastal Plain available for leasing.

The coalition's lawsuit asserts that, among its many unlawful violations, the administration conducted a flawed environmental review that failed to take a hard look at the drilling plan's impacts on migratory birds, greenhouse gas emissions, and climate change.

In fact, despite the overwhelming and increasingly harmful impacts of climate change in the United States and around the world, the Trump Administration's environmental review for the drilling plan declares, "[T]here is not a climate crisis."

Clean Power Plan rollbacks challenge

In January 2020, 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" rule, which would not require significant carbon emission reductions. The ruling came in a challenge brought by the Attorney General's Office 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 went through in order to adopt it "hinged on a fundamental misconstruction" of the Clean Air Act.

> **"This settlement will help protect these marine resources for future generations. By avoiding protracted litigation, this agreement is also a step toward repairing the Tribe's and Navy's government-to-government relationship, while the Tribe continues to protect treaty-reserved waters.**
>
> **Leonard Forsman, Chairman of The Suquamish Tribe**

Monsanto's $95 million for PCBs

In 2016, Washington was the first state to file a lawsuit against Monsanto over its PCBs, asserting that the company produced PCBs for decades while hiding what they knew about the toxic chemicals' harm to human health and the environment. Monsanto was the only U.S. company to produce PCBs from 1935 until they were banned in 1977.

After three years of intense litigation — including defeating multiple efforts by Monsanto to have the case dismissed and moved to federal court — the Attorney General's Office announced in June 2020 that Monsanto will pay $95 million as compensation for damages PCBs have inflicted on the state's natural resources, including the economic impact to the state and its residents. This is, to date, Washington's largest independent state environmental recovery against a single entity.

The majority of the payment will go to the state General Fund. Ferguson urged the Legislature to use these funds as the lawsuit intended: to help clean our water and protect orcas and salmon in the wake of decades of pervasive PCB contamination across the state. The remaining funds will be used to pay the costs associated with litigating the complex case and to help fund the continued environmental protection work of the Attorney General's Office.

NEPA lawsuit

In August 2020, the Attorney General's Office filed a federal lawsuit against the Trump Administration for illegally gutting the nation's bedrock environmental law, the National Environmental Policy Act (NEPA). The changes will eliminate or reduce environmental scrutiny for a wide range of major federal decisions and will harm Washington's most susceptible communities.

NEPA is a federal statute that governs all federal agencies and applies to most of the activities they approve or carry out. NEPA mandates detailed environmental review for all major federal actions — like power plants, roads, pipelines and large logging projects.

Former Washington Senator Henry "Scoop" Jackson introduced NEPA in the Senate in 1968 when he chaired the Senate Interior & Insular Affairs Committee. It passed with overwhelming bipartisan support in Congress and President Richard Nixon signed it into law on Jan. 1, 1970. NEPA has been called "the Magna Carta of the nation's environmental laws."

NEPA requires that the federal government analyze and consider the environmental consequences of significant federal actions. It requires the federal government to "look before it leaps" by requiring decisions be informed by facts and science.

Clean Water protections lawsuit

In July 2020, the office filed a federal lawsuit against the Trump Administration for attempting to dismantle key environmental protections within the Clean Water Act. The new regulation undermines Washington's right to keep its rivers, lakes and coastal waters clean by handcuffing the state's ability to police a wide range of water pollution and related environmental damage.

On July 13, the U.S. Environmental Protection Agency (EPA) 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 discharge of waste into state waterways. The new rule will handicap states' abilities to regulate water quality.

The Trump Administration's final rule reverses 50 years of long-held and effective state and tribal water quality regulation. According to the lawsuit, co-led by Washington, New York and California and joined by a broad coalition of 17 other states and the District of Columbia, EPA's new rule unlawfully violates the plain language, intent and established case law interpreting the Clean Water Act.

AG Ferguson discusses the Office's healthcare-related work with members of the Washington State Medical Association during the 2020 legislative session.

Protecting Washingtonians' Health & Safety

Protecting the safety and health of Washingtonians continued to be a priority for the Office in 2020. 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 stop unlawful Trump Administration rules and policies that would jeopardize the health and safety of Washingtonians.

Ensuring Access to Charity Care: Capital Medical Center

In June, our office announced that Capital Medical Center in Olympia must provide full restitution to patients to resolve our office's 2017 lawsuit over the hospital's failure to follow state charity care laws.

Capital Medical Center must provide at least $250,000 in refunds to patients whom Capital unlawfully denied access to charity care. Capital is also required to provide more than $131,000 in debt relief to all patients who still owe Capital for treatment from 2012 to 2016, regardless of their income. In addition, the company must pay $1.2 million to the Attorney General's Office to cover the costs of the investigation and enforcement of charity care laws.

The lawsuit asserted that management at the for-profit hospital created a culture that elevated aggressive collection over meeting its legal obligation to provide access to charity care. As a result, thousands of charity care-qualified patients were forced to pay for their treatment upfront, incur medical debt or defer important medical care.

This was the office's second enforcement action over charity care law violations. In 2019, St. Joseph Medical Center in Tacoma and seven other CHI Franciscan hospitals provided $1.8 million in refunds and $41 million in debt relief as a result of our office's lawsuit.

Ensuring Vape Sellers Follow the Law

In December, the Attorney General's Office announced the results of a sweep cracking down on illegal internet vaping sales into Washington. As a result of the sweep, five companies caught violating Washington's age verification law — including one based in Spokane — paid a total of $132,000 to the Attorney General's Office, which will go toward continued enforcement of the law. The five companies also entered into legally binding agreements to change their advertising and online sales practices to comply with Washington's youth access law.

Investigators from the Attorney General's Office assembled a list of 148 online sellers of vapor products. The investigators then posed as minors or used false identifying information and attempted 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.

During a virtual press conference, Campaign for Tobacco Free Kids Western Region Director Annie Tegen demonstrates a flavored vapor product she was able to obtain online without age verification.

Several of the companies illegally sold products to the Attorney General's investigators without verifying the ages of the purchasers, including one that completed the sale even when the investigator indicated they were 17 years old.

Holding E-Cigarette Maker JUUL Accountable

In September, the Attorney General's Office filed a consumer protection lawsuit against e-cigarette company JUUL. The lawsuit asserts JUUL violated the state Consumer Protection Act by designing and marketing its products to appeal to underage consumers and deceiving consumers about the addictiveness of its product. JUUL's unlawful conduct fueled a pervasive and staggering rise in e-cigarette use and nicotine addiction among youth.

Upon the launch of JUUL's small, rechargeable e-cigarette device, the company flooded social media with colorful ads of young-looking models and pushed fruit and dessert flavored products. At the same time, JUUL vehemently denied it marketed to underage users — echoing unlawful strategies used by major cigarette corporations in decades past.

JUUL's tactics targeting youth were wildly successful. From the product's launch in 2015 to the end of 2018, JUUL gained control of more than 70 percent of the market share for e-cigarettes.

Meanwhile, use of e-cigarettes among teenagers has skyrocketed. For example, in 2016, 13 percent of high school sophomores in Washington used vaping products. In 2018, that number nearly doubled to 21 percent. In 2011, less than one percent (0.6) of middle schoolers used e-cigarettes. By 2019, one in 10 middle schoolers nationwide used e-cigarettes. This increase is undoing decades of advances in driving down youth smoking rates.

Restitution for Victims of Surgical Mesh

The Attorney General's Office continued its successful actions against transvaginal mesh manufacturers in 2020, garnering $2.38 million from medical device manufacturer Bard for misrepresentations and its failure to include serious risks in the instructions and marketing materials for surgical mesh devices.

> **"Washington State supports a woman's right to choose, as well as her right to access safe and legal abortion care. The Double-Billing Rule attempts to intrude on the State's right to do so by imposing onerous, arbitrary, and unnecessary billing practices that have little to do with providing efficient and effective medical coverage and everything to do with trying to prevent Washington State's recognition of women's right to access safe and legal abortions.**
>
> *- Judge Stanley Bastian*

Bard was one of the biggest manufacturers of transvaginal mesh devices.

The money went into a larger restitution fund, established after the office's $9.9 million recovery in April of 2019 from Johnson & Johnson on the eve of trial.

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.

In addition to the monetary payment, Bard and Johnson & Johnson must implement legally enforceable corporate reforms that will prevent their harmful conduct from continuing in the future.

Blocking the Trump Administration's "Double Billing" Rule

In April, an Eastern Washington federal judge declared the Trump Administration's Double-Billing Rule "invalid, and without force in Washington" because it violates Washington State's Reproductive Health Care Access for All Act.

In December 2019, the Trump Administration proposed the Double-Billing Rule to require health insurance companies to send consumers two separate bills for monthly insurance premiums: one for abortion coverage and another for all other coverage. The rule also directs insurers to demand two separate checks or two separate online transactions when paying the two bills.

The Reproductive Health Care Access for All Act passed the Washington Legislature with bipartisan support in 2019. The act includes a single-invoice provision requiring health insurance companies to bill enrollees with a single invoice for each coverage period.The office filed the lawsuit in the U.S. District Court for the Eastern District of Washington in January. The lawsuit asserted that, in addition to violating the Reproductive Health Care Access for All Act, the rule would cause many Washington women to inadvertently fail to pay their premiums in full, jeopardizing their health coverage.

Often, abortion coverage accounts for less than a dollar of a patient's monthly premium. The rule required insurers to charge enrollees at least one dollar for abortion coverage. All enrollees would have received the second bill, regardless of whether or not they received abortion services.

Fighting to Keep 3D Printed Gun Files Off the Internet

In January, the Attorney General's Office filed a federal lawsuit challenging the Trump Administration's latest effort to allow 3D-printed gun files to be released on the internet, leading a coalition of 21 attorneys general. These files would allow plug-and-play access to 3D-print unregistered, untraceable firearms that can also be very difficult to detect, even with a metal detector. Untraceable firearms are sometimes called "ghost guns."

As a result of the office's previous multistate lawsuit in 2019, a federal judge in Seattle struck down the Trump Administration's prior attempt to allow the release of the files. After losing in court, the Trump Administration tried again, this time by publishing new rules that would transfer regulation of 3D-printed guns from the State Department to the Department of Commerce, effectively allowing their unlimited distribution.

In March, a federal judge granted the office's request to block the new rules. In his order granting the preliminary injunction, the Bush-appointed judge, Richard Jones, wrote that "the proliferation of 3-D gun files on the internet likely renders ineffective arms embargoes, export controls, and other measures used to restrict the availability of uniquely dangerous weapons sought by those seeking to commit acts of terrorism or other serious crime."

COMBATING THE OPIOID EPIDEMIC

Skagit County Commissioner Lisa Janicki speaks in support of the Office's lawsuit against Johnson & Johnson for the company's role in the opioid epidemic.

Opioid Distributor Found in Contempt

Since 2017, the Attorney General's Office has proposed legislation, filed multiple lawsuits and worked with law enforcement and prosecutors in a multi-pronged strategy to combat the state's opioid epidemic.

One of those lawsuits, filed in 2019, accuses the three largest distributors of prescription opioids in Washington state of failing to alert law enforcement of suspicious opioid orders and illegally shipping those orders into Washington for years, contributing to the illegal supply of opioids and fueling the state's opioid epidemic.

In November, a King County Superior Court judge found one of those companies — AmerisourceBergen Drug Corp., one of the largest prescription opioid distributors in the world — in contempt of court for failing to turn over important documents and attempting to shield key witnesses from testifying.

AmerisourceBergen, along with the other two targets of the lawsuit, McKesson Corp. and Cardinal Health Inc., supply the majority of opioids coming into Washington state. They are listed in the top 15 of the Fortune 500 list based on 2017 revenue.

In ruling the company in contempt, Judge Marshall Ferguson ordered the distributor to hand over documents, produce witnesses and ordered AmerisourceBergen to pay the state's legal costs for bringing the motion.

The case against the three companies is expected to go to trial in 2021.

Holding opioid manufacturer Johnson & Johnson accountable

As part of the Attorney General's Office's ongoing work combating the opioid epidemic, the office filed a lawsuit in January against Johnson & Johnson, one of the largest suppliers of the raw materials used to produce opioid pain medications.

The lawsuit accuses the multinational company of playing a key role in driving the entire pharmaceutical industry to vastly expand the use of prescription opioids.

The lawsuit asserts that Johnson & Johnson fueled the opioid epidemic in Washington state by embarking on a massive deceptive marketing campaign and convincing doctors and the public that their drugs are effective for treating chronic pain and have a low risk of addiction, contrary to overwhelming evidence and ignoring the well-documented risks of its drugs.

Johnson & Johnson's actions resulted in the deaths of Washingtonians and devastation to Washington families.

The lawsuit continues the office's work combating the opioid epidemic. In 2017, the Attorney General's Office filed a lawsuit against Purdue Pharma. In March 2019, the office filed suit against the three largest distributors of prescription opioids in Washington state.

Federal Litigation

Environmental Protection Division Chief Bill Sherman announces a court order requiring the U.S. Navy to stop scraping the hulls of decommissioned ships in a way that releases metals and other contaminants into Sinclair Inlet near Bremerton.

In the final year of the Trump Administration, the Attorney General's Office filed or joined 45 new cases against the Trump Administration. Washington led 16 of those cases. Nearly two thirds of the new cases relate to protecting the environment by challenging damaging, unlawful policies from the administration. Three of the cases challenged administration policies that undermine civil rights, and four cases relate to protecting health care access or public safety. Other cases include challenges to the distribution of COVID relief funds, damaging changes to the U.S. Postal Service during the run-up to the election, and the proposed closure and sale of the National Archives building in Seattle.

In the four years of the Trump Administration, Washington filed or joined 99 cases challenging unlawful and unconstitutional actions by the federal government. More than half of those cases related to the environment, 15 related to immigration policies and nine challenged policies restricting health care access for all Washingtonians. Other cases related to public safety and protecting student borrowers.

New Cases Filed in 2020

* led by Washington

Federal environmental cases

***California et al. v. Wheeler et al.** — Challenged the Trump Administration's rules implementing section 401 of the Clean Water Act regarding states' certification of water quality. *Read more on page 20*

***California et al. v. Council on Environmental Quality** — Challenged the Trump Administration's revised final rule implementing NEPA, effectively gutting this bedrock environmental law. *Read more on page 20*

***Washington et al. v. Bernhardt et al.** — Sought to block any exploration activities and to prevent the government from issuing oil and gas development leases in the Coastal Plain of the Arctic National Wildlife Refuge. *Read more on page 19*

New York et al. v. U.S. Department of Energy — Challenged the Trump Administration's failure to enact more stringent energy efficiency standards for certain lightbulbs.

California et al. v. U.S. Department of Energy — Challenged the U.S. Department of Energy's revisions to its energy conservation standards process rule.

California et al. v. Wheeler — Challenged the Army Corps and Environmental Protection Agency's Navigable Waters Protection Rule: Definition of Waters of the United States.

New York et al. v. Wheeler — Challenged EPA rules which rolled back the federal government's appliance-maintenance and leak-repair standards for substitute refrigerants, such as the climate super-pollutants hydrofluorocarbons (HFCs).

California et al. v. EPA — Challenged the Trump Administration's rollback of federal emissions standards for cars and light-duty trucks.

Massachusetts et al. v. EPA et al. — Challenged the U.S. Environmental Protection Agency's rule reversing the agency's determination — first made nearly 20 years ago — that it is "appropriate and necessary" under the Clean Air Act to regulate mercury and other toxic air pollution from coal- and oil-fired power plants.

Maryland et al. v. U.S. Department of Transportation et al. — Challenged a new Trump Administration rule that authorizes nationwide transportation of liquefied natural gas in rail tank cars.

California et al. v. Wheeler — Challenged policy amendments for set of rules gutting standards that limit emissions of methane, volatile organic compounds, and other hazardous pollutants from new, reconstructed, and modified facilities in the oil and natural gas industry.

California et al. v. Wheeler — Challenging technical amendments for a set of rules gutting standards that limit emissions of methane, volatile organic compounds, and other hazardous pollutants from new, reconstructed, and modified facilities in the oil and natural gas industry.

New York et al. v. Wheeler et al. — Challenged the Environmental Protection Agency's denial of the states' petition for reconsideration of its final rule, "Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act."

New York et al. v. Brouillette — Challenged the federal government's failure to meet statutory deadlines for reviewing and updating energy efficiency standards for 25 product categories.

California et al. v. Department of Energy — Challenged a Department of Energy rule undermining energy efficiency standards for residential dishwashers.

California et al. v. EPA — Challenged the Trump Administration's final rule attempting to block future regulation of industries responsible for more than half of all greenhouse gas emissions from stationary sources, including emissions from the oil and gas industry, through rulemaking dealing with greenhouse gas standards for new power plants.

California et al. v. Environmental Protecton Agency — Challenged the Trump Administration's decision to leave current National Ambient Air Quality Standards for particulate matter pollution unchanged.

California et al. v. Environmental Protecton Agency et al. — Challenged a Trump Administration rule that sets inadequate greenhouse gas emissions standards for aircraft.

New York et al. v. U.S. Department of the Interior — Challenged a Trump Administration rule that severely narrows the Migratory Bird Treaty Act, which for nearly four decades has prohibited taking or killing migratory birds "at any time, by any means or in any manner."

California et al. v. Bernhardt — Challenged two final rules by the Trump Administration that are expected to drastically reduce the amount of habitat that can be protected using the federal Endangered Species Act.

New York et al. v. EPA et al. — Challenged a rule that directs EPA to give less weight to scientific studies, models, or other information in its regulatory decision-making unless the underlying data is publicly available.

New York et al. v. EPA — Challenged the Trump Administration's rule that weakens the standards for conducting cost benefit analyses of rulemakings under the federal Clean Air Act.

New York et al. v. EPA — Challenged the Trump Administration's decision to leave current National Ambient Air Quality Standards for ground-level ozone pollution unchanged, despite abundant scientific evidence that a more protective standard is needed to protect sensitive population groups.

California et al. v. EPA — Challenged the Trump Administration's final rule allowing major sources of toxic air pollutants — such as petroleum refineries and chemical plants — to escape key federal air pollution regulations whenever they can keep their emissions below 10 tons per year.

New Jersey et al. v. EPA — Challenged an EPA rule that allows upgrades at large air pollution sources to evade permitting requirements by allowing sources to use creative "netting" calculations to cherry-pick emissions decreases in other areas to offset a particular project without including emissions increases.

California et al. v. U.S. Department of Energy — Challenged the Trump Administration's final rule creating new, unnecessary classes of clothes washers and dryers based on cycle time.

New York et al. v. U.S. Department of Energy — Challenged the Trump Administration's final rule amending its "interim waiver" process for test procedures used to measure the energy efficiency of consumer products and commercial or industrial equipment.

New York et al. v. National Highway Traffic Safety Administration — Challenged the Trump Administration's last-minute regulation to reduce penalties for automakers that fail to meet corporate average fuel economy (CAFE) standards.

New York et al. v. U.S. Department of Energy — Challenged two Trump Administration "midnight" rules that undermine strong national energy conservation standards for residential gas furnaces and commercial gas water heaters.

Federal Civil Rights Cases

Washington v. Department of Homeland Security, et al.* — Challenged the Trump Administration's visa rule for international students, which revoked student visas for international students attending colleges and universities that are holding classes remotely during the pandemic. Read more on page 12

New York, et al. v. Trump* — Challenged the Trump Administration's new policy limiting the Deferred Action for Childhood Arrivals (DACA) program while the administration considers ending the program. Read more on page 12

New York et al. v. Trump et al. — Challenged a presidential memorandum declaring President Donald Trump's intent to exclude undocumented immigrants for the purposes of apportioning Congressional seats to the states.

Federal Health Care Cases

Washington v. Azar et al.* — Challenged a new Trump Administration rule requiring health insurance companies to send consumers two separate bills for monthly insurance premiums: one for abortion coverage and another for all other coverage. Read more on page 23

Washington v. Azar* — Challenged the Trump Administration's rule vastly limiting anti-discrimination protections under the Affordable Care Act.

Federal Public Safety Cases

Washington et al. v. U.S. Department of State et al.* — Challenged the Trump Administration's effort to allow 3D-printed gun files to be released on the internet by publishing new rules that would transfer regulation of 3D-printed guns from the State Department to the Department of Commerce, effectively allowing their unlimited distribution. Read more on page 23

Pennsylvania et al. v. DeVos — Challenged the U.S. Department of Education's new rule on reporting sexual assault and harassment at schools and universities.

Other Cases

Washington v. DeVos et al.* — Challenged an unlawful U.S. Department of Education rule that will deprive Washington's public elementary and secondary schools from receiving emergency relief funds. Read more on page 8

Washington et al. v. Trump et al.* — Challenged drastic operational changes at the U.S. Postal Service that threatened critical mail delivery and could undermine the national election. Read more on page 15

AG Ferguson, joined by Governor Inslee and Solicitor General Noah Purcell, announces a lawsuit to protect the U.S. Postal Service from operational changes that threatened critical mail delivery and could undermine the national election.

Washington v. DeVos* — Challenged the Department of Education's decision to restrict Higher Education Relief Fund money, provided as part of the CARES Act to help college students financially impacted by the COVID-19 pandemic, to only those students who qualify for federal financial aid. Read more on page 8

New York et al. v. Scalia et al. — Challenged the U.S. Department of Labor's joint employer rule, which makes it harder to find that large businesses are "joint employers" under the Fair Labor Standards Act.

Washington v. Public Buildings Reform Board* — Sought to force the Public Buildings Reform Board to produce records the Attorney General's Office requested through the Freedom of Information Act regarding the federal government's decision to close the Federal Archives & Records Center in Seattle and sell the property. Read more on page 29

Washington v. U.S. National Archives & Records Administration* — Sought to force the U.S. National Archives & Records Administration to produce records the Attorney General's Office requested through the Freedom of Information Act regarding the federal government's decision to close the Federal Archives & Records Center in Seattle and sell the property. Read more on page 29

Washington v. Office of Management & Budget* — Sought to force the Office of Management & Budget to produce records the Attorney General's Office requested through the Freedom of Information Act regarding the federal government's decision to close the Federal Archives & Records Center in Seattle and sell the property. Read more on page 29

Washington v. General Services Administration* — Sought to force the General Services Administration to produce records the Attorney General's Office requested through the Freedom of Information Act regarding the federal government's decision to close the Federal Archives & Records Center in Seattle and sell the property. Read more on page 29

Washington et al. v. Vought et al.* — Challenged the federal government's expedited sale of the National Archives building in Seattle and plans to move its irreplaceable records to Kansas City, Mo., and Riverside, Calif. Read more on page 29

Fighting to keep the National Archives in Seattle

In 2019, a little-known federal agency, the Public Buildings Reform Board, 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. No local, state or tribal officials were consulted in its initial selection.

In January, the federal Office of Management & Budget (OMB) approved a recommendation from the board (PBRB) to sell the building on Sand Point Way in Seattle. The board's recommendation included removing the contents of the Seattle archives and relocating them to facilities in Kansas City, Mo., and Riverside, Calif.

The Attorney General's Office pushed back on the decision, beginning with a letter from Attorney General Ferguson in February urging the federal government to reconsider the decision. The effort, which also included federal Freedom of Information Act lawsuits against the agencies involved in the decision, 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 community organizations, historical preservation societies and museums and the state of Oregon.

The lawsuit successfully blocked the building's sale in early 2021.

DNA of the Region

The Seattle archives contain many records essential to memorializing Washington's history. Researchers, historians, genealogists and students routinely use these records.

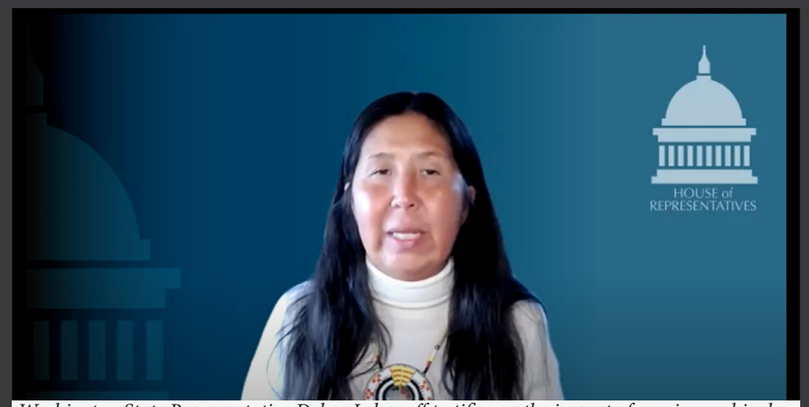
The Seattle archives houses a significant collection of tribal and treaty records relating to the 272 federally recognized tribes in Alaska, Washington, Oregon and Idaho. The archives contain original drafts of tribal treaties and original copies of correspondence from treaty negotiations during the mid-19th century.

Tribal members use federal archive records for many reasons, including to establish tribal membership, demonstrate and enforce tribal rights to fishing and other activities, trace their lineage and ancestry, and access native school records. If these historical records are removed from the Pacific Northwest, many tribal members will be prevented from exercising these important rights.

The Seattle archive facility also houses original case files for people who entered the country through ports in Portland and Seattle. These files include 50,000 case files related to the Chinese Exclusion Act of 1882, which was passed to limit the number of Chinese laborers entering the United States. Individuals applying for entry into the United States under the Chinese Exclusion Act had to go through an extensive application process.

These case files include identification photographs, biographical information, interrogation notes, copies of federal and local court records, as well as personal letters and photographs. These files, created to discriminate against Chinese workers, have become a critical resource to Chinese Americans looking for information about their ancestors.

A dedicated group of volunteers has been working to index these files, creating an extensive database of family history. If the federal government moves these files, the volunteers will not be able to complete their work or help people learn about their family history. The Seattle Times profiled these volunteers in a video called, "It's like reading someone's life: Seattle's Chinese Exclusion Act Files."



Washington State Representative Debra Lekanoff testifies on the impact of moving archival records at a public meeting hosted by the AGO.

Blocking the Sale

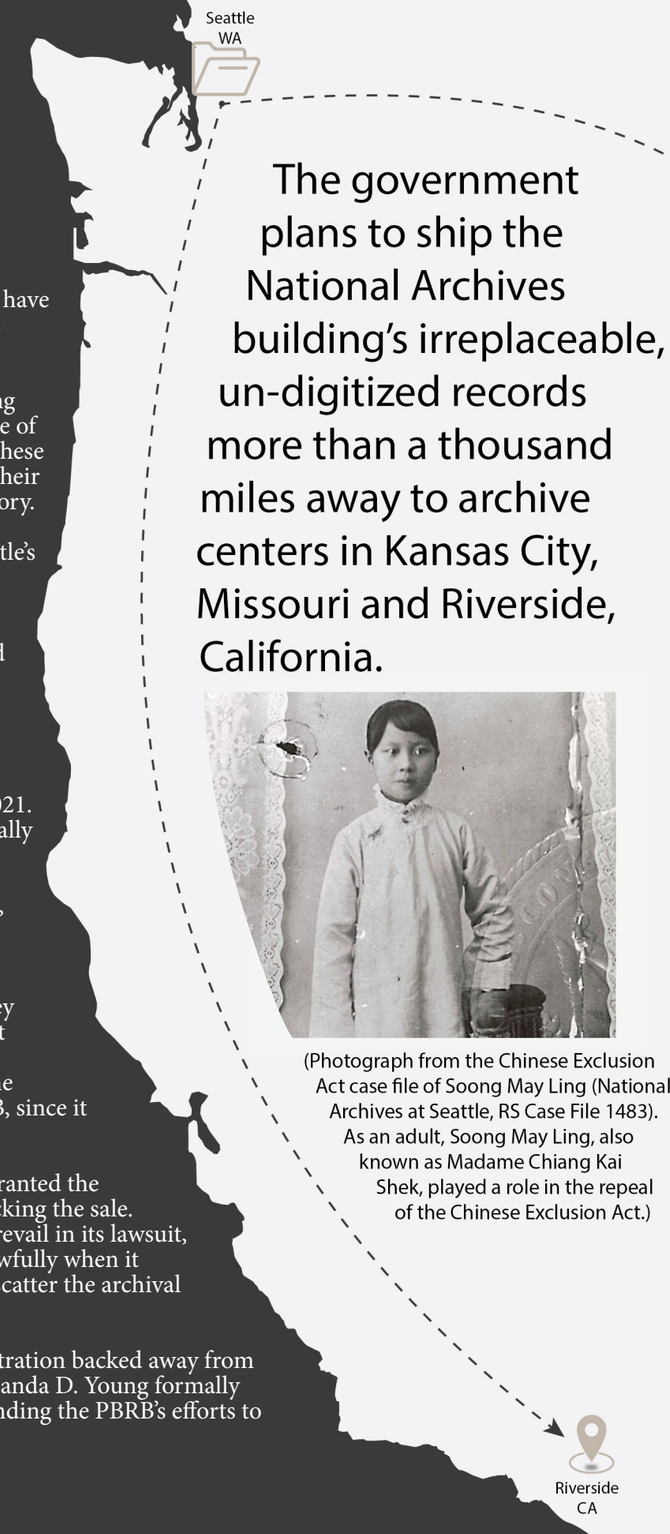
In December, attorneys with the office uncovered the PBRB's decision to expedite the sale of the Seattle Archives buried in a 74-page meeting minutes document from several months before. In it, the board disclosed that it would move to immediately sell Seattle Archives, along with a "portfolio" of other federal properties, in early 2021. It had planned on selling the properties individually over the next year.

In January of 2021, the Attorney General's Office, joined by Oregon and its tribal and community partners, sued to stop the sale.

As part of the effort to block the sale, the Attorney General's Office hosted a remote public comment meeting where hundreds of people attended and commented on the sale. The office transmitted the recording of the hours-long meeting to the PBRB, since it had not sought public input on its decision.

The following month, a federal judge in Seattle granted the group's request for a preliminary injunction, blocking the sale. The judge ruled that the coalition was likely to prevail in its lawsuit, asserting that the federal government acted unlawfully when it moved to sell the National Archives facility and scatter the archival records thousands of miles away.

In the wake of the injunction, the Biden administration backed away from the sale. In April 2021, OMB acting director Shalanda D. Young formally withdrew OMB's approval of the sale, officially ending the PBRB's efforts to sell the Seattle Archives.



The government plans to ship the National Archives building's irreplaceable, un-digitized records more than a thousand miles away to archive centers in Kansas City, Missouri and Riverside, California.

(Photograph from the Chinese Exclusion Act case file of Soong May Ling (National Archives at Seattle, RS Case File 1483). As an adult, Soong May Ling, also known as Madame Chiang Kai Shek, played a role in the repeal of the Chinese Exclusion Act.)

KIRO 7's Jesse Jones and AG Ferguson discuss a scheme in which the nation's largest magazine subscription services charged more than 2,000 Washington consumers for deceptive magazine automatic-renewals.

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.

Winning $650 Million Back for Washingtonians

The Attorney General announced in June that his consumer protection and other affirmative litigation divisions had recovered more than $650 million for Washingtonians and state and tribal governments since January 2013. This represented a return on investment of $35 for every $1 the state has spent on funding for this work.

Since 2013, the Legislature provided a total of $18.7 million in funding for consumer protection work. This is the only funding the Legislature provided since 2013 that went to the attorney general's affirmative litigation work. "Affirmative litigation" describes the Attorney General's legal divisions that bring cases on behalf of the people of the state using its authority to protect the people, rather than on behalf of another state agency. These include the Consumer Protection Division, Antitrust Division, Civil Rights Division, Environmental Protection Division and Complex Litigation Division. The Attorney General's affirmative litigation divisions constitute approximately one-sixth of the office.

The Attorney General's affirmative litigation divisions protect the public and ensure that the cost of litigation necessary to enforce consumer protection, antitrust and anti-discrimination laws are borne by the violators. These divisions generate revenue for the state, meaning they return more money to the state than they receive in the form of appropriations.

With that funding, the Attorney General's Office has won:

- $342.65 million in relief for consumers, such as debt relief and loan modifications from litigation and money back to consumers through the office's informal complaint resolution process
- $170.45 million in consumer restitution — money that goes back to Washingtonians directly
- $107.8 million in recoveries to the state, either to the general fund or state agencies
- $21.6 million in recoveries to tribal governments or non-profits

In 2017, the Tri-City Herald editorialized: "[Attorney General Ferguson has] done something we don't often see in government: He's running his office like a business. …The Attorney General's Office is able to keep money earned in a settlement. So rather than just keeping the staff at the status quo and covering costs, Ferguson has added employees as well. More attorneys mean more bad actors can be brought to justice. And it's not costing the state a dime. The office is earning the money it needs to operate and expand on its own. And then giving the surplus to the state."

Recouping Money for Ticket Holders and Event Organizers

After receiving thousands of complaints from consumers and event organizers across the country, the Attorney General's Office filed a September lawsuit against Brown Paper Tickets. The lawsuit asserted the Seattle-based company, which provided ticket management and support for event organizers, failed to pay organizers for events that occurred before COVID-19 shutdowns. It also had not refunded consumers for tickets they purchased for entertainment and other events cancelled due to the pandemic.

Brown Paper Tickets started its business in 2000. It offers low-cost ticketing services to event organizers and acts as an intermediary between event organizers and ticket buyers. It asks for five percent of the ticket price and a 99-cent fee on ticket buyers for its services.

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 are organizers and attendees of small, nonprofit or community-based events, like those at community centers, schools or children's theaters.

In March 2021, the company reached a legally binding agreement with the Attorney General's Office to fully refund all consumers who purchased tickets to canceled events, and refund organizers of past cancelled events. An estimated 45,000 event organizers and ticket purchasers nationwide, and internationally, will receive a total of approximately $9 million from this resolution.

Brown Paper Tickets owed an average of less than $50 to ticket buyers, but substantially larger amounts to event organizers — as much as $1,000 to $10,000 or more per event. Ultimately, much of the restitution going to event organizers will help recoup losses for completed events for which they were not paid. An estimated 90 percent of the consumers who were entitled to refunds were ticket buyers.

Protecting Washington Drivers from Defective Airbags

In August, The Attorney General's Office publicized the results of an investigation by 48 state attorneys general into Honda's use of defective, dangerous airbags made by Takata, a now-defunct manufacturer. During the investigation, the attorneys general reached a legally binding agreement with Honda to implement new safety measures and improve consumer safety.

For 15 years, in dozens of its models, Honda used Takata-made airbags that could explode during inflation then expel debris and shrapnel at drivers and passengers. The ruptures resulted in at least 14 deaths and over 200 injuries nationwide. The states asserted Honda had independent information showing the airbags were dangerous years before it issued a recall. The company failed to adequately warn the public and continued to advertise its vehicles as safe, which violated Washington state's Consumer Protection Act.

Honda installed defective Takata airbags in more than 12.4 million cars nationwide and 306,000 vehicles in Washington. Honda repaired about 80 percent of affected Washington vehicles.

Honda agreed to new safety reforms that included improved quality control, enhanced whistleblower protections and additional supplier oversight. In addition to those legally required corporate reforms, the company paid Washington state $1.8 million. The money went toward recouping the cost of the investigation and supporting future enforcement of the Consumer Protection Act.

Preventing Illegal Towing of Servicemembers' Cars

In May, Pierce County Superior Court Judge Michael Schwartz ruled that Burns Towing Inc. violated the Servicemembers' Civil Relief Act (SCRA) when it auctioned off cars belonging to servicemembers on active duty. This law requires companies to obtain a court order before sellinsg at auction vehicles owned by active duty service members.

In September 2018, the Attorney General's Office filed a lawsuit in Pierce County Superior Court against Burns Towing for illegally auctioning off a military servicemember's vehicle while he was on active duty. Burns Towing had no policies and procedures in place to comply with the SCRA.

After filing the lawsuit, the Attorney General's Office investigated whether Burns Towing unlawfully sold other active duty servicemembers' vehicles at auction without first obtaining a court order. The Attorney General's Office uncovered evidence that Burns Towing sold as many as 35 servicemembers' vehicles while they were on active duty.

Under the court order, Burns Towing will pay restitution to all servicemembers who suffered financial losses when the company towed their car. Additionally, the court found that Burns Towing and its owner committed unfair acts and practices under the Consumer Protection Act by failing to investigate whether the owners of vehicles it sold at auction were active duty servicemembers, including failing to use a free, publically available database operated by the Department of Defense.

Protecting our Children Online

The Attorney General's Office announced in June that California-based technology company Super Basic LLC and its parent company Maple Media LLC would pay $100,000 to resolve an investigation into a social media platform created for children. The investigation found the companies' social media platform, "We Heart It," allowed children to create accounts, collected their personal information and allowed third-party advertisers to collect data from them, all without legally required parental consent.

We Heart It is a social media platform where users create profiles so they can upload and share images and other content. The platform has various pages or "channels" that users can follow, several of which appeal to children, including ones dedicated to Disney, Harry Potter, DC Comics, Pokémon and child celebrities or celebrities who appeal to children. Users can interact by messaging each other or by liking each other's content. During the investigation, We Heart It had approximately 500,000 monthly active users in the United States.

When the Attorney General's Office began its investigation, We Heart It permitted anyone, regardless of their age, to create an account without obtaining verifiable parental consent or providing proper notification of its data collection. While many online platforms at a minimum use an age screen to verify that children under the age of 13 are not creating accounts on their platform, We Heart It did not.

Under a legally enforceable agreement, Super Basic and Maple Media paid $100,000, with an additional $400,000 suspended contingent upon the companies' compliance with the order.

Under the federal Children's Online Privacy Protection Act, platforms created with a focus on children users may not collect personal information from them without first obtaining parental consent. The Attorney General's Office asserted the companies' conduct violated that law, and also used unfair or deceptive business practices that violated the state Consumer Protection Act.

In addition to the $100,000 payment and the $400,000 suspended payment, the consent decree required Super Basic and Maple Media to:

- Utilize an age gate to prevent users under the age of 13 from creating We Heart It accounts
- Obtain verifiable parental consent before collecting personal information from children under the age of 13
- Provide direct notice to parents of We Heart It's data collection and disclosure practices, as well as a clearly labeled link to online notice of its practices.

Winning Debt Relief for Hundreds of College Students

In September, the Attorney General's Office announced that 816 former ITT Tech students in Washington state would receive $5.9 million in debt relief. The debt forgiveness resolved an investigation a bipartisan coalition of attorneys general launched into unfair and deceptive lending practices by PEAKS Trust, a private loan program created to fund loans for the for-profit college ITT Tech.

PEAKS formed after the 2008 financial crisis when private sources of lending available to for-profit colleges were drying up. ITT Tech developed a plan with PEAKS to offer students temporary credit to cover the gap in tuition between federal student aid and the full cost of the education. Many students attested that they thought the temporary credit was like a federal loan, and, consequently, would not be due until six months after they graduated. When the temporary credit became due, ITT Tech pressured and coerced students into accepting loans from PEAKS, which for many students carried high interest rates.

Many of the ITT students were from low-income backgrounds and had to choose between enrolling in the PEAKS loans or dropping out. If they left school, they lost any benefit of the credits they had earned because ITT's credits would not transfer to most schools.

Under the legally enforceable agreement, PEAKS agreed to stop collection of all of its outstanding loans. It also agreed to send notices to borrowers about the cancelled debt and stop any automatic payments. Moreover, PEAKS would work with credit reporting agencies so the loans would no longer affect borrowers' credit scores. The agreement also required PEAKS to dissolve itself.

Getting Refunds for Timeshare Owners

In February, the Attorney General's Office filed a lawsuit against Bellevue-based Reed Hein & Associates LLC, asserting numerous unfair or deceptive business practices related to services to "exit" consumers' timeshares that violated the Washington Consumer Protection Act and the Debt Adjusting Act.

Trevor Hein and Brandon Reed formed their company in 2012, after Reed attended a trade show where he noticed a long line at a booth selling timeshare exit services. A timeshare is a property, usually vacation real estate, that multiple people own to stay in for preset allotments of time.

Reed Hein contracted to provide 38,000 timeshare exits. About 32,000 people contracted with Reed Hein to get out of their time-share contracts, some with multiple timeshares. Of those, 2,500 or more were Washingtonians. The company charged from about $3,000 to $9,000 for its services.

The lawsuit asserted that Reed Hein does not possess its claimed expertise in exiting timeshares. This lack of experience exposed its customers to unanticipated negative financial consequences because Washington has strict rules for people who offer to manage or adjust consumer debt. Reed Hein did not follow those laws, despite contracting with people to get out of mortgages.

For example, under the Washington Debt Adjusting Act, debt adjusters may charge no more than $25 as an initial fee, and no more than 15 percent of the debt for adjustment. For customers with mortgages, Reed Hein charged up to $8,795, and as much as 30 percent of the mortgage.

Reed Hein advertised a 100 percent money-back guarantee. In reality, many consumers struggled to obtain refunds and Reed Hein denied many refunds. Under the terms of the company's guarantee, clients who faced foreclosure were not entitled to their money back, because Reed Hein considered foreclosure a successful outcome — despite the damage to the customer's credit. Many customers were not aware of these conditions on the guarantee. The lawsuit contended this was an unfair or deceptive practice.

Rocketmiles

As a result of the Attorney General's multiyear investigation into the online travel agency Rocketmiles, Washington state consumers were able in July to make claims to receive their share of a $300,000 recovery.

Rocketmiles is an online travel agency that provides hotel booking services similar to Expedia, Priceline or Hotels.com. Rocketmiles, unlike many of its competitors, also awards airline miles to consumers who book hotels through their website.

From May 1, 2015 to December 5, 2016, Rocketmiles charged hidden fees on thousands of transactions in Washington, even though they told consumers they charged the same rate as booking directly with a hotel or a competing travel agency.

During the time of the investigation, the company advertised online that consumers would "pay the same rates" booking a hotel with Rocketmiles as booking directly with a hotel or with a competing travel agency. However, contrary to its claims, Rocketmiles charged consumers an additional fee on its transactions, which could make some of its bookings ultimately more expensive than its competitors.

In order to avoid a lawsuit for its conduct, Rocketmiles paid the Attorney General's Office $300,000, which included full consumer restitution, claims administration costs and attorney's costs and fees. The consent decree also barred Rocketmiles from using deceptive advertising about hotel pricing, including fees.

Winning Millions for Misled Loan Borrowers

In May, the Attorney General's Office announced that Santander Consumer USA Inc., the nation's largest subprime auto financing company, will pay as much as $6.4 million to Washingtonians in the form of cash relief and loan forgiveness, following a years-long, multistate investigation into its lending and loan servicing practices.

Santander issued loans it knew borrowers would have a very hard time paying back, ignored dealer abuse of its automated system that increased the risk of falsified information in loan documents and misled borrowers about the risks of partial loan payments.

The legally binding agreement provided extensive restitution for consumers who Santander harmed and it also mandated significant changes to prevent future abuses. More than 2,500 Washingtonians were eligible for cash restitution totaling $579,642, and 244 will be eligible for immediate loan forgiveness, totaling $3,382,000. Santander also bought back the loans it sent to collection companies then forgave them, providing up to $2,391,000 in relief for up to another 318 Washingtonians.

In addition to more than $550 million in relief to consumers nationwide, the resolution required Santander to make significant changes to its practices to protect consumers from abusive practices discovered during the investigation.

Santander cannot extend financing if the consumer's actual monthly debt obligations equal or exceed their income. The agreement also required Santander to implement steps to monitor dealers who misrepresent income and expenses. Santander also will maintain policies and procedures for deferments, forbearances, modifications and other collection matters that all employees must follow.

Preventing Unlawful Magazine Auto-Renewals

In December, Synapse Group, the country's top magazine subscription company, reached an agreement with the Attorney General's Office to return all of the money it charged more than 2,000 Washington consumers for deceptive magazine auto-renewals, an estimated total of $125,000.

One of the company's marketing programs, called "Mags For Miles," allowed customers to apply their unused airline miles for magazine subscriptions. Customers using that program bought magazine subscriptions at a highly discounted promotional rate of $2. However, the company did not clearly disclose that these $2 subscriptions would eventually auto-renew at full price.

From 2011 to 2016, the company sent "Mags For Miles" mailers to Delta airline customers, which included warnings to "redeem your miles now," and "don't let your miles remain unused." These mailers looked as though they were coming directly from Delta, and included a "mileage redemption voucher" that consumers could use to order subscriptions with their miles.However, Delta miles, known as "SkyMiles," do not expire.

The Attorney General's Office received seven complaints about Synapse overall, three of which complained about auto-renewals or mailers. Several dozen Washington consumers also complained about Synapse to the Better Business Bureau.

In addition to reimbursing customers, the agreement requires Synapse to pay the Attorney General's Office $750,000 for reasonable attorney costs and fees, future monitoring and enforcement of the resolution and future enforcement actions under the Consumer Protection Act. The agreement also required Synapse to clearly disclose their auto-renewal policy before consumers make their purchase.

Stopping a Veterans Charity Scam

In November, a Pierce County Superior Court judge ordered a charity that deceptively claimed to help veterans to pay a total of nearly $1 million in restitution and financial penalties. The sham charity's sole officer, Michael Friedmann, told consumers and donors their donations would benefit veterans and their families when none of the money raised did.

In November 2018, the Attorney General's Office sued Spanaway-based Fallen Hero Bracelets asserting that they misled customers into believing their purchases were benefiting veterans' charities like ones for separated families, service animals or children's scholarships. Further, when consumers and donors asked Friedmann where their items were or questioned him, he then would verbally abuse them or threaten them.

In the order, Judge Elizabeth Martin specifically noted the "deceptive" and "abusive" conduct by Fallen Hero Bracelets and Friedmann, who falsely held himself out as a military veteran. She said he and his company unquestionably violated the Consumer Protection Act 1,240 times and violated the Charitable Solicitations Act tens of thousands of times.

The court ordered $504,000 in restitution, which will go to charities, honoring donors' original intent. The Attorney General's Office will receive nearly $491,000 of that money to send to non-profits and charities that assist military families or law enforcement who died in the line of duty. The court ordered an additional $322,000 in civil penalties that will go to the Washington state general fund. Friedmann must also pay nearly $169,000 in attorney costs and fees.

The judge permanently prohibited Friedmann from nearly all activity in the charity and nonprofit sectors. The judge also banned him from forming for-profit business entities in the state and he cannot register, own, manage or operate any e-commerce site.

Ensuring fees are Transparent & Honest

The Attorney General's Office announced in July that it reached a legally binding agreement with Frontier Communications Northwest to pay $900,000 to Washington state. The binding agreement required the company to have transparency about all fees and its internet speeds to consumers.

The payment resolved an investigation into allegations that Frontier Northwest did not adequately disclose fees when advertising and selling its products, and misled subscribers about internet speeds it could provide. Frontier's unlawful deception affected thousands of Washington consumers.

The Attorney General's Office began its investigation in 2018 after receiving more than 600 complaints about the company. The investigation included reviews of Frontier Northwest's website and advertising. The company serviced more than 165,000 internet customers, primarily in rural areas of Washington state.

Combating Undisclosed Surcharges

In July, Connecticut-based telecommunications and mass media company Charter Communications signed a legally binding agreement with the Attorney General's Office to pay more than $255,000 to Washingtonians after failing to disclose its "Broadcast TV Surcharge" to customers who ordered the company's services online.

The Attorney General's Office began its investigation into Charter in 2017, after reviewing their website as part of its Honest Fees Initiative. Since at least 2012, Charter charged a monthly "Broadcast TV Surcharge" to Washington cable television customers. The fee reflected the charges local broadcast stations required of Charter to carry their stations.

Thousands of Washington consumers purchased Charter services online without realizing that Charter planned to add a monthly "Broadcast TV Surcharge" to their bill totaling as much as $6.05 per month. They did not realize Charter planned to add this surcharge because Charter did not conspicuously disclose the surcharge and did not disclose that it periodically increased the fee.

The Attorney General's Office will return the $255,660 in consumer restitution to thousands of Washington subscribers who had the hidden fees on their bills. Customers who receive a bill credit will get a notice on their bill referencing the consent decree.

The consent decree required Charter Communications to clearly and conspicuously disclose all fees, surcharges and terms or conditions of its offers to Washington consumers prior to them purchasing service. It also required Charter to pay $739,400 to the Attorney General's Office.

Stopping Illegal Robocalls

In August, a King County Superior Court judge ordered Vancouver, Wash.-based air duct cleaning companies and their owner to pay civil penalties of $10 million in a 2019 lawsuit over deceptive advertisements and robocalls. In September 2019, the Attorney General's Office filed a lawsuit against US Air Ducts & Sky Builders Inc. and DLM Services Inc., as well as owner Rami Mornel, for unlawfully contacting more than a million Washington consumers, in violation of the Consumer Protection Act.

The companies made over 13 million robocalls within Washington state from 2017 to 2019, including calling more than 500 individual Washington consumers over 100 times. The Attorney General's Office received dozens of complaints about the companies' robocalls and deceptive advertising and services. Washingtonians also filed nearly 120 complaints about the companies with the Federal Trade Commission.

In addition to contacting Washingtonians unlawfully, the company used deceptive tactics to convince individuals to buy expensive services and a long-term "VIP Membership" that provided little to no value.

In May, King County Superior Court Judge Susan Craighead found that the deceptive ways that US Air Ducts and DLM Services advertised and presented their air duct cleaning services violated state laws in multiple ways, including:

- Making millions of robocalls to more than a million Washingtonians without their permission.
- Deceiving Washingtonians by disguising their caller IDs to mislead them as to who was calling.
- Making millions of robocalls to hundreds of thousands of Washington telephone numbers on the federal Do Not Call registry.
- Mailing advertisements implying the promotional price for the service in the advertisements was a reduction from the regular price and was only a "limited time offer."
- Creating fake Google reviews to misrepresent its reputation to Washingtonians

At a 2018 press conference, A.G. Ferguson announces a major victory for Hanford worker safety in a lawsuit against the U.S. Department of Energy.

Protecting Hanford Workers

The Attorney General's Office has a longstanding record of going to bat for workers when their rights have been violated or they are put in harm's way. In 2020, the office continued its fight on behalf of Hanford workers by successfully defending a legal challenge against a state law that makes it easier for Hanford workers to access workers' compensation benefits for illnesses associated with their work at Hanford.

"This triumph gives the sick and chemically poisoned Hanford workers hope. Our entire family was affected by a lack of regard for human life at the Hanford Nuclear Site. Thank you to Bob Ferguson for hearing the poisoned Hanford workers' stories and actually doing something real about it. If all persons in a position of power had his level of integrity, the world would be a better place.

- Melinda Rouse, Wife of former Hanford worker Lonnie Rouse.

Upholding State Law to Protect Hanford Workers

In August 2020, a panel of judges in the U.S. Court of Appeals for the Ninth Circuit unanimously struck down the Trump Administration's claims that a 2018 Washington state law protecting Hanford workers is unlawful. The panel ruled that Washington has a right to create laws giving workers at the Hanford Nuclear Reservation easier access to the benefits they deserve if they become ill because of their work at Hanford.

In 2018, in an overwhelming, bipartisan vote, the Washington State Legislature passed legislation to make it easier for Hanford workers to access workers' compensation benefits when they develop certain illnesses associated with their work at Hanford. Rep. Larry Haler, R-Richland, and Sen. Karen Keiser, D-Des Moines, sponsored this bipartisan legislation, with key support from Rep. Gerry Pollet, D-Seattle, and Rep. Mike Sells, D-Everett.

Under this law, when a worker who had at least one shift at Hanford develops one of a wide range of illnesses known to be linked to exposure to volatile chemical gases at Hanford, there is an assumption that he or she became ill because of an exposure at work. These illnesses include chronic beryllium, respiratory diseases and neurological problems.

Before this bill was passed, Hanford workers suffering from an illness related to their job had to prove that whatever they had wasn't caused by something else in their lives. For many workers, this turned into a long, drawn-out fight — some workers passed away before they could receive benefits for illnesses related to their work at Hanford.

Shortly after the 2018 Hanford worker protection bill was passed, the Trump Adminstration filed a lawsuit against it. The government argued that the law violates "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.

The judges agreed, ruling that Washington had the authority to apply its workers' compensation laws to Hanford workers.

A History of Defending Hanford Workers

This ruling is part of the office's long-running effort to defend the rights of Hanford workers.

For more than 40 years, the Hanford Nuclear Reservation played a critical role in the nation's military weapons program, producing plutonium for nuclear weapons. This process generated massive quantities of waste, much of which was buried on-site or, in the case of liquids, discharged directly to the ground, risking contamination of the groundwater that flows into the Columbia River. Hanford holds more high-level radioactive waste than all other U.S. sites combined, stored in 177 underground tanks. Of the 177 tanks, 149 are single-shell tanks, designed to be used for only 20-25 years. Many of these tanks are some 40 years beyond their design life.

Some 1,500 different volatile chemical gases — many of which are highly toxic and known carcinogens — have been found in the Hanford tanks. Exposure to these chemicals is known to cause numerous harmful health impacts including lung disease, central nervous system suppression, nerve damage, and cancers of the liver, lung, blood and other organs.

Ferguson filed a lawsuit in 2015 against the federal government alleging that hazardous tank vapors at Hanford pose a serious risk to workers at the site. This worker safety case led to a victory in 2018, when the federal government signed a legally-binding agreement to conduct testing and, if successful, begin implementing a new system to treat or capture these hazardous tank vapors at the Hanford Nuclear Reservation within the next three years.

The legislative team receives recognition from AGO leadership for their work during the 2020 Legislative Session. From left to right: Chief of Staff Mike Webb, Legislative Director Yasmin Trudeau, Legislative Fellow Joyce Bruce, Legislative Fellow David Pham, Deputy Legislative Director Brittany Gregory, Chief Deputy Attorney General Shane Esquibel.

Legislative Priorities

Attorney General Ferguson's 2020 legislative priorities included banning youth solitary confinement, providing minimum pay standards for domestic workers and protection from retaliation, sexual harassment and discrimination, as well as advocating for stricter firearm laws.

AG Ferguson discusses the role of the AGO and the value of a career in public service with a group of legislative interns.

Passed

Youth Solitary Confinement
This legislation prohibits the use of solitary confinement as a punitive practice for juveniles, limiting the use of isolation to emergency situations with strict time and placement procedures. It establishes a process for the creation of model policies that institutions can use as guidance for when the use of isolation, room confinement, or less restrictive alternatives are appropriate.

Other Legislation

Domestic Worker Bill of Rights
This legislation provides domestic workers with protections afforded to other workers, including minimum wage standards and overtime pay, adequate meal and rest breaks and more. It also protects domestic workers against retaliation, sexual harassment and discrimination. While both chambers of the Legislature passed versions of this legislation, they failed to come to agreement on a final bill.

Regulating Ammunition Sales
This legislation requires background checks for all ammunition sales after the U.S. Department of Justice authorizes dealers to use the national instant criminal background check system, known as NICS, to initiate a check for a transfer of ammunition. It also prohibits violent felons and other individuals who cannot lawfully obtain firearms from purchasing or possessing ammunition, and makes it illegal for firearms dealers to knowingly sell ammunition to them. It also requires ammunition sellers to obtain a state firearms license.

Establishing a Cooling Off Period
This legislation establishes a one-year "cooling off" period for elected officials, agency heads, and senior-level officials by prohibiting lobbying activity directly following public service.

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. In the 2020 session, this legislation again passed the Senate, but failed to come up for a vote in the House.

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.

Deputy Solicitor General Alan Copsey goes before the Washington Supreme Court to defend a voters' initiative that would have limited vehicle registration fees to $30. Initiative 976 was ultimately struck down by the court, which found that the initiative violated the state's constitutional requirements that initiatives have only one subject.

Defending the Will of the Voters & Combating Campaign Finance

The Attorney General's Office defends the will of the voters by standing up for voter-approved initiatives when they face legal challenges. In 2020, the office defended two high profile initiatives regarding semiautomatic rifles and $30 car tabs.

The office also handles campaign finance-related litigation to ensure campaigns are fair and transparent.

"While states may vary in terms of the specific guns or activities they regulate, restrictions on potentially dangerous firearm conduct by those under the age of 21 is the common refrain. There is no reason why a restriction on sale and possession of SARs—powerful weapons that can be wielded against the public—constitutes a break from this pattern. The Age Provision does not burden Second Amendment rights. Plaintiffs' challenge to it thus fails at the first step of the inquiry.

- Judge Ronald Leighton

Defending a Voter Initiative on Semiautomatic Rifles

In August, a federal judge in the U.S. District Court for the Western District of Washington ruled that Initiative 1639 was constitutional and would remain law in Washington state. The 2018 voter-approved initiative made several changes to Washington laws on semiautomatic rifle purchases, including strengthening background checks and requiring waiting periods for purchases of semiautomatic assault rifles.

Judge Ronald Leighton granted the Attorney General's motion for a summary judgment ruling that I-1639 did not violate the Constitution. The law implemented the same enhanced background checks, waiting periods and purchasing requirements for semiautomatic assault rifle purchases that have existed for handgun purchases.

Leighton's ruling was on a 2019 lawsuit several plaintiffs, including the National Rifle Association and the Bellevue-based Second Amendment Foundation, filed against Washington state over the initiative. As part of his role as Attorney General, Ferguson defends all voter initiatives against legal challenges.

In November 2018, I-1639 passed with nearly 60 percent of the statewide popular vote. It required a chief of police or sheriff to provide written notice to local dealers whether a purchaser is eligible to possess a semiautomatic assault rifle and whether they approved the application for purchase.

Defending $30 Car Tabs

In mid-October, the Washington state Supreme Court ruled Initiative 976, which limited car registration fees and registrations to $30, as unconstitutional. The initiative, popularly known as the "$30 car tab" initiative, passed in November 2019 but several municipal governments brought a lawsuit claiming it was unconstitutional.

Supreme Court justices found the initiative violated the state constitution's requirement that initiatives only have one subject. Justices ruled the initiative's title misleadingly led voters to believe they would be able to approve tax increases in the future, which the initiative did not allow.

The Solicitor General's Office defended the initiative in both King County Superior Court, where a judge upheld the initiative in February, then in the Supreme Court later in the summer. Initiative sponsor Tim Eyman claimed throughout the process that state attorneys did not sufficiently defend the initiative. However, as part of his role as Attorney General, Ferguson defends all voter initiatives against legal challenges and successfully defended the initiative in King County Superior Court.

"Stirring up suspicion is surely helpful to Washington's tax resistance, and shouting "conflict of interest!" no doubt fires up the troops. But years of evidence lead us to a different conclusion: The state's lawyers are committed professionals with a solid record of upholding the will of the people."

- Tacoma News Tribune Editorial Board, 11/24/2019

Providing Financial Transparency for Ballot Initiatives

In June, the office announced that a Thurston County Superior Court judge ordered the Freedom Foundation to pay $80,000 over its campaign finance violations. The recovery went into the state Public Disclosure Transparency Account, which funds enforcement of campaign finance laws.

The judgment was a result of a 2015 lawsuit asserting the Freedom Foundation failed to properly and timely file independent expenditure reports disclosing the value of the legal services it provided to support ballot propositions in the cities of Sequim, Chelan and Shelton, as required under the state's campaign finance laws.

In 2014, Freedom Foundation staff created a set of sample ordinances and ballot propositions to change local laws related to collective bargaining between municipalities and their employee bargaining representatives.

Using the draft documents from its website, community activists from Sequim, Chelan and Shelton gathered signatures from citizens in their communities and filed ballot propositions. The city councils in each location decided not to place the measures before local voters, and none of the ballot propositions were locally enacted.

In response, Freedom Foundation staff served as counsel for the community activists and filed separate lawsuits against those cities. The lawsuits requested that the courts order the propositions be placed on their corresponding ballots. By not reporting its contributions to these efforts, the lawsuit asserts, the Freedom Foundation inhibited the public's right to know the source of funds supporting these proposed ballot measures.

Holding Google Accountable for Campaign Finance Violations

In October, the Attorney General's Office announced it would file a second campaign finance lawsuit against Google. The Attorney General's Office filed the case in February 2021.

The lawsuit asserted Google failed to maintain information required by state law for hundreds of Washington political ads that Google hosted since the office's first lawsuit against it in June 2018. In December 2018, that lawsuit ended when Google paid $217,000 to resolve the legal claims against it.

Rather than comply with Washington's voter-approved law, Google in 2018 announced a moratorium on political ads for Washington state and local elections. Ferguson 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.

However, contrary to Google's voluntary policy, Washington political ads continued to appear on the platform. After Ferguson filed the 2018 case against Google, 57 Washington candidates and political committees reported 188 payments for ads on Google — a total of $461,334.

The lawsuit asserted Google hosted these ads without maintaining the legally required information for those ads and without making that information available to the public in a timely manner, as required by law.

Upholding a Historic Fine Against Grocery Manufacturers Association

In November, the Washington State Court of Appeals unanimously upheld the $18 million penalty in the Attorney General Office's lawsuit against the Grocery Manufacturers Association (GMA) over its intentional violations of Washington's campaign finance laws.

The lawsuit against GMA, filed in October of 2013, accused the organization of collecting over $14 million for a new "Defense of Brands" account from its members — including PepsiCo, Nestle, Coca-Cola and others — then contributing $11 million of that money to a campaign opposing Initiative 522 without disclosing that the money came from its member companies. Instead, it listed the money as coming from GMA, not the actual donors. GMA has since changed its name to the "Consumer Brands Association."

Earlier, in April, the Washington State Supreme Court affirmed that GMA's violations were intentional and reinstated a trial court's $18 million penalty. It remanded the case back to the state Court of Appeals to consider GMA's argument that the penalty was excessive under the state and federal constitutions.

Holding Facebook Accountable for Campaign Finance Violations

In April, the office filed a campaign finance lawsuit against Facebook for selling political ads without maintaining information for the public as required by Washington state campaign finance law. The complaint asserted that Facebook intentionally violated the state's campaign finance disclosure law.

The lawsuit was the second time the office took legal action against Facebook for violations of Washington's law on political advertising. The office resolved a lawsuit in 2018 and it paid $238,000 for similar violations.

After that resolution, Facebook announced it would no longer sell Washington state political ads. The Attorney General's Office did not request Facebook to stop selling ads to Washington state political candidates, and this voluntary policy was not required by the 2018 consent decree. Facebook adopted the policy unilaterally rather than comply with state campaign finance law.

However, Facebook continued to sell advertisements to Washington state political committees – contrary to its voluntary policy. After announcing the policy, Facebook sold hundreds of ads to at least 171 Washington state political committees. These 171 committees paid Facebook at least $525,000 for these ads. Facebook ran these ads without maintaining the legally required information, as state transparency laws require.

Holding Twitter Accountable for Campaign Finance Violations

In October, the office announced that Twitter would pay $100,000, which will go toward Washington's Public Disclosure Transparency Account, for violating the state's campaign finance disclosure law. Twitter unlawfully failed to maintain for public inspection records about Washington political ads that ran on its platform from 2012 until Nov. 22, 2019. On that date, Twitter implemented a ban on all political advertising.

The judgment noted that at least 38 Washington candidates and committees reported paying $194,550 for political advertising on Twitter's platform since 2012, and Twitter unlawfully failed to maintain the required records for those ads. Washington's campaign finance law requires political advertisers to retain records related to political ads because the public has a right to inspect the records.

The state Public Disclosure Commission received notice from an independent researcher on Oct. 30, 2019, about Twitter's potential violations. The researcher began communicating with the company in early October 2019 to request records for payments of political advertisements from 12 specific campaigns, but he did not receive the requested records from Twitter for two months.

The law requires commercial advertisers to maintain the following information regarding ads they sell so that the information is available for public inspection:

- The name of the candidate or measure supported or opposed;
- The dates the advertiser provided the service;
- The name and address of the person who sponsored the advertising; and
- The total cost of the advertising, who paid for it (which may be different than the sponsor) and what method of payment they used.

ATTORNEY GENERAL'S OFFICE CORE LEADERSHIP TEAM

Bob Ferguson
Attorney General

Judy Gaul
Executive Assistant

Karen Sushak
Executive Scheduler

Kim Warren
Executive Assistant

Mike Webb
Chief of Staff

Shane Esquibel
Chief Deputy

Noah Purcell
Solicitor General

Brionna Aho
Communications Director

Sahar Fathi
Policy Director

Yasmin Trudeau
Legislative Affairs Director

Mark Melroy
Chief Financial Officer

Christina Beusch
Deputy Attorney General

Todd Bowers
Deputy Attorney General

Kristen Mitchell
Deputy Attorney General

Aileen Huang
Deputy Attorney General

Erika Uhl
Deputy Attorney General

Jennifer Meyer
Deputy Attorney General

Washington State Attorney
General's Office
Olympia, WA 98504
360-753-6200

OFFICE DIVISIONS 2020

WASHINGTON STATE ATTORNEY GENERAL'S OFFICE

TABLE OF CONTENTS

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 Attorney General's Office (AGO) include:

AG Ferguson speaks with members of Moms Rising in February after giving a speech about the office's Domestic Worker Bill of Rights legislation.

- 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.

In 2020 the office faced a number of unprecedented challenges related to the COVID-19 pandemic. In March, AGO employees transitioned to mandatory teleworking and quickly adapted to handling the office's work on behalf of the people and the state while learning new technology to help stay connected with clients and colleagues. In addition to the office's normal workload, AGO employees were called on to provide pandemic-related client advice, protect consumers from price gouging and scams, and uphold Governor Inslee's COVID-19 proclamations and mandates.

Working remotely, AGO attorneys and professional staff scheduled virtual meetings, testified before the Legislature, prepared declarations and lawsuits, and conducted trials and hearings. Behind the scenes, a select group of staff remained in the AGO's socially distanced office buildings to provide essential services such as maintaining the AGO's technology and virtual network, processing mail and providing support to those working from home. Through all these changes, the AGO continued to provide its excellent standard of legal services on behalf of state agencies and all Washingtonians.

CONSUMER PROTECTION & CIVIL RIGHTS

Members of the Wing Luke Civil Rights Division gather for a virtual meeting: Patricio Marquez, Keely Tafoya, Yesica Hernandez, Mitch Riese, Anna Alfonso, Alma Poletti, Caiti Hall, Brian Sutherland, Allie Lard, Judy St. John, Marsha Chien, Courtney Harmon, Chalia Stallings-Ala'ilima, Andrea Brenneke, Neal Luna, Lane Polozola, Colleen Melody, Ashley McDowell.

Wing Luke Civil Rights Division

Division Chief: Colleen Melody, Senior AAG

Overview: The Civil Rights Division investigates and files affirmative enforcement actions to protect and defend the state and federal 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 2020, including in the areas of employment, housing, commercial transactions, government services and police practices. The division also continued to take a leading role in protecting the rights of Washingtonians against unlawful actions of the federal government, including its challenges to the Trump Administration's efforts to end the Deferred Action for Childhood Arrivals program (DACA), and ban transgender Washingtonians from military service. Under state law, the division continues to advocate for vulnerable workers, resolving its lawsuit against Matheson Flight Extenders, a nation-wide company providing freight handling services that refused to reasonably accommodate workers who were pregnant or had disabilities. The division also settled on favorable terms a lawsuit against Great Columbia Berry Farms, a blueberry grower in Walla Walla County that was responsible for a pattern of sexual harassment and sexual assault by its foreman. The division also continues to advocate for the non-discriminatory treatment of Washington consumers, including through its lawsuit against Greyhound Lines Inc., to challenge the bus company's voluntary practice of allowing federal immigration agents to board its buses to conduct racially targeted sweeps.

In addition to prosecuting these lawsuits and a number of cases for the Human Rights Commission, the division played the lead role in enforcing Governor

Inslee's emergency proclamation prohibiting evictions and related residential housing practices during the COVID-19 pandemic. Since April 2020, the division has filed three lawsuits to enforce the proclamation and fielded nearly 8,500 complaints and inquiries from Washingtonians about their rights and obligations under the proclamation.

Antitrust

Division Chief: Jonathan Mark, Senior AAG

Overview: The Antitrust Division enforces state and federal laws that protect consumers and businesses from price fixing, bid rigging, monopolization, anticompetitive mergers and other conduct that interferes with fair competition. The division's work focuses on representing consumers and state agencies in litigation seeking redress for violations of these laws. The division also responds to consumer complaints and inquiries and conducts outreach and education programs.

Legal Highlights: The division also filed several new enforcement actions in 2020. The division filed lawsuits against Google and Facebook alleging that they monopolized digital advertising markets and artificially restricted competition by acquiring or inhibiting potential competitors. The division also filed a lawsuit against StarKist Co. and Dongwon Ltd., alleging that they participated in a conspiracy to fix the prices of canned tuna sold in the United States.

The division successfully concluded its nationwide initiative to eliminate no-poach clauses from franchise agreements. No-poach clauses prohibit employees from moving among stores in the same corporate chain. As a result of this unprecedented initiative, 237 corporate franchisors, ranging from McDonald's to Jiffy Lube, signed legally binding agreements to end no-poach practices nationwide, covering an estimated hundreds of thousands of locations and millions of workers.

The division completed its first year of managing a new premerger notification program for health care providers. The new program, established by statute, requires hospitals, hospital systems and provider organizations to provide 60 days' advance notice to the Attorney General of any proposed material change, such as a merger, acquisition or contracting affiliation. The notice requirement provides the Antitrust Division the information necessary to determine whether an investigation is warranted for potential anticompetitive conduct and consumer harm, ensuring that competition in health care markets across Washington remains vigorous and robust.

Finally, the division distributed approximately $23 million to consumers and state agencies as a result of its successful price-fixing lawsuit against seven manufacturers of cathode ray tubes (CRTs). Thousands of Washington consumers and businesses received checks.

Consumer Protection

Overview: The Consumer Protection Division enforces consumer protection laws to keep the Washington marketplace free from unfair and deceptive practices. The division investigates and files enforcement actions to stop illegal practices, recovers refunds for consumers and seeks penalties against offending businesses. The division also supports consumers through its Consumer Resource Center, the automobile Lemon Law Unit and the Manufactured Housing Dispute Resolution Program.

Legal Highlights: The division addressed a wide range of consumer protection cases in 2020. The division focused on consumer protection cases related to COVID-19. In 2019, the office received 17,037 consumer complaints. In 2020, the complaint volume rose to 25,491 complaints, a 50% increase. The increased volume consisted largely of complaints directly related to the COVID-19 pandemic. The Consumer Resource Center received over 1,360 price gouging complaints in 2020. In addition to the price gouging complaints, the Consumer Resource Center received more than 3,900 complaints related to other COVID-19 concerns, such as failure to refund fees paid for cancelled travel, events or memberships affected by COVID-19 restrictions, and pandemic-related scams. Beyond pandemic-related complaints and lawsuits, the division in June, along with affirmative litigation divisions, announced it had recovered more than $650 million for Washingtonians and state and tribal governments since January 2013. In August, a King County Superior Court judge ordered $10 million in penalties for a deceptive advertising and robocalling scheme for a company that made over 13 million robocalls within Washington state from 2017 to 2019. The division also recovered nearly $1.6 million for Washington consumers as part of its Hidden Fees Initiative.

PROTECTING THE ENVIRONMENT & NATURAL RESOURCES

Public Lands & Conservation Division

Division Chief: Patricia O'Brien, Senior AAG

Overview: The division represents the Commissioner of Public Lands, the Department of Natural Resources, including the Board of Natural Resources (DNR), the Forest Practices Board, the Department of Fish & Wildlife, including the Fish & Wildlife Commission (WDFW), and the State Parks & Recreation Commission (Parks). The division provides a broad spectrum of client advice, dispute resolution, and litigation services to agency clients in legal matters before state and federal courts and administrative tribunals. DNR manages more than 7 million acres of forest, range, commercial, agricultural, conservation and aquatic lands, including 3 million acres of state trust land. The division supports DNR's role in regulating surface mine reclamation, regulating forest practices, suppressing fires on forestland and removing derelict vessels from state-owned aquatic lands. The division provides legal services to the Forest Practices Board, which adopts rules and standards for forest practices, such as timber harvest. WDFW manages more than 1 million acres of wildlife areas and water access sites and regulates and licenses all citizen hunting and fishing activities. WDFW regulates construction projects in state waters to ensure the protection of fish habitat through hydraulic project permits. State Parks operates over 100 state parks and trails across the state. The division provides representation in complex natural resource litigation and occasionally assists local prosecutors in the criminal enforcement of fish and wildlife laws. Legal services include advice and litigation related to fish and wildlife resource management, endangered species, habitat protection, tribal issues, hydropower licensing, law enforcement, civil forfeiture, land acquisition and management, land use, contracts, permits, and administrative procedure. In September 2020, the Natural Resources Division and the Fish, Wildlife & Parks Division merged to become the Public Lands & Conservation Division.

Legal Highlights:

- ***Conservation Northwest, et al., v. State of Washington, et al.:*** This case is a challenge to the Board of Natural Resources' decisions approving a decadal sustainable harvest level and the marbled murrelet long-term conservation strategy for the State's Upland Habitat Conservation Plan, as well as the supporting environmental impact statements. Conservation Northwest argues that DNR decisions are unlawful because DNR should have acted to benefit all the people of the state, not the trust beneficiaries. After cross-motions, Thurston County Superior Court dismissed all of Conservation Northwest's claims. The State Supreme Court granted Conservation Northwest's petition for review.
- ***Cooke Aquaculture v. DNR:*** The superior court ruled that DNR's termination of Cooke's Port Angeles net pen lease was not arbitrary and capricious, and affirmed DNR's decision to terminate the Port Angeles lease. Cooke filed a notice to the Court of Appeals, Division II.
- ***Wild Fish Conservancy v. WDFW:*** The superior court upheld WDFW's marine aquaculture permit authorizing Cooke Aquaculture to switch its net pens from Atlantic Salmon to sterile, all-female steelhead, finding that WDFW's environmental analysis was comprehensive and not clearly erroneous. The State Supreme Court granted WFC's petition for review.
- ***Snoqualmie Indian Tribe v. State:*** The U.S. District Court dismissed this suit against the State, Governor, and WDFW Director, alleging 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 *U.S. v. Washington* case law holding that the Tribe lacked treaty status for purposes of exercising treaty fishing rights. This case was appealed to the Ninth Circuit.

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 secured a $95 million settlement — the state's largest independent environmental recovery ever — after litigating the nation's first statewide case against the Monsanto Corporation for PCB contamination. In that litigation, the office secured favorable rulings on removal from the U.S. District Court and the U.S. Court of Appeals for the Ninth Circuit, and prevailed against a motion to dismiss in King County Superior Court.

In addition, the division led three significant, multi-state lawsuits against the federal government to halt harmful actions. First, the division leads a multistate suit to protect the Arctic National Wildlife Refuge from efforts to begin oil and gas leasing on the coastal plain. Second, the division leads a 27-plaintiff case challenging the Council on Environmental Quality's attempt to weaken the rules implementing the National Environmental Policy Act. Third, the division leads a multistate lawsuit to defend Clean Water Act section 401 from new rules that would harm states' ability to protect their waters. The division also represents the State in eight other multistate lawsuits challenging illegal federal actions that weaken environmental protections.

The division also reached a consent decree compelling environmental compliance and restoration work by the U.S. Navy, which had conducted in-water scraping of decommissioned warships, releasing debris containing large amounts of copper and zinc into Sinclair Inlet. The division secured a consent decree that requires the Navy to halt all in-water scraping for such ships for at least 10 years. As a result, the ex-Kitty Hawk is now in Bremerton being scraped in dry dock, where it will not harm Puget Sound.

This year, the division filed a Clean Water Act citizen suit against Crown Resources Inc., the owner of the Buckhorn Mine, a now-defunct gold mine in Okanogan County, which has persistently violated its pollution discharge permits. That case is pending, after the division prevailed against the defendant's motion to dismiss the lawsuit.

The division also investigated and prosecuted eight environmental crimes in 2020, including those dealing with asbestos, trafficking in endangered animals, derelict vessels, shoreline violations, and one false claim of COVID-19 protection from pesticide use. At this time, the environmental criminal program has secured 38 convictions, and restitution, fee, and fine orders totaling over $5 million.

Ecology

Division Chief: Andy Fitz, Senior Counsel

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 the Department of Ecology on hundreds of matters. These included: advising on rulemaking related to greenhouse gas emissions; advising on natural resource damage assessments to restore water and land damaged by pollution; defending several lawsuits challenging Ecology's decision to deny an environmental permit to a proposed coal-export facility; and prevailing before the Washington Supreme Court on a challenge to Ecology's instream flow rule for the Spokane River. Division attorneys handled complex litigation in federal and state courts and participated in a number of multistate matters challenging federal regulatory rollbacks, including serving as the lead for a multistate lawsuit over an EPA rule that weakened the Clean Water Act. The division supported Ecology's regulatory enforcement efforts, including negotiating a nearly $2 million hazardous waste penalty settlement and defending the appeal of a $1 million-plus nuclear waste penalty. The division also worked on complex negotiations to address cleanup of hazardous waste sites. This included work that facilitated a number of redevelopment efforts and working with the agency to address the impact of per- and polyfluoroalkyl substances on the environment and public water supplies.

Debbie Warfield speaks about losing her son, Spencer, to the opioid epidemic after he was prescribed opioids for a sports injury. The AGO announced a lawsuit against Johnson & Johnson for the company's role in fueling the state's opioid epidemic.

PROTECTING TAXPAYER DOLLARS

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 2020, the division litigated a wide range of cases in conjunction with numerous other divisions. The division continued leading the state's lawsuit against opioid manufacturers and distributors, which seeks recovery and abatement for the opioid crisis. The division represented the state in a number of actions against the federal government, including cases successfully challenging changes at the U.S. Postal Service; health insurance billing rules; rules that sought to limit CARES Act funding to certain higher education, secondary, and elementary schools and students; and rules limiting international student visas. The division also took the lead on numerous campaign finance enforcement actions, including those related to Tim Eyman and Facebook. The division filed a consumer protection lawsuit against vaping company JUUL for its unlawful youth marketing practices and failure to have necessary licenses. 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.

Bankruptcy & Collections Unit

Section Chief: Susan Edison, Senior Counsel

Overview: The Bankruptcy & Collections Unit of the Revenue & Finance Division encourages compliance with the state's tax laws by supporting the efforts of state agencies 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 $8,197,894.88 for its clients in 2020. Contributions of $1,777,846.99 came from the contractor bond program, which opened 386 cases, primarily to collect delinquent taxes owed to the Departments of Revenue, Labor & Industries and Employment Security. The unit also opened 139 bankruptcy files, primarily for cases under Chapters 11 and 13, recovering $3,841,617.67 for client agencies. The unit's participation in 118 other legal cases resulted in recoveries totaling $2,578,430.22.

Revenue & Finance

Division Chief: Cam Comfort, Senior AAG

Overview: The Revenue & 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 fund, 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 an appeal in the Washington Supreme Court, involving a wide variety of complex and challenging legal issues. Those issues included: whether selling online access to information in a research library is a digital automated service that is subject to retailing B&O tax and retail sales tax; whether the preferential B&O tax rate for reselling prescription drugs applies when a taxpayer provides prescription drugs to institutional healthcare providers that are paid for by residents or their insurers; whether the benefit of lab testing of bodily fluids and tissue samples is received at the location of the testing or at the location where medical providers use the results of the testing; whether a B&O deduction for compensation received under certain federal and Washington state programs applies to compensation received from other states' Medicaid or Children's Health Insurance Programs; and whether a stepson had a legal or equitable right to inherit intestate from his stepfather. The division also successfully represented the Department of Retirement Systems in an appeal involving the calculation of a member's retirement benefit.

Torts

Deputy Attorney General: Jennifer S. Meyer

Overview: The Torts Division defends state agencies, officers and employees in state and federal courts, against personal injury and civil rights claims. These claims can involve any area of state government operation, and regularly include the areas of highway design and maintenance, natural disaster response, supervision of incarcerated persons, management of state property, provision of medical care, employment rights, child welfare, law enforcement activities, vehicle accidents and maritime injuries. The division's annual caseload has grown to more than 450 claims and 500 lawsuits.

Legal Highlights: During the pandemic and mandatory teleworking, Torts lawyers and professional staff (including paralegals, legal assistants, and investigators) continued to handle all aspects of litigation including initial investigation, discovery, civil motion practice, trial and appeal. The division opened over 700 claims, cases and appeals; attended almost 450 virtual depositions, mediations and hearings; and resolved more than 140 matters by early resolution, settlement and motions for summary judgment/dismissal. Historically between 40 and 50 percent of the division's cases are resolved with a zero payout and, even under these unusual circumstances, Torts has kept its zero payout record high.

The division uses early evaluation and resolution processes to resolve appropriate claims and cases prior to, or early in, litigation, thereby reducing litigation costs and fees. The division has resolved over 45 matters using this process. And, although the courts cancelled and delayed the vast majority of trials, the division still prepared for many, and conducted four trials, using Zoom to conduct jury voir dire, take testimony, and present the case. Torts lawyers also argued several matters to the Court of Appeals, and two matters before the Washington Supreme Court. Finally, Torts lawyers provided legal risk management advice on COVID-19-related issues to state agencies.

SUPPORTING HEALTHY COMMUNITIES & COMBATING MEDICAID FRAUD

Agriculture & Health

Division Chief: Eric Sonju, Senior AAG

Overview: The Agriculture & Health Division provides legal counsel to the Department of Health, the Board of Health, and 28 health professional regulatory boards and commissions and advisory committees including the Department of Agriculture and 21 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 administrative litigation, in a wide variety of areas. 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 2020, 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, were 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 Department of Health and the Governor's Office, including isolation and quarantine authority, 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, administering grant programs to address the pandemic's harmful economic impacts, and vaccination program administration. The division's other important work continued unabated as well. The division opened a total of 361 matters, including 17 environmental cases regarding drinking water and shellfish regulations and 192 disciplinary cases against licensed health professionals and unlicensed individuals for engaging in unprofessional conduct and unsafe practices. Division attorneys successfully defended the Department of Health's decisions granting or denying certificates of need to establish new healthcare facilities where the community would best be served.

Social & Health Services Olympia

Division Chief: Paige Dietrich, Senior AAG

Overview: The Social and Health Services Olympia Division represents six 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 53 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, service to individuals with developmental and intellectual disabilities, income assistance, revenue recovery and child support, vocational rehabilitation and the Special Commitment Center. The division provides 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. We represent and advise the Department of Children, Youth, and Families on the operation of institutions for juvenile offenders and a broad range of state-provided services for children, youth, and families — including child abuse and neglect litigation in Thurston, Mason and Lewis counties — as well as coordination with the five divisions that handle juvenile litigation statewide. Other clients include the Health Benefit Exchange, the Department of Veterans Affairs and the Department of Services for the Blind.

Legal Highlights: Division litigation ranges from federal court class action cases involving thousands of individuals to administrative appeals involving a single individual. Recent cases include a challenge to the adequacy of the state's mental health services and a challenge to the placements and services available to foster children with high needs. Other examples of cases

include: 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; free exercise of religion challenges to the Department of Children, Youth, and Families' foster care licensing requirement that prospective foster parents support foster children who identify as LGBTQ+; civil and felony commitment hearings and trials; guardianship petitions on behalf of children or vulnerable adults; dependency and termination of parental rights cases; and appeals of abuse or neglect findings. The division also provided substantial client advice related to the COVID-19 pandemic, including supporting our clients to advocate for Governor's Proclamations to protect long-term care residents, long-term care workers, as well as children, youth and families.

Social & Health Services Seattle

Division Chief: Mary Li, Senior AAG

Overview: The Social and Health Services, Seattle Division represents the Department of Social & Health Services and the Department of Children, Youth, and Families (DCYF) in King County. 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 it has been determined that a child is in dangerous circumstances and/or has no parent capable of providing care. The goal of dependency cases is to safely and timely return children home, by addressing issues including drug and alcohol abuse, domestic violence, mental illness and poverty. If a child cannot safely be reunified with his or her parents, the division represents the state in permanency litigation, including termination of parental rights and guardianship cases. In 2020, the division opened new dependency matters on 434 children, a reduction of over 35% compared with 2019. This reduction is likely related to the COVID-related reduction of in-person schools, developmental, therapeutic and medical services, which meant that far fewer children were seen by statutorily mandated reporters. The division also saw a significant reduction in new Child in Need of Services (CHINS) cases. Again, the pandemic likely resulted in fewer families seeking out of home placement, and the CHINS court remained shut down for six months in 2020. The division handled a significant amount of work on permanency cases in 2020. Permanency referrals remained steady, but in 2020 the division filed 305 new termination and guardianship petitions, a 27% increase over the previous year. The division also represents DCYF and provides docket coverage on nine dependency calendars and two CHINS calendars per week.

The division represents Adult Protective Services in cases involving vulnerable adults alleged to be abused, neglected and/or financially exploited. This includes guardianships, protection orders, guardianship fee disputes and appeals. The division's work involving licensed facilities includes administrative litigation that usually arises from allegations of abuse, neglect, maltreatment or other issues concerning the care of children and adults in licensed facilities.

As a result of the COVID-19 pandemic, the division made many changes to the way it worked in 2020. The division worked remotely and developed efficient ways to complete work done without paper and without wet signatures. The division worked with the court to ensure that emergencies received hearings in a timely manner and that cases could be heard remotely or in a manner consistent with health and safety.

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 2020, the division received approximately 3,956 referrals: 2,954 regarding abuse and neglect in residential facilities and 1,002 regarding fraud. The division referred out approximately 2,591 matters to other agencies. It also continued to diversify its case mix and opened 485 investigations: 339 civil and 146 primarily criminal. For the 2020 calendar year, despite courts not accepting filings for several months unless there was a statute of limitation or serious person crime, the division obtained 11 criminal convictions (7 fraud, 4 abuse and neglect), filed 15 criminal cases (7 fraud, 8 abuse and neglect), settled 5 civil in-state matters and 8 global. The division recovered $7,096,899.68 in 2020, comprised of $3,143,487.79 in-state civil cases, $2,059,611.79 for global cases and $1,893,800.10 in criminal restitution.

SUPPORTING EDUCATION

Education Division

Division Chief: Dave Stolier, 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. They provide legal interpretation and guidance on a broad array of issues, which include 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 myriad issues arising out of the initial identification and implementation of health and safety measures, including college involvement in helping their local communities navigate initial health emergencies. The shutdown brought issues concerning a transition to remote instruction and remote workplaces and interpreting evolving federal guidance, relief legislation, and governor proclamations. During this time, attorneys worked on an accelerated timeline to help colleges and universities implement new federal Title IX regulations and various executive orders impacting education during the pandemic. Attorneys helped navigate business contracts disrupted by the pandemic and developed advice to guide higher education institutions toward eventual reopening.

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 is one of the world's preeminent public universities. The UW maintains three campuses (Seattle, Tacoma and Bothell), and operates three major hospitals as part of a large medical enterprise. The UW annually enrolls more than 55,000 undergraduate, graduate and professional students and employs more than 45,000 faculty, professional exempt staff, civil service staff, and students in academia, health care, administration, research, skilled trades and law enforcement. In addition to providing high-caliber educational programs with 16 colleges and schools, the UW also has a Division I athletics program. It is one of the few universities in the U.S. with total research funding of over $1 billion and consistently places among the top five for total funding for all public and private universities in the country.

The division's 19 attorneys and 12 professional staff are organized into four teams — the General Practice Team, the Employment Team, the Health Care Team and the Administrative Team. These teams provide legal advice and representation across a wide variety of subject matter areas, including employment and labor relations, student conduct, real estate, public records and open public meetings, business transactions, construction, land use, environmental law, insurance coverage, intercollegiate athletics, public finance, intellectual property, taxes, benefits, constitutional law, gifts and trusts, international operations, health care law and regulatory compliance.

Legal Highlights: The division provided legal advice to the Board of Regents, the president, the Bothell and Tacoma campus chancellors and various UW officers and administrators on a broad range of legal issues in the past year. Just a few examples illustrate the scope and breadth of the division's work over the course of the year:

- Advised on a broad range of COVID-19 related issues including testing, remote learning, vaccinations, and return to class planning.
- Represented the University on several Public Records Act claims and cases, while concurrently balancing the expanding presence of privacy law for students, staff and research partners. Also advised and represented the University on several student conduct, Title IX, Family Educational Rights & Privacy Act, and First Amendment claims.

AG Ferguson speaks with a group of legislative interns in Olympia.

- Advised on several large real estate projects and accompanying issues, including a major addition to the UW Bothell campus, called Husky Village, upgrades to the Metropolitan Tract, continuing work with Sound Transit on campus, and the Center for Advanced Materials & Clean Energy Technologies.
- Advised UW Medicine stakeholders on regulatory issues arising from the pandemic, including compliance with statewide proclamations, waivers of federal and state law to remediate the public health emergency, campus and community COVID-19 testing, and vaccine roll-out to clinicians and first-responders.
- Advised on a wide variety of labor and personnel matters, including faculty grievance procedures, collective bargaining issues and personnel classification matters.

Washington State University

Division Chief: Danielle Hess, 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.

SUPPORTING GOVERNMENT

Public Counsel Unit

Unit Chief: Lisa W. Gafken, Senior AAG

Overview: The Public Counsel Unit represents customers of companies regulated by the Utilities & Transportation Commission (UTC), including Washington's investor-owned electric, natural gas, water and telecommunications utilities, and transportation 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 customer voices are represented.

Legal Highlights: In 2020, Public Counsel represented consumers in major rate cases before the UTC involving Avista Corporation, Pacific Power & Light Company and Cascade Natural Gas Company. Public Counsel also intervened in Puget Sound Energy's request for judicial review of the UTC's final order in the company's 2019 general rate case. The unit represented customers in two cases involving the coal-fired electric generation plant located in Colstrip, Montana. The first case involved Puget Sound Energy, Avista Corporation and Pacific Power & Light Company and addressed increased power costs from Colstrip as a result of an outage in the summer of 2018. The case resulted in the UTC prohibiting the utilities from charging the increased power costs to customers because the outage was imprudent. The second case involved Puget Sound Energy's proposal to sell its interest in one of the generation units at the Colstrip plant. Puget Sound Energy withdrew its proposal. Public Counsel also addressed water rate cases brought by Basin Water Sources and Water of Bethel and transportation matters involving Lake Chelan Ferry, Shuttle Express, Super Friends Moving LLC and Lugg. Lastly, Public Counsel participated in several UTC rulemaking proceedings to implement the Clean Energy Transformation Act, 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.

Labor & Industries

Division Chief: Lionel Greaves IV, Senior AAG

Overview: The Labor & 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-funded 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. LNI has a high-volume litigation practice, as exemplified by the fact that it opened approximately 8,400 matters, 30% of all matters opened by the AGO, in 2020. The division is one of the largest in the AGO with over 100 personnel and, statewide, LNI has over 200 AGO employees contributing to programmatic work at any given time.

Legal Highlights: LNI collaborated with the Solicitor General's Office to uphold the 2018 Hanford Presumption law at the ninth Circuit, including a denial of the United States' petition for an en banc hearing. This law is designed to help sick Hanford workers obtain medical and wage replacement benefits resulting from injuries and illnesses acquired through their work. LNI was at the forefront of public safety efforts through its efforts to protect workers from COVID-19, including the successful application for multiple temporary restraining orders against businesses operating in violation of emergency safety rules. LNI advised on the underlying policies and also began defending record-setting citations against employers whose violations led to outbreaks and worker deaths. Washington was ranked the best state for COVID-19-era labor protections by OxFam while still ranking as third best in the nation for business environment. LNI advised on and successfully defended emergency rules for temporary farmworker housing, creating critical protections for some of Washington's most valuable workers within weeks of the pandemic beginning. LNI secured a ruling from the Board of Industrial Insurance Appeals upholding

more than $400,000 in penalties against an employer for safety violations. Although litigation continues, it is believed to be the largest workplace safety monetary penalty affirmed by a precedential court in the United States. LNI advised on and commenced defending millions of dollars in misclassification penalties and premiums against gig economy employers due to their failure to fund workers' compensation coverage for their workers. LNI also provided extensive advice on an overhaul of Washington's minimum wage laws, which is set to take effect in 2021 and should provide additional protections for workers.

In addition, LNI is responsible for advising and representing DLI in a wide range of legal work that supports DLI's mission to keep Washington safe and working. Much of our most important work happens in the everyday cases and advice that keeps our client's systems running in a way that is fair, equitable and respectful of all parties. Here are a few of those efforts with the most recent stats available:

- Administering workers' compensation benefits for 3.05 million eligible Washington workers and 182,000 Washington employers, including handling over 7,000 state-funded workers' compensation appeals.
- Ensuring worker safety for 3.14 million Washington workers across 239,880 establishments statewide, including advising on policies and defending hundreds of citations every year.
- Returning $4 million in wages to Washington workers through wage complaint investigations and enforcement. LNI advises on investigations and handles the litigation around enforcement.
- Assessing nearly $10 million in premiums, penalties and interest for unregistered employers who were not contributing to coverage for their workers and collecting $188.4 million in delinquent premiums overall. LNI handles advice and litigation of these assessments.
- Enforcing public safety laws in the areas of electrical work, contractor registration, plumbing, boilers, factory-assembled structures, elevators and amusement rides. The joint work with DLI led to the discovery of over 1,400 unregistered contractor infractions.

Government Compliance & Enforcement

Division Chief: Stacia Hollar, Senior AAG

Overview: On a daily basis, the Government Compliance & Enforcement Division staff serve and protect Washingtonians by regulating health care providers, insurers, liquor and marijuana establishments, gambling, ethics, campaign finance, financial institutions and providing legal advice to a wide range of state entities. The division advises on issues related to anti-discrimination laws, audit and whistleblower programs, campaign finance, the insurance industry and numerous Secretary of State programs. Division staff provide legal representation to three statewide-elected offices: State Auditor, Insurance Commissioner and Secretary of State. The division advises more than 40 state agencies, boards and commissions, which include the Ethnic & Minority Affairs Commissions, the newly created Women's Commission and LGBTQ Commission, the Public Disclosure Commission, the Department of Financial Institutions, the Gambling Commission and the Office of Minority & Women's Business Enterprises. Division attorneys also serve as the AGO's representatives on the state and local records committees.

Legal Highlights: In 2020, the division's 26 attorneys and 21 professional staff litigated over 1,250 matters before state and federal trial and appellate courts and administrative tribunals. In the past year, 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 for all professions involved. Division staff also protected the public through its representation of the Liquor and Cannabis Board in cases against liquor licensees that failed to comply with COVID-19 related restrictions. Staff 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. Division staff also obtained monetary recoveries in civil forfeiture matters on behalf of the Gambling Commission and Washington State Patrol (WSP). They also prevailed in a published Court of Appeals decision affirming the authority of

the Public Disclosure Commission and advised WSP troopers statewide in numerous vehicle impound hearings. Additionally, the division handled a significant amount of client advice related to the COVID-19 pandemic including advice on telemedicine, the use of electronic signatures across agencies, mortgage forbearance and foreclosures, audits and investigations related to unemployment claims fraud, agency guidance related to the pandemic across industry groups and the use of emergency rules and orders related to the pandemic. The division also provided advice regarding the state's first sports wagering tribal compact negotiations.

Labor & Personnel

Division Chief: Valerie 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, 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, and state superior, federal and appellate courts.

Legal Highlights: The division handles 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. In 2020, the division handled three interest arbitration hearings to settle the contract terms for the 2021-2023 state collective bargaining agreements. Another 23 union contracts eligible for interest arbitration reached agreement on contract terms just prior to hearing. Three of the 29 union contracts are being reopened for negotiation in 2021. The division has also been involved in defending the state in multiple lawsuits relating to exclusive bargaining representation and union dues deduction provisions. Additionally, throughout 2020 and into 2021, the division has provided extensive advice to state agencies and higher education institutions on emerging labor and employment issues related to COVID-19, to include workplace exposures to the virus, mandated telework, state and federal paid leave options for employees while teleworking, employee screening and temperature checks, protective equipment, employee safety, and vaccinations.

Licensing & Administrative Law

Division Chief: Eric Peterson, Senior AAG

Overview: The Licensing & Administrative Law Division prosecutes administrative actions against individuals and businesses under the state's licensing and regulatory laws governing drivers and approximately 45 professions, businesses and occupations, and handles issues relating to unemployment and paid family and medical leave benefits and taxes, and recreational marijuana and liquor. The division provides legal advice and representation to clients, including the Departments of Licensing (and affiliated regulatory and licensing boards) and Employment Security, the Boards of Accountancy, Professional Engineers & Land Surveyors, Liquor & Cannabis, Executive Ethics, Certified Professional Guardianships, Industrial Insurance Appeals, Consumer-Directed Employer Rate Setting, Pollution Control Hearings, Shorelines Hearings and Growth Management Hearings. Other clients include the Lottery, Judicial Conduct, Interpreter and Columbia River Gorge Commissions; the Environmental Land Use Hearings Office; and the Public Records Exemptions Accountability (Sunshine) Committee. Division attorneys also advise those same agencies on administrative matters such as public records, open meetings and contracts issues.

Legal Highlights: Division members provided key support on the state's response to the COVID-19 pandemic. Attorneys assisted the Employment Security Department (ESD) with implementation of multiple federal and state unemployment benefit programs, and its processing and payment of more than $13 billion to more than 1 million Washingtonians who filed unemployment benefits claims. This included assisting with emergency rulemaking, Governor proclamations, legislation, and communications on unemployment benefits and tax issues, and with the response to the imposter fraud attack and fund recovery efforts — working with law enforcement and financial institutions. Division members also defended litigation claims against ESD relating to its pandemic claims processes and response, including multiple mandamus and injunction cases. Further, the division assisted ESD with its launch in 2020 of the paid family and medical leave benefits program, which involved aiding with process development, rulemaking and handling hundreds of administrative litigation appeals. More than $500 million in paid leave benefits went to more than 100,000 Washingtonians for care of themselves and their families.

For the Department of Licensing (DOL), division members defended constitutional and class action litigation, including cases relating to firearms purchasing, transfer, secure storage and background checks; motor vehicle excise taxes; and, certain juvenile offenses and unpaid traffic infractions impacting driver licensing. Division attorneys assisted DOL and the Liquor & Cannabis Board (LCB) with licensee compliance with the Governor's Stay Home, Stay Healthy, and Safe Start proclamations, and advised on other issues relating to the pandemic, including field licensing office services, driver and vehicle license expirations, remote notary services, and waivers of penalties for late payment of certain taxes. The division also assisted the LCB with negotiating marijuana compacts with tribes—which protect health and safety while providing economic benefits; litigated and resolved an arbitration with a tribe concerning marijuana compact interpretation; and, aided with the nation's first agreement in 200 years authorizing a tribe to distill spirits on tribal land.

The LAL division's myriad work impacted nearly all Washingtonians.

Transportation & Public Construction

Division Chief: Bryce Brown, Senior AAG

Overview: The Transportation & 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 & Conservation Office, State Building Code Council and the Public Employment Relations Commission. 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 2020, several members of the division spent most of the year providing "around-the-clock" advice to several state agencies, including the State Military Department's Emergency Management Division, the Governor's Office, and the Department of Enterprise Services. The division provided advice in response 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 FEMA contracts. The attorneys also resolved dozens of construction contract issues and disputes for the Department of Enterprise Services and Department of Transportation, including demands for additional compensation relating to COVID-19 suspensions, closures and restrictions, workplace safety requirements and "essential work" determinations.

The division also provided legal support to WSDOT regarding several "mega projects" including the SR 520 Montlake project, the I-405 Corridor projects, the SR 509/SR 167 Gateway Project, and the SR 99/Alaskan Way Viaduct. The division assisted WSDOT's efforts to implement the culvert correction program through daily legal advice and the development of a Progressive Design Build contracting process to allow for the 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 in the development of a process to resolve "prompt pay" claims between contractors and its subcontractors, and in the development of a small and veteran's business program to increase participation by these entities in projects funded with state "gas tax" dollars. Finally, the division concluded its representation of Washington State Ferries and the new Mukilteo Ferry Terminal, which opened in December 2020. The project was the first new ferry terminal built in Washington in the last 40 years. One former and one current TPC attorney were recognized by a national women's transportation organization for their work on the terminal.

AROUND THE STATE

13 OFFICE LOCATIONS

serving communities & client agencies throughout Washington state

Spokane

Division Chief: Amy Flanigan, Senior AAG

Overview: The Christine O. Gregoire Spokane Division provides a wide range of legal services in Eastern Washington to many agencies and institutions of state government. Clients served include the Department of Children, Youth & Families, Departments of Social & Health Services, Labor & Industries, Transportation, Licensing, Employment Security and Corrections; the Eastern Washington State Historical Society (known locally as the Museum of Arts & Culture), 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 Spokane Division continues to perform excellent legal work while representing clients in the areas listed above. In 2020, the division filed 494 dependency petitions, and 244 termination petitions in its seven counties, all to protect children from abuse or neglect and obtain permanency for those children. It also filed 58 matters on behalf of Adult Protective Services, seeking to protect vulnerable adults alleged to have been abused, neglected or financially exploited. Division attorneys and professional staff handled 39 administrative appeals and fair hearing appeals; 20 appeals to the various state appellate courts, and 11 developmental disability, mental health and program challenges. The division opened another 149 matters not detailed above, many of those being civil commitment hearings for Eastern State Hospital. In total, the Social & Health Services Section handled 1,015 matters.

During this same time period, the paralegals in the Labor & Industries Section, who mediate claims before the Board of Industrial Insurance Appeals, received 890 new cases for mediation, and the Labor and Industries Section attorneys received 495 new cases for litigation.

Additionally, MLS handled a total of 488 cases: 85 in Corrections, 42 in Education, 338 labor and personnel matters, 6 transportation and public construction cases, and 17 licensing and administrative matters for the Department of Licensing and the Employment Security Department. The Torts section opened 46 cases in this same time period.

Many of the attorneys and professional staff spent 2020 advising their clients on matters related to the COVID-19 pandemic. The division completed nearly all of this work while mandatorily teleworking for nearly 10 months. Spokane also recruited and onboarded 18 new staff during 2020.

Tacoma

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 & Industries (DLI); Licensing; Employment Security; Children, Youth & Families (DCYF); and Social & Health Services (DSHS). The division also contains a torts section defending a variety of state agencies in both state and federal courts and houses members of the Complex Litigation Division. DLI cases include appeals of workers' compensation claims and occupational safety and health citations. Licensing and Employment Security cases include appeals of administrative decisions and DCYF and DSHS cases involving child abuse and neglect and licensing of care providers. Tacoma 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 2020, the division's DCYF section was involved in filing approximately 570 new dependency matters, 217 termination of parental rights actions, and 52 guardianship petitions for children in foster care. The section also continues to be a leader in Family Recovery Court programs in Pierce and Kitsap counties and the state's only Infant-Mental Health court in Pierce County (also known as "Baby Court"). Paralegals in the DLI section have been assigned to approximately 900 lead cases and resolved 368 (40%) of those cases with a dismissal or settlement, while attorneys in the section continued leadership roles in the statewide Superior Court trial program, the appellate program and employment standards/prevailing wage program. One division attorney assisted in ongoing significant client advice related to a number of employment law issues. These included updates to policies to implement the Minimum Wage Act rules addressing Executive-Administrative-Professional exemptions, 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 addressing paid sick leave. That attorney was also involved in several multi-state AGO efforts involving comments to DOL's Fair Labor Standards Act regulations addressing independent contractor and joint employer status, assisting complex litigation with joining a companion interstate challenge of the joint employer rule, and letters and meetings with several large national employers to improve their responses to the COVID-19 pandemic for their workers. Another division attorney took on the role as a statewide mediator for WISHA appeals. Division attorneys in the torts section include the primary risk management advisor for the state Department of Corrections. Division staff include one member of the statewide AGO Diversity Advisory Committee.

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 144 employees, the division is one of 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 & Families; Labor & Industries; Social & Health Services; Employment Security & 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. Despite the unique circumstances of the COVID-19 pandemic during 2020, including many court closures/modifications, and the requirement to work remotely, the division filed more than 1,300 dependency petitions on behalf of Washington's children, of which nearly 500 children have achieved permanency or will soon. In that same period, the attorneys and professional staff of the division litigated and/or resolved more than 600 industrial insurance appeals cases. While this year was anything but typical, the dedication and resolve of the division has continued to make positive impacts for the Washingtonians in these communities

KEEPING COMMUNITIES SAFE

Criminal Justice

Division Chief: John Hillman, Senior AAG

Overview: Upon request from the governor or local prosecutors, the Criminal Justice Division investigates and prosecutes criminal cases and provides support to the law enforcement community handling homicides, sexual assaults, white-collar crime and crimes involving official misconduct or public corruption. The division civilly prosecutes convicted sexually violent predators and defends the state in wrongful conviction claims. The division provides investigative expertise and assistance to law enforcement through the Homicide Investigation & Tracking System Unit. It provides legal advice and representation to the Washington State Patrol and the Criminal Justice Training Commission. The division also administers a $5.67 million federal grant to submit Washington's backlog of previously unsubmitted sexual assault kits for DNA analysis and to collect DNA from convicted offenders who owe the state a DNA sample.

Legal Highlights: The division handled a wide range of criminal cases across the state ranging from theft to murder during 2020. Charging of cases and trials of significant cases were severely limited due to the global pandemic. The Criminal Litigation Unit (CLU) received 13 new referrals to review for criminal charges in 2020, including a complex and high-profile death investigation of a man who died in police custody. The CLU charged two cases and obtained seven convictions in 2020. The Sexually Violent Predator (SVP) Unit obtained the civil commitment of one sexually violent predator, received 10 new cases to review for possible civil commitment filing, filed one new case, and litigated numerous appellate and post-commitment matters. Many significant SVP matters were also postponed throughout 2020.

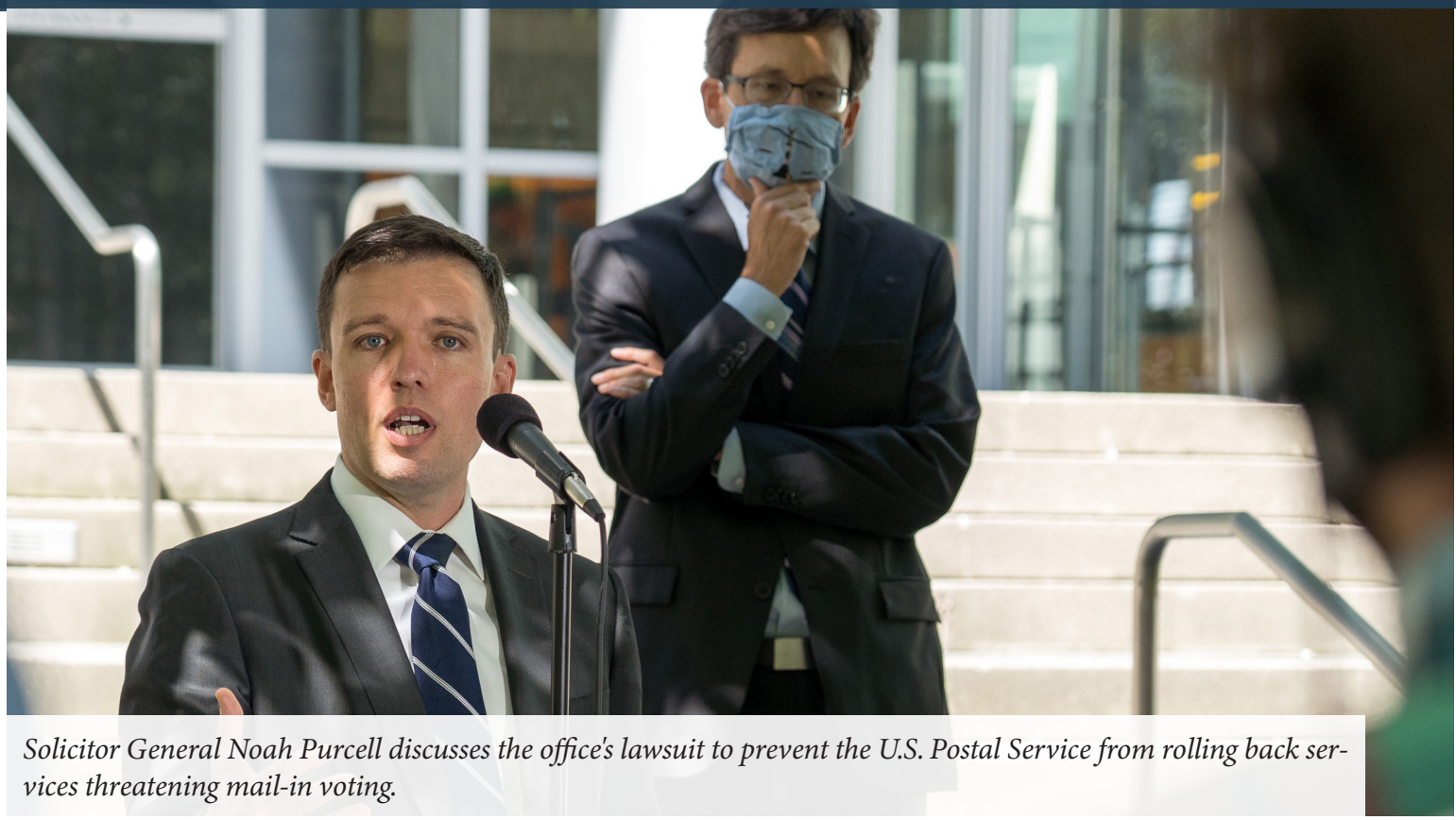
Corrections

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 litigation concerning prison operations and other aspects of the state corrections system.

Legal Highlights: Despite working remotely for most of the year, the division litigated hundreds of state and federal court matters in 2020 (approx. 481 new trial and appellate matters opened and 479 cases closed). The division also handled more than 200 community custody revocations before the ISRB (117 cases opened, 111 closed). Litigation highlights included successful defense of significant COVID-19 litigation, including *Colvin v. Inslee* (Washington Supreme Court affirmed constitutionality of DOC's pandemic response and denied mass releases) and *Williams* (Supreme Court rejected petitioner's request for release due to COVID-19). Division attorneys also sued the federal government to recover $2,450,000 in losses resulting from groundwater contamination caused by use of toxic firefighting foam at Fairchild Air Force Base (*DOC v. USA*), and obtained a defense verdict in a federal civil rights trial involving allegations that prison officials violated an individual's rights to religious exercise (*Vincent*). Non-litigation highlights included ongoing negotiations between Disability Rights WA and DOC over access to care, housing and property by transgender and gender non-conforming persons in DOC custody, and successfully transitioning the Clemency & Pardons Board to virtual public hearings.

SOLICITOR GENERAL'S OFFICE



Solicitor General Noah Purcell discusses the office's lawsuit to prevent the U.S. Postal Service from rolling back services threatening mail-in voting.

Solicitor General: Noah Purcell
Overview: The Solicitor General's Division oversees the state's participation in appellate cases before the U.S. and 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 2020, the division worked with others across the office to help achieve important victories in preserving the integrity of the 2020 elections, including securing a unanimous U.S. Supreme Court decision upholding Washington law requiring presidential electors to vote for the winner of the statewide presidential election, obtaining the first national preliminary injunction preventing the U.S. Postal Service from rolling back services threatening mail-in voting, and securing the voluntary dismissal of an unprecedented challenge to the 2020 gubernatorial election. The division also aided in defending the Governor's emergency proclamations combatting the COVID-19 pandemic, and argued numerous consequential cases in the Washington State Supreme Court defending agencies like the Department of Children Youth and Families, and the constitutionality of state tax, public disclosure, and firearm safety laws. The division also worked on many important cases against the federal government, from protecting workers at Hanford to preventing a drastic redefinition of a "public charge" under immigration law threatening vulnerable legal immigrant communities. Over the course of the year, the division also drafted 326 ballot titles, coordinated roughly 143 moot courts, and issued 5 formal and 6 informal Attorney General Opinions.

Representative Opinions:
The Attorney General's Office issued five formal Attorney General Opinions in 2020. Some of these opinions addressed legal questions involving:

- Access of legal aid organizations to farmworker housing;
- The definition of "federally licensed gunsmith" for state law purposes;
- The scope of practice for pharmacists operating under collaborative drug treatment agreements; and
- The joint ownership of health care practices by physical therapists or occupational therapists with other health care practitioners.

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 authored or signed on to 93 amicus briefs. The following briefs are a few highlights of briefs written by Washington from 2020:

Federal courts:

Sierra Club v. Trump, Ninth Cir. No. 20-15044
The amicus brief argued that the use of military construction funds to build a wall on the border between the United States and Mexico was an unlawful diversion of funds for non-military and non-authorized purposes, to the detriment of authorized military construction projects, including those in Washington.
[Authored by Martha Rodriguez López, Andrew Hughes, and Brendan Selby]

Sampson v. Knight, U.S. Dist. Ct. for Western Dist. of Wash. No. 2:17-cv-00028-JCC
The amicus brief filed on behalf of the Department of Labor & Industries argued that Washington's rest-break rules should apply to property-carrying truck drivers, and were not preempted by federal law.
[Authored by Anastasia Sandstrom]

State courts:

State v. Batson, Wash. Supreme Court No. 97617-1
The amicus brief argued that Washington's statute requiring sex offenders to register with local authorities did not unconstitutionally delegate legislative power by requiring registration for persons with out-of-state convictions if the state of conviction would require registration.
[Authored by Cristina Sepe and Peter Gonick]

Granite State Insurance Co. v. Pope Resources, LP, Wash. Ct. App. No. 80032-9
The amicus brief on behalf of the Washington Insurance Commissioner argued that the Washington insurance code applied to contracts insuring property in Washington, despite choice-of-law provisions, and that Washington's insurance code prohibited the annulment of insurance contracts after the occurrence of an insured event.
[Authored by Marta DeLeon]

Planned Parenthood of Greater Washington and Northern Idaho v. Covenant Church & Covenant Christian School, et al., Spokane Cy. Super. Ct. No. 20-2-01703-32
The amicus brief argued that a statute protecting access to health care services established reasonable time, place, and manner restrictions on protests outside healthcare facilities, and that both the patients' rights to access health care services and protesters' free speech rights could be accommodated. Specifically, the Court should ensure ample alternative forums for the protesters while preventing unreasonable disturbance (in particular loud noises) of patients seeking healthcare.
[Authored by Ashley McDowell]

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

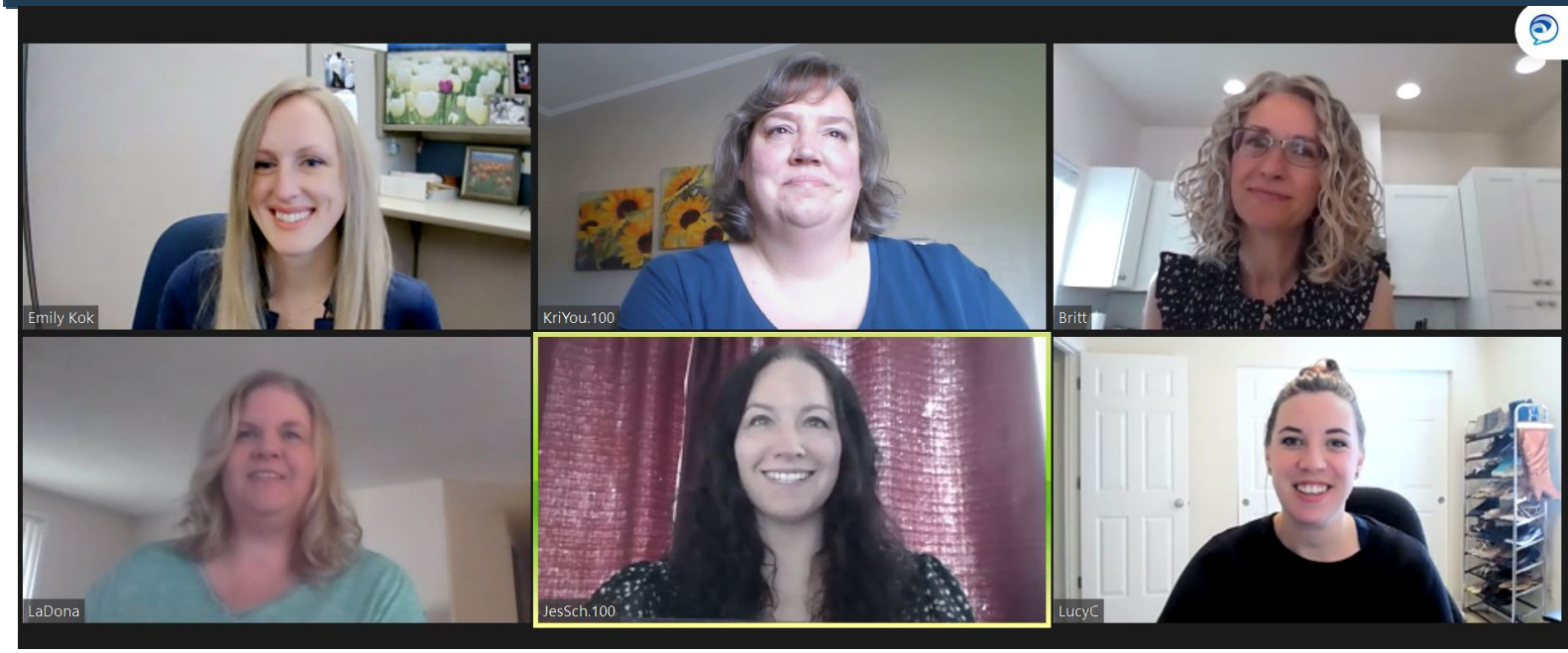
BP, P.L.C. v. Mayor and City Council of Baltimore, U.S. Supreme Court No. 19-1189
Arguing that state-law claims filed in state court against oil company alleging harms related to climate change should not be removed to federal court.

Fulton v. City of Philadelphia, U.S. Supreme Court No. 19-123
Defending Philadelphia's rule that only contractors willing to commit to anti-discrimination principles could participate in city's adoption services programs.

Mayor and City Council of Baltimore v. Azar, Fourth Cir. No. 20-1215
Arguing that new and restrictive federal rules regarding Title X funds has resulted in decreased access to healthcare for patients seeking family care planning services, and withdrawal of providers from the Title X program.

Jones v. Becerra, Ninth Cir. No. 20-56174
Arguing that regulating sales of firearms to persons under age 21 did not violate the Second Amendment.

ADMINISTRATIVE DIVISIONS



Members of the Public Records & Constituent Services Unit gather for a virtual meeting. Emily Kok, Kristin Young, Britt Youngblood, LaDona Jensen, Jessica Schenck, Lucy Collis.

Facilities & Safety

Facilities & 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 multi-function (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. The division is also responsible for providing ergonomic 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.

Public Records & Constituent Services

Director: LaDona Jensen

Overview: The Public Records & Constituent Services Unit handles four essential programs for the AGO; for much of 2020, they did so remotely. Three full-time Public Records Officers processed and responded to 844 complex requests on behalf of the office. The Constituent Correspondence Liaison reviewed, distributed and responded to nearly 15,000 emails and letters on behalf of AG Ferguson. The Garnishment Liaison received and processed almost 4,500 state employee garnishment documents per statute while guiding state agency payroll staff through wage withholding procedures. The Records Retention Specialist oversees archiving practices for the AGO and provides 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 AGO staff. Lastly, the unit is leading the office's work on the legislatively mandated public records data-reporting project.

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 & 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 & 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 expenditures and staffing usage and needs; reviewing legislative bills and assessing and articulating the impacts to the office.

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.

In 2020, the unit transitioned to remote press conferences and events. The unit also developed a "See it, snap it, send it" campaign to raise awareness about COVID-19 related price gouging and scams.

Human Resources

Human Resources Director: 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 assisting managers in administering collective bargaining agreements or civil service rules, and recruiting, developing and retaining a well-qualified and highly competent workforce.

Last year the global pandemic changed the entire operation of the AGO overnight. The Human Resources Division faced new challenges while providing service to AGO management and staff. Notably, there were marked increases in requests for consultation, for assistance with current leave programs and new programs in response to the pandemic, and for training to support the growth and development of employees navigating a drastic shift in our work environment.

In 2020**,** Human Resources received and responded to 291 requests for leave, which included 85 requests for COVID-19-related leave, and 63 requests for parental leave. In response to the pandemic, mandatory furloughs were implemented in the summer of 2020, and Human Resources staff assisted AGO employees with unemployment claims and helped to resolve related issues for months following the end of furloughs. Lastly, the Human Resources training team transitioned solely to an online platform and provided over 200 opportunities for employee growth and development.

Members of the Policy Team and other divisions gather for a team lunch. Ellen Austin-Hall, Noah Purcell, Cooper Smith, Kelly Richburg, Renae Smith, Sahar Fathi, Bre Weider.

Policy Team

Policy Director: Sahar Fathi

Overview: The Policy team wrote nine reports and five model policies, for a total of 14 public documents on behalf of the agency in 2020. Total, this was 266 pages of reports, with 429 endnotes and footnotes. The reports accounted for 28 policy recommendations and 15 recommended program features.

The Policy team coordinated and drafted 147 sign on letter memos. This was an average of one sign on memo every 1.7 business days.

The Policy team managed and facilitated meetings for three taskforces and working groups appointed by the Legislature, as well as three internal working groups. The Policy team also provided assistance to another division in convening one legislatively-mandated working group. There were 37 meetings for these groups this year.

Task Forces and Working Groups Appointed by the Washington State Legislature

- Youth Safety and Well-being Statewide Reporting Tool Work Group
- Hate Crime Advisory Working Group
- Sexual Assault Coordinated Community Response Task Force

Internal AGO Work Groups

- AGO Worker Protection Work Group
- AGO Opioid Work Group
- AGO Civil Legal Aid Work Group

Policy-Supported Group (led by Criminal Justice Division)

- Sexual Assault Forensic Examination Best Practices Advisory Group (SAFE)– Policy assisted with three of the four SAFE meetings in 2020

Through the M.E.D.A.L. program, OMVLA responded to 444 requests for civil legal assistance from veterans, service members, and their families from May 1, 2020, to Dec. 31, 2020. As of Dec. 31, 2020, OMVLA has 61 attorneys and LLLTs signed up to volunteer.

The legislative team receives recognition from Chief of Staff Mike Webb and Chief Deputy Attorney General Shane Esquibel for their work duri
Bruce, David Pham, Brittany Gregory, Shane Esquibel.

Legislative & Tribal Priorities

Legislative Director: Yasmin Trudeau

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.

2020 Legislative Session Highlights

Prohibiting Youth Solitary Confinement

This legislation prohibited the use of solitary confinement as a punitive practice for juveniles, limiting the use of isolation to emergency situations with strict time and placement procedures. It also established a process for the creation of model policies that institutions can use as guidance for when the use of isolation, room confinement, or less restrictive alternatives are appropriate.

ng the 2020 Legislative Session. Mike Webb, Yasmin Trudeau, Joyce

This legislation, sponsored by Rep. Peterson, D, and Sen. Wilson, D, was signed into law on April 3, 2020.

2020 Tribal Work Highlights

In 2020 the Attorney General's Office hired its first official tribal liaison, Asa Washines. In his first year, Asa coordinated between local, state, federal and tribal entities to increasing visibility of Missing & Murdered Indigenous Women and people (MMIW/P) issues. Asa also facilitateed dialogue with law enforcement on best practices to improve coordinated MMIW/P efforts.

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 AGO'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.

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 in to two categories, reception and production.

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

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

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

Washington State Attorney
General's Office
Olympia, WA 98504
360-753-6200