



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

# OFFICE DIVISIONS 2022



WASHINGTON STATE ATTORNEY  
GENERAL'S OFFICE



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

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

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

### **Attorney General's Office Mission, Vision & Values**

#### **MISSION**

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

#### **ANTI-RACIST COMMITMENT**

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

#### **VISION**

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

#### **VALUES**

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

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



# LEGAL DIVISIONS

## Agriculture and Health

**Division Chief:** Eric Sonju, Senior AAG

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

**Legal Highlights:** In 2022, the division responded to countless requests for legal advice on a diverse array of issues and represented its client agencies in many new cases. Division attorneys, with key support from professional staff, continued to be on the frontline of the state's response to the COVID-19 pandemic. Attorneys provided legal advice on a wide variety of novel and emergent issues to the departments of Health and Commerce and the Governor's Office. These included facilitating the distribution and administration of vaccines, tests, and treatments, maintaining health system capacity, administering grant programs to address the pandemic's harmful economic impacts and planning for the impacts of the end of the state and federal emergency declarations.

The division's other important work continued as well. The division opened more than 180 matters, including 150 disciplinary cases against licensed health professionals and unlicensed individuals for engaging in unprofessional conduct and unsafe practices. Division attorneys advised their agency clients on rulemaking and other matters related to the regulation of the health care sector, the promotion of public health and the protection of our economic, cultural and environmental resources.

## Antitrust

**Division Chief:** Jonathan Mark, Senior AAG

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

**Legal Highlights:** After Kroger announced the proposed acquisition of Albertsons, the division filed a groundbreaking lawsuit to prevent Albertsons from paying a \$4 billion special dividend to its shareholders before the transaction closed, arguing that the payment was the result of an illegal agreement between competitors and a pre-payment for the acquisition. The division successfully obtained a temporary restraining order prohibiting payment of the dividend. After a King County Superior Court judge subsequently denied a request to convert the temporary restraining order to a preliminary injunction, the division petitioned the state Supreme Court for an emergency stay of the denial, which it granted, pending appellate review. The Supreme Court ultimately declined to review.

Additionally, the division recovered \$11.7 million from three of 19 companies named in a lawsuit over alleged price-fixing of chicken products. The division also ended an illegally anticompetitive "Sold by Amazon" program nationwide and required Amazon to pay \$2.25 million.

An independent economic study evaluating the division's two-year "No-Poach Initiative" confirmed that the initiative directly resulted in increased wages for low-income franchise workers nationwide. The authors determined that advertised wages increased by more than 3.3% specifically as a result of the initiative — a pay raise of \$1,041.71 for workers who earn an average salary of \$31,567.

## Bankruptcy and Collections Unit

**Section Chief:** Susan Edison, Managing AAG

**Overview:** The Bankruptcy and Collections Unit of the Revenue and 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 \$6,129,614.76 for its clients in 2022. Contributions of \$681,639.70 came from the contractor bond program, which opened 175 cases to collect delinquent taxes owed to the Departments of Revenue and Labor & Industries, and five cases on behalf of employees of contractors to collect unpaid wages. The unit also opened 82 bankruptcy files, primarily for cases under Chapters 11 and 13, recovering \$2,547,545.35 for client agencies. The unit's participation in 37 other legal cases resulted in recoveries totaling \$2,900,429.71.

## Children, Youth, and Families

**Division Chief:** Carrie Wayno, Senior AAG

**Overview:** The Children, Youth and Families Division provides advice and representation to the Department of Children, Youth and Families (DCYF) and coordinates with four other office divisions performing similar work. The division's 28 attorneys and 24 professional staff advise DCYF regarding the operation of its child welfare, early learning, child care and foster care licensing, and juvenile rehabilitation programs. The division also represents DCYF in five counties. This work touches on issues such as civil rights, Indian child welfare, contracts, confidentiality and information sharing and child abuse and neglect. The division also represents DCYF in dependency cases in which the goal is to safely reunify children removed from their homes due to allegations of child abuse or neglect, and to identify an appropriate alternate permanent home. The division represents DCYF in termination of parental

rights and guardianship cases. The division handles litigation in five counties — Thurston, Grays Harbor, Lewis, Mason and Pacific — and appeals of orders from these counties, as well as administrative appeals of foster care and child care licensing decisions. Division members also review and provide legal training to DCYF staff, coordinate training for staff representing DCYF statewide and contribute to local and statewide stakeholder and court improvement meetings.

**Legal Highlights:** Division litigation ranges from a federal court class action lawsuit involving several hundred foster youth to a dependency case involving one family, and also includes public records lawsuits and challenges to DCYF's administration of its programs. One class action lawsuit challenged the process provided to juvenile rehabilitation residents transferred into Department of Corrections' custody and another challenged DCYF's ability to meet the needs of foster youth with behavioral and developmental disabilities.

In 2022, the division opened 210 new dependency cases, 117 termination of parental rights cases and 22 guardianship cases. The division opened 24 new dependency and termination of parental rights appeals and provided appellate coordination to the other four divisions that also represent DCYF. Division members also worked closely with court partners to update judicial resources regarding changing legal requirements, including the implementation of the Keeping Families Together Act.

## Civil Rights Division

**Division Chief:** Colleen Melody, Senior AAG

**Overview:** The Wing Luke Civil Rights Division investigates and files affirmative enforcement actions to protect and defend the civil rights of Washingtonians. In addition to litigation on behalf of the people of the state, the division administers and enforces the pregnancy accommodation provisions of the Healthy Starts Act and the employment provisions of the Fair Chance Act. The division also serves as enforcement counsel to the Washington State Human Rights Commission. The Civil Rights Division is home to 16 attorneys and 9 professional staff members, including investigators, legal assistants, an administrative manager and an intake coordinator.

**Legal Highlights:** The division took enforcement action in an array of civil rights matters in 2022, including litigation in the areas of employment, housing, credit transactions, commercial businesses, government services and police practices.

New filings in 2022 included *State v. Operation Veterans Assistance & Humanitarian Aid*, a case alleging a practice of sexual harassment of employees and volunteers at a chain of Eastern Washington thrift stores; *State v. Ostrom Mushroom Farms*, a case alleging unfair, deceptive and discriminatory practices against domestic farmworkers and female farmworkers by an agricultural company in the Yakima Valley. The division also filed and resolved *State v. Tradesmen International*, a case challenging the use of non-competition covenants by a construction labor staffing company that unfairly and deceptively limited its workers' job mobility in violation of state law.

In addition to its affirmative work, the division defended state officers in a series of matters where the Washington Law Against Discrimination's coverage was challenged by individuals, non-profits and businesses alleging that the First Amendment permits them to discriminate in decisions related to hiring and customer service. The division successfully defended the state officers named in these cases.

As in previous years, the division successfully prosecuted several WLAD-enforcement matters on behalf of the Human Rights Commission. The division also continued its legislatively delegated work enforcing the Healthy Starts Act on behalf of pregnant workers, as well as the Fair Chance Act on behalf of job seekers who previously interacted with the criminal legal system.

## 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 2022, the division litigated a wide range of cases. The division litigated a six-month trial against McKesson Corp., Cardinal Health Inc. and AmerisourceBergen Drug Corp. that led to a \$518 million opioid settlement at the close of evidence.

Additional opioid settlements with CVS, Walmart, Walgreens, Teva, and Allergan for \$434 million were agreed to by the State later in the year. The division filed another opioid lawsuit against Kroger, Albertsons, and Rite Aid, and its case against Johnson & Johnson remains pending.

In addition to opioid litigation, the division obtained a campaign finance judgment against Meta for \$24.6 million in civil penalties plus \$10.5 million more in attorney fees. The division also used forfeiture laws to recover \$33.7 million stolen from the Employment Security Department as part of a massive fraud perpetrated against states across the country during the pandemic. The division settled its consumer protection lawsuit against e-cigarette company JUUL for \$22.5 million to resolve claims that JUUL violated the law when it designed and marketed its products to appeal to underage consumers.

The division defended many cases for the state as well, including challenges to the high-capacity firearms magazine ban and numerous cases challenging the Governor's emergency orders. In addition, the division worked on a number of certified and putative class actions, cases seeking systemic changes to certain agencies, injunctive actions, and torts.

## Consumer Protection

**Division Chief:** Laura Clinton, Senior AAG

**Overview:** The Consumer Protection Division enforces the Consumer Protection Act by investigating and prosecuting individuals and businesses that engage in unfair or deceptive business practices. The division recovers millions of dollars every year for consumers, in the form of direct refunds and other financial relief. The division regularly advises on legislative matters affecting consumers and conducts public outreach and education. The division's Public Counsel Unit protects the interests of utility customers and its three direct service programs help individual consumers resolve complaints against businesses.

**Legal Highlights:** In 2022, the division obtained close to \$100 million in financial recoveries and debt relief from businesses that engaged in deceptive or unfair practices. For example, the division resolved a claim against Navient for deceptive student loan practices, providing \$35 million in debt relief and \$2.3 million in refunds to Washington borrowers. The division resolved cases against two tow companies, securing

substantial protections for servicemembers as well as approximately \$25,000 in compensation. The division sued the Center for COVID-19 Control for egregious conduct such as storing COVID-19 tests in garbage bags. A judge awarded \$7,500 per violation, the maximum amount under the 2021 Consumer Protection Improvement Act, which resulted in a final judgment of more than \$33 million, and enjoined the Center for COVID-19 Control from ever conducting business in Washington again.

Division attorneys obtained a judgment of more than \$850,000 against Evergreen Paralegal Services for the unlawful practice of law. The division's consent decree against Global Grid, a robocaller that ironically claimed to block robocalls, contained \$600,000 in penalties. The division obtained \$108,000 from Carnival Cruises for a significant data breach. The division resolved claims against WGS Guns for the illegal sale of high-capacity magazines, winning injunctive relief and a \$15,000 penalty. The division sued US Stemology, a deceptive medical practice that targeted individuals with disabilities, and obtained a consent decree that included injunctive relief and hundreds of thousands of dollars in consumer refunds.

The Lemon Law program, which assists consumers with new vehicle warranty repair claims, returned \$7.5 million to consumers in 2022. The Consumer Resource Center handled 21,627 consumer complaints and more than 30,000 calls, and helped Washington consumers recoup \$10.5 million through its informal complaint resolution efforts. Likewise, the Manufactured Housing Dispute Resolution Program handled 567 complaints to assist landlords and tenants in resolving their disputes.

## 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 Section 1983 and other litigation concerning prison operations and other aspects of the state corrections system. The division also represents DOC in Public Records Act cases. Corrections attorneys

appear frequently in federal and state trial and appellate courts, and the division has a significant appellate practice, including at the Ninth Circuit Court of Appeals and Washington Supreme Court.

**Legal Highlights:** The division litigated hundreds of state and federal court matters in 2022. In total, there were approximately 370 new trial and appellate matters opened and 350 cases closed. The division also assisted in prosecuting 165 community custody revocation matters before the ISRB.

Litigation highlights included defending the lawfulness of a conviction for homicide by abuse, which involved child abuse and neglect of children adopted from Ethiopia, defeating a challenge by the so-called "Hillside Strangler" to two murder convictions he received in Washington and obtaining a federal court appellate decision rejecting a challenge to convictions and sentencing after the brutal murder of a Bellevue family. Division attorneys litigated and advised on issues related to the sentencing of youth offenders and drug offenders following the Washington Supreme Court's landmark decisions in *Monschke and Blake*. Division attorneys also successfully defended multiple civil rights claims brought by incarcerated individuals challenging COVID-19 mitigation measures in state prisons, the decision to consolidate prison units due to lower prison populations and defeating a lawsuit seeking injunctive relief concerning prison mail and publication review processes.

Non-litigation highlights included providing training to judges and staff attorneys from the Court of Appeals on statutory rules governing earned early release. Division staff also helped organize and present a two-day training to DOC Legal Liaison Officers on litigation defense, and provided training to DOC coordinators on disability accommodations within prisons.

## Criminal Justice Division

**Division Chief:** John Hillman, Senior AAG

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



**Legal Highlights:** The Sexually Violent Predator (SVP) Unit had an exceptionally busy year in 2022. SVP doubled the number of cases tried annually in the past six years, trials that typically last three or more weeks. SVP also had a heavy appellate workload averaging 19 open appeals per month. Thirty-one individuals had SVP review and the division filed four new cases.

The Criminal Litigation Unit (CLU) charged six new cases in 2022 and litigated several previously charged cases, including three jury trials. CLU's work included prosecutions of a retrial in a decade-old murder case, a superior court judge convicted of sexually assaulting court employees, employers who stole wages from their employees, a county employee who embezzled \$1 million, and individuals who attempted to rape children. The CLU also reviewed numerous wrongful conviction claims and defended against those deemed insufficient, including a trial verdict in favor of the state.

The Homicide Investigation Tracking System (HITS) Unit collects data on violent crime and assists local law enforcement with investigative support. In 2022, HITS performed 40 case comparisons, responded to 71 information requests, facilitated cold case investigations and consulted on several unresolved homicides. Of the 769 bulletins sent, several led to the quick apprehension of dangerous suspects. HITS also worked on the Missing and Murdered Indigenous Women and People Task Force and collaborated to facilitate the Law Enforcement Medal of Honor Ceremony.

The Sexual Assault Kit Initiative (SAKI) Team worked to reduce the backlog of untested sexual assault kits in Washington, resulting in a total of 9,961 kits submitted for testing by the end of 2022. 3,253 DNA profiles were uploaded to the national DNA database from this project, resulting in 1,776 matches to an offender or case. The SAKI Team also aided in the collection of DNA from 1,836 convicted offenders who owed a sample from a Washington qualifying conviction.

The CJTC/WSP unit provided client advice and litigation services to the commission and patrol throughout 2022.

## Ecology

**Division Chief:** Andy Fitz, Senior AAG

**Overview:** The Ecology Division represents the Department of Ecology (Ecology), the Energy Facility

Site Evaluation Council, the Puget Sound Partnership, the Pollution Liability Insurance Agency (PLIA) 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, with climate change response taking on an increasing role. The division also assists Ecology in oversight of federal cleanup efforts of mixed radioactive and hazardous waste at the Hanford Nuclear Reservation.

**Legal Highlights:** The division advised and represented Ecology on hundreds of matters. These included advising Ecology on the implementation of a number of groundbreaking legislative initiatives to address climate change and environmental justice — including the Climate Commitment Act, the adoption of low carbon fuel standards and the Healthy Environment for All Act. The division advised PLIA on carrying out legislation creating a new financial assurance mechanism for leaking underground storage tanks. The division advised on orders and negotiated court-entered settlements that led to millions of dollars in environmental cleanup work, including significant property redevelopment efforts to create affordable housing. Division attorneys are also working with Ecology and the Environmental Protection Division to address the impact of perfluoroalkyl and polyfluoroalkyl substances on the environment and public water supplies and support natural resource damage recovery efforts to restore water and land damaged by pollution.

Division attorneys handled complex litigation in federal and state courts, including the final phase of litigation in the long-running *Pakootas v. Teck Metals Ltd.* case. This case concerns liability under federal and state law for domestic pollution from a Canadian smelting complex, and focuses on natural resource damages. Division attorneys led a multistate lawsuit over a federal rule that weakened the Clean Water Act. The division continued its traditional work of supporting Ecology's regulatory enforcement efforts, including defending the appeal of a more than \$1 million nuclear waste penalty. Division attorneys began work on a new case to adjudicate water rights in the Nooksack River Basin.

## Education Division

**Division Chief:** Aileen Miller, Senior AAG

**Overview:** The Education Division provides a full range of legal services to the state's education agencies, boards, commissions, community and technical colleges and regional universities. Division attorneys represent the client agencies in a variety of administrative and court proceedings and provide legal interpretation and guidance on a broad array of issues, including conflict resolution, business transactions and compliance with many overlapping federal and state laws. Education attorneys also prosecute professional misconduct cases related to teacher licensing and help enforce consumer protection regulations for private vocational schools.

**Legal Highlights:** The division provided its clients with high-quality legal representation on a wide range of legal issues. Highlights of the work include:

- Advising higher education institutions and some K-12 agencies on the legal complexities of the executive search process in over 16 presidential or executive searches;
- Advising on a variety of constitutional, open government, charter school, contract and labor and employment issues;
- Providing input and advice relating to proposed Title IX regulations and implementation of existing Title IX regulations; and
- Representing clients in state courts and administrative fora including successfully defending clients' implementation of COVID-19 mandates.

## 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 division prosecuted Electron Hydro LLC and its executive, Thom Fischer, for illegally placing field turf with rubber crumb in the Puyallup River in 2020. The division filed 36 gross misdemeanor charges against the company in Pierce County Superior Court.

The division secured a court order against Crown Resources, Inc. for over 3,000 violations of the Clean Water Act at the Buckhorn Mine. The case remains in litigation. The division also obtained a favorable court order in the ongoing litigation against the U.S. Navy for violations of the National Environmental Policy Act (NEPA) stemming from the increase in EA-18G "Growler" jet fleet siting near communities, wildlife populations and historic resources on Whidbey Island. The judge found that the Navy violated NEPA, and is considering remedies for that violation.

The division filed a matter before the Federal Energy Regulatory Commission challenging a proposal by methane gas pipeline company GTN Xpress to expand the capacity of its pipeline and associated equipment. The filing pointed out that GTN did not demonstrate that current ratepayers were not subsidizing the capital expenditure, and did not sufficiently assess the greenhouse gas emissions and their impacts. The commission took action in response to the division's filings, demanding GTN answer questions raised in our filing.

The division successfully prosecuted a series of diesel emissions fraud cases, leading to four guilty pleas and combined fines of \$220,000, as well as court orders banning the polluting trucks from the roads until they are repaired. The division prosecuted other environmental crimes in 2022, including those dealing with laboratory fraud, water pollution and asbestos. At this time, the environmental criminal program has secured 50 convictions and restitution, fee and fine orders totaling over \$5 million.

## Government Compliance and Enforcement

**Division Chief:** Chad C. Standifer, Senior AAG

**Overview:** The division provides legal services to nearly 40 state agencies, boards, and commissions, including those that protect citizens by regulating a variety of professions and industries. The division advises the offices of three elected officials: the Secretary of State, the Insurance Commissioner and the State Auditor. Other division clients include

the Liquor and Cannabis Board (LCB), the Department of Financial Institutions (DFI) and numerous health professional regulatory boards and commissions.

**Legal Highlights:** The division's 28 attorneys and 22 professional staff litigated over 1,000 matters before state and federal courts and administrative tribunals. Division staff successfully prosecuted health care providers for sexual misconduct violations, handled opioid over-prescription and diversion cases, and prosecuted doctors, dentists, and veterinarians who practiced below the standard of care. Staff also handled a number of cases involving medical practitioners who gave out false information about vaccines or who prescribed medication that is not proven effective for treating COVID-19. Staff represented LCB in cases against liquor licensees that failed to comply with COVID-19 related restrictions, and helped LCB enforce the laws and regulations applicable to cannabis licensed businesses.

Staff successfully represented the Criminal Justice Training Commission (CJTC) in decertification hearings against peace officers engaged in disqualifying misconduct, prosecuted financial professionals engaged in fraud on behalf of DFI, and litigated cases enforcing the ethics laws for the Executive Ethics Board. Staff also helped the Washington State Patrol (WSP) obtain monetary recoveries in civil forfeiture matters, and advised WSP troopers statewide in numerous vehicle impound hearings. Other examples of division litigation include successfully defending the State Auditor's authority to issue certain audit findings in superior court, prevailing in the Washington State Supreme Court in a challenge to the Insurance Commissioner's adjudicative authority and helping the Gambling Commission successfully resolve a matter involving financial irregularities at a licensed casino.

Finally, staff provided a significant amount of advice to its numerous clients. This includes advising the Horse Racing Commission concerning the impact of the federally adopted Horseracing Safety and Integrity Act (HISA), assisting the Gambling Commission with negotiating numerous tribal compacts, advising the Public Disclosure Commission concerning enforcement of the state's campaign finance laws and advising various agencies on issues of diversity, equity and inclusion.

## Labor and Industries

**Division Chief:** Lionel Greaves IV, Senior AAG

**Overview:** The Labor and Industries Division, together with partners in the Tacoma, Spokane and Regional

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

**Legal Highlights:** LNI has a high-volume litigation practice, opening approximately 7,000 matters in 2022. In the area of workers' compensation, LNI resolved 165 superior court appeals and achieved a favorable outcome in 81% of those cases. In the area of employer audits, LNI successfully upheld a DLI order at trial, which assessed \$14.5 million in unpaid workers compensation premiums, penalties and interest against DoorDash for failing to provide coverage to their drivers. LNI secured a \$500,000 settlement from G&G Orchards to cover back wages owed to agricultural workers. LNI secured a settlement of over \$120,000 to address unpaid wages from Bella Nails in the first civil wage theft lawsuit that DLI filed in over a decade. The case is a notable example as one of the first joint investigations between the Attorney General's Office and DLI. LNI successfully defended the Washington Industrial Safety and Health Act in federal court from a constitutional challenge brought by Amazon. LNI continued workplace safety enforcement litigation against Amazon as one of the first regulatory actions in the nation addressing the excessive injury rates in Amazon warehouses, LNI advised on rulemaking and policy decisions regarding updated worker protection laws in the areas of minimum wage, overtime, rideshare driver rights and wage/benefit transparency in job postings. LNI advised DLI on significant rules protecting workers from both heat and wildfire smoke exposure, which are some of the most protective emergency rules in the nation. LNI continued to defend orders providing injury coverage to workers and their families who are suffering from radiological exposures at Hanford, as well as workers who contracted COVID-19.

## Labor and Personnel

**Division Chief:** Margaret McLean, 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, which include labor relations, public disclosure, wage and hour laws, immigration, family medical leave, disability and reasonable accommodation, employee misconduct and

discipline and prevention of discrimination and sexual harassment. The division provides legal representation in a variety of settings, including hearings before independent arbitrators, administrative personnel boards, labor commissions, the Washington State Human Rights Commission, the Equal Employment Opportunity Commission and state superior, federal and appellate courts.

**Legal Highlights:** The division handled ten interest arbitration hearings, where an arbitrator resolves disputes between the state employer and the employee union over the final terms of a collective bargaining agreement. Thirteen other such agreements came from other bargaining sessions. The division also helped defend the state in multiple lawsuits relating to exclusive bargaining representation and union dues deduction provisions. Additionally, throughout the COVID-19 pandemic, the division provided extensive advice and representation to state agencies and higher education institutions on emerging labor and employment issues related to COVID-19, including workplace exposures to the virus, mandatory telework, state and federal paid leave options for employees while teleworking, employee screening and wellness checks, protective equipment, employee safety and mandated vaccinations.

## Licensing and Administrative Law

**Division Chief:** Eric Peterson, Senior AAG

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

**Legal Highlights:** The division assisted the Department of Licensing with its response to a data breach of its professional licensing system, impacting roughly 500,000 professional licensees. The division helped to defend related litigation and ensure insurance coverage. It also advised the department on issues concerning breath test admissibility and implications for driver

license suspensions, upon findings in a criminal case that the Draeger machine's calculation method was contrary to the state toxicologist's rule.

The division helped successfully defend the WA Cares program against a constitutional challenge in federal court, advised on legislation delaying and modifying the program and also advised during preparation for its launch. The division continued to advise the Employment Security Department on its processing of pandemic unemployment benefits claims and to help defend litigation challenges, including a putative class action asserting due process claims relating to benefit redeterminations. The division worked with the Complex Litigation Division to secure recoveries from banks of unemployment benefits funds, stolen by imposters and organized criminals, through novel use of state forfeiture law. Recoveries through this process in 2022 totaled nearly \$24 million. Washington has been more successful than other states in mitigating, and securing recoveries of, unemployment benefit fraud losses.

The division represented the Liquor and Cannabis Board in a unique case challenging certain restrictions on marijuana advertising at Hempfest. The Court of Appeals held that intermediate scrutiny applied to the commercial speech at issue, and that the board's restrictions were valid. The Supreme Court of Washington denied further review.

## 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 2022, the division received approximately 10,402 referrals and had 483 investigations (170 of which were criminal). The division obtained 14 criminal convictions (12 fraud, 2 abuse and neglect) and filed 28 criminal cases (27 fraud, 1 abuse and neglect). The division settled seven civil in-state matters and six global, recovering \$48,138,696.92 for calendar year 2022, comprised of \$37,517,422.79 in-state civil cases, \$9,181,198.63 for global cases and \$1,440,075.50 in criminal restitution.



## Public Counsel Unit

**Unit Chief:** Lisa W. Gafken, AAG

**Overview:** The Public Counsel Unit represents customers of companies regulated by the Utilities and Transportation Commission (UTC), including Washington's investor-owned electric, natural gas, water, and telecommunications utilities and companies transporting people, property, and solid waste. Public Counsel advocates for consumers by presenting evidence, legal arguments, and policy recommendations to the UTC when companies request rate changes, propose mergers, propose changes in services, present policy issues, or violate regulatory requirements. Public Counsel also participates in the UTC's rulemaking and policy dockets to ensure that the customers' voices are represented.

**Legal Highlights:** In 2022, Public Counsel represented consumers in the first multi-year rate plan rate cases filed by energy companies under newly enacted legislation, RCW 80.28.425. Both Puget Sound Energy and Avista Utilities filed rate cases under the new statute, proposing two or three years of new rate increases. Cascade Natural Gas presented a tax compliance issue to the Commission, and Public Counsel ensured that the outcome was fair to customers. Public Counsel continued to represent consumers in a major complaint case against CenturyLink Communications for a 49 hour 9-1-1 outage that occurred in December 2018. Public Counsel conducted depositions of CenturyLink witnesses, filed a summary judgment motion, and participated in the December evidentiary hearing. Public Counsel participated in UTC rulemakings regarding third-party contractors used by household goods movers and solid waste companies, and represented ratepayers in water rate cases for Suncadia Water, Camano Hills Water Company, and Gold Beach Water Company. Lastly, Public Counsel represented consumers with respect to Avista Utilities, Puget Sound Energy, and Pacific Power and Light's Clean Energy Implementation Plans, which detail how the electric utilities plan to comply with the Clean Energy Transformation Act (CETA). CETA was adopted by the Legislature in 2019 and requires utilities to provide carbon-neutral energy to customers by 2030 and carbon-free energy to customers by 2045.

## Public Lands and Conservation Division

**Division Chief:** Phil Ferester, Senior AAG

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

### Legal Highlights:

- *State v. Simmons:* The Court of Appeals ruled in favor of the state, upholding the conviction of two Cowlitz tribe members unlawfully harvesting shellfish on the Washington coast. The Grays Harbor County Prosecutor's Office requested the AGO's assistance in the matter. The Court of Appeals decision reaffirms the holding in Confederated Tribes of the Chehalis that the Cowlitz Tribe lost off-reservation treaty rights in the 1860s.
- *DNR & WDFW v. Mears:* In this firefighting cost recovery and damages litigation against an individual who negligently started the 2018 Conrad fire in Yakima County, Mears agreed after mediation efforts to pay \$100,000 to each agency.
- *West v. WDFW:* The Court of Appeals affirmed the dismissal of a rulemaking challenge brought by Twin Harbors Fish and Wildlife Advocacy and Arthur West that argued WDFW violated the law when it adopted rules for recreational salmon fisheries in 2018 and 2019. The court ruled that the rules were legal.
- *Twin Harbors v. WDFW:* The Court of Appeals affirmed the lower court ruling that WDFW's extended, multiple-batch response to a public records request was reasonably prompt. The court found that WDFW did not deny Twin Harbors access to public records, that WDFW's response has been reasonably thorough and diligent and that its estimates of time were reasonable. Finally, the court denied Twin Harbors' request for attorney's fees.

*Derelict Vessel Program: DNR v. Connor* — Sale of the Connor's real property, the Sea Wolf 3, resulted in payment to DNR of \$92,389.55. *Williams v. DNR* — An order was issued affirming DNR's custody action and finding Williams liable for all reasonable and auditable costs incurred in taking possession of and demolishing the derelict vessel M/V Kokua.

## 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 174 employees, the division is the largest in the office. By having attorneys and professional staff in the communities where these state agencies operate, the office is able to conserve costs and deliver excellent legal services with expertise and knowledge about the local communities and court systems.

Attorneys in these offices represent multiple agencies and attorneys and professional staff are adept in a wide variety of practice areas. The division's clients include the Departments of Children, Youth and Families; Labor and Industries; Social and Health Services; Employment Security and 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 large number of litigation matters in courts and administrative settings. Coming out of the pandemic and returning to work, the division is still working hard to achieve permanency for children and ensure that injured workers receive the benefits they are entitled to under the law. With the courts across the state resuming full pre-pandemic operations in 2022, the division filed 1,150 dependency petitions on behalf of Washington's children and litigated nearly 600 industrial insurance appeal matters. Division staff continued to demonstrate a commitment to providing a high level of legal representation, which protects the interests of the citizens in our local communities.

## Revenue and Finance

**Division Chief:** Dan Jensen, Senior AAG

**Overview:** The Revenue and Finance Division provides legal services to the Department of Revenue,

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

**Legal Highlights:** The division successfully handled several appeals before the Washington Court of Appeals and the Washington Supreme Court. The division worked closely with the Solicitor General's Office to defend the capital gains tax that the Legislature enacted during the 2021 session. Other issues the division successfully handled in the appellate courts include:

- Whether a taxpayer may appeal tax reporting instructions without paying the underlying tax or raising a constitutional challenge to the tax
- Whether investment funds who bought and sold distressed debt instruments qualify for a business and occupation tax deduction for certain incidental investment income
- Whether retail sales tax applies to subsidy payments received by a cellular phone company under the federal Lifeline program
- Whether use tax imposed on the value of turbine generator repairs includes labor costs to fabricate parts used to rehabilitate the generators as well as costs for engineering and testing work done prior to authorization to move forward with the project
- Whether a builder of homes on land which the builder had an option to purchase qualified as a speculative builder for tax purposes

The division also successfully represented the Office of Administrative Hearings in an appeal of an order imposing a child support obligation on the petitioner, in which the petitioner argued it violated federal disability law and denied their due process.



## Social and Health Services: Olympia

**Division Chief:** Natalie King, Senior AAG

**Overview:** The Social and Health Services Olympia Division represents five state agencies in their missions to provide benefits, protection and care to some of our state's most vulnerable and disenfranchised residents. The division's 40 attorneys and 26 professional staff provide legal services, advice and representation to the Department of Social and Health Services' many programs and functions. These include mental health services and the state psychiatric hospitals, adult protective services, home and community services for elderly and individuals with disabilities, services to individuals with developmental and intellectual disabilities, income assistance, revenue recovery and child support, vocational rehabilitation and the Special Commitment Center. 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. Other clients include the Health Benefit Exchange, the Department of Veterans Affairs and the Department of Services for the Blind.

**Legal Highlights:** The division's litigation ranged from federal court class action cases involving thousands of individuals to administrative appeals involving a single individual. Recent cases included a challenge to Washington's long-term care benefit program — the first program of its kind in the country — and a challenge to the adequacy of the state's mental health services. Other examples of cases included:

- Contract disputes with medical providers and managed care organizations
- Appeals related to eligibility for certain medical services
- Lawsuits brought by legal advocacy organizations on behalf of Medicaid recipients and individuals with disabilities
- Complex civil rights challenges by residents of the Special Commitment Center for sexually violent predators
- Civil and felony commitment hearings and trials
- Guardianship petitions on behalf of vulnerable adults and appeals of vulnerable adult abuse or neglect findings

## Social and Health Services: Seattle

**Division Chief:** Mary Li, Senior AAG

**Overview:** The Social and Health Services Seattle Division represents the Department of Social & Health Services (DSHS) and the Department of Children, Youth, and Families (DCYF) in King County. The division includes 36 attorneys and 37 professional staff. The work primarily involves abused, neglected, and at-risk children; vulnerable adults; and licensed facilities, including childcare, foster homes, adult family homes and assisted living facilities.

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

The division represents DSHS Adult Protective Services in cases involving alleged vulnerable adult abuse, neglect and/or financial exploitation. This includes guardianships, protection orders, and appeals. The division's work involving licensed facilities includes DCYF and DSHS administrative litigation that usually arises from allegations of abuse, neglect, maltreatment or other issues concerning the care of children and adults in licensed facilities.

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

In addition to litigation, the division provides case-specific advice to DCYF and DSHS and participates in ongoing case planning. During two years of fully remote work, the division developed efficient ways to work without paper and without wet signatures. The division worked with the court to ensure that emergencies were heard in a timely manner and that cases could be heard

remotely or in a manner consistent with health and safety. The division returned to in-person work in April 2022 but many court hearings continue to be conducted in a hybrid environment.

## Solicitor General's Office

**Solicitor General:** Noah Purcell

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

**Legal Highlights:** In 2022, the division worked with other divisions to represent and advise on important legal issues. It worked with the Labor and Industries Division to defend at the United States Supreme Court a law protecting Hanford workers, and it helped develop amendments to the law to ensure that workers had protections regardless of the outcome of the case. The division aided in defending the governor's emergency proclamations combating the COVID-19 pandemic, and led numerous consequential cases in the Washington State Supreme Court and Ninth Circuit. Additionally, the division issued an important formal opinion interpreting new statutes the Legislature adopted regarding use of force by law enforcement. Over the course of the year, the division also drafted hundreds of ballot titles, coordinated over 100 moot courts and issued four formal and several informal Attorney General Opinions.

### Representative Opinions:

The Attorney General's Office issued four formal Attorney General Opinions in 2022. These opinions addressed legal questions involving:

- Use of physical force by law enforcement officers;
- Application of the Open Public Meetings Act to a university's academic senate;
- Authority of architects and engineers to stamp and sign drawings for submission for building permits;

and

- Authority of the judicial conduct commission to request the interim suspension of a judge.

### Amicus Briefs:

The Attorney General's Office weighs in on important cases where Washington is not a party by filing amicus curiae, or "Friend of the Court," briefs to advise the court of the state's views on the issues in the case. The office signed onto 74 amicus briefs, 12 of which the division drafted. The following are a few highlights of briefs written by Washington in 2022:

- **Portugal v. Franklin County, Washington Supreme Court No. 100999-2**  
Arguing that the Washington Voting Rights Act is constitutional.
- **Washington State Council of County & City Employees v. City of Spokane, Washington Supreme Court No. 100676-4**  
Arguing that state law preempted a local ordinance requiring collective bargaining to be conducted in public.
- **Glacier Northwest v. Teamsters Local Union No. 174, United States Supreme Court No. 21-1449**  
Arguing that a strike resulting in the loss of perishable product was arguably protected conduct under the National Labor Relations Act.
- **Subcontracting Concepts, CT, Inc. v. Manzi, Washington Court of Appeals No. 83748-6**  
Arguing that a clause in delivery worker's contract that purported to waive the worker's rights under the Industrial Insurance Act was invalid.
- **Friends of the Earth v. Haaland, D.C. Cir. Nos. 22-5036; 22-5037**  
Arguing that the National Environmental Protection Act requires detailed consideration of an action's climate impacts, including foreign greenhouse gas emissions.

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

- **Texas v. Becerra, N.D. Tex. No. 5:22-CV-185**  
Arguing in support of the Department of Health and Human Services' guidance that the Emergency Medical Treatment and Labor Act (EMTALA), a federal law ensuring emergency medical care, requires hospitals to provide emergency care, including abortions, even if not permitted under state law.



- **United States v. Idaho, S.D. Idaho No. 1:22-cv-00329-BLW**  
Arguing in support of enforcement of the recent federal guidance that reiterated the obligation under EMTALA to provide emergency abortion care when needed to stabilize an emergency medical condition.
- **National Pork Producers Council v. Ross, U.S. Supreme Court No. 21-468**  
Defending states' authority to regulate in-state activities that protect the public health, welfare and safety.
- **Morehouse Enterprises v. ATF, 8th Cir., No. 22-2812**  
Arguing in favor of a federal rule that weapon parts kits (also known as "ghost guns") fell within the definition of regulated "firearms."
- **United States v. Price, 4th Cir., No. 22-4609**  
Arguing in support of a federal law prohibiting possession of firearms with obliterated serial numbers.
- **Restaurant Law Center v. City of New York, 2nd Cir., No. 22-491**  
Arguing in favor of New York City's law requiring "just cause" to fire certain fast food employees.
- **Haaland v. Brackeen, U.S. Supreme Court No. 21-376**  
Arguing that the Indian Child Welfare Act was a valid exercise of Congressional power and did not violate the Constitution.
- **Sackett v. Environmental Protection Agency, U.S. Supreme Court No. 21-454**  
Arguing that the Clean Water Act covers wetlands with significant connections to navigable waters.
- **Students for Fair Admissions Inc. v. President & Fellows of Harvard College, U.S. Supreme Court No. 20-1199; Students for Fair Admissions v. University of North Carolina, U.S. Supreme Court No. 21-707**  
Arguing that affirmative action programs at Harvard and UNC were constitutional and the Court should not overturn its precedent allowing certain affirmative action programs.
- **CFPB v. Community Financial Servs. Ass'n of America, U.S. Supreme Court No. 22-448**  
Arguing that the funding structure for the Consumer Financial Protection Bureau did not violate the Appropriations Clause.
- **Alliance of Hippocratic Medicine v. U.S. Food and Drug Administration, N.D. Tex. No. 2:22-cv-00223-Z**  
Arguing that the FDA's longstanding approval of mifepristone for medication abortions is valid.
- **Moore v. Harper, U.S. Supreme Court No. 21-1271**  
Arguing against the "independent state legislature" theory that state courts cannot invalidate state redistricting programs as violating the state constitution.
- **303 Creative LLC v. Elenis, U.S. Supreme Court No. 21-476**  
Arguing that Colorado's public accommodations law required wedding website designer to offer services to same-sex couples.

## Spokane

**Division Chief:** Amy Flanigan, Senior AAG

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

**Legal Highlights:** In 2022, the DSHS section filed 428 dependency petitions, 48 Title 13 guardianship petitions, 242 termination petitions and responded to 29 appeals in eight counties. It filed 23 Adult Protective Services matters and handled developmental disability matters, and other challenges to DSHS and DCYF's various programs, as well as civil commitment hearings and 59 show cause cases for Eastern State Hospital.

The paralegals in the LNI section received 675 new lead cases for mediation while the attorneys received 305 new cases for litigation. This section also handled cases seeking to uphold violations regarding workplace safety, wage payment, employer audit, fraud and building trade compliance.

Corrections staff defended against the release of inmate transgender status information, facilitated settlement negotiations with advocacy groups over the housing of transgender inmates and handled a large volume of litigation and advice requests. Transportation staff worked on litigation involving Camp Hope, the largest homeless encampment in the state. The Labor and Personnel group continued advice on COVID-19 issues. The licensing attorney worked on cases involving issues like paid family medical leave benefits, unemployment benefits and licensing actions. The education team worked on various significant projects, including a presidential search.

The Torts section continued its work to defend the state, its agencies and employees from litigation. Torts in Spokane is expanding to better handle increasing numbers and more complex cases.

In 2022 Spokane recruited for 37 positions, 15 resulted in internal transfers or promotions and 22 resulted in hiring new employees.

## Tacoma Division

**Division Chief:** Laura L. Wulf, Senior AAG

**Overview:** The Tacoma Division provides a wide range of legal services in matters arising primarily out of Pierce and Kitsap Counties. The division represents a number of state agencies, including the Departments of Labor and Industries (DLI), Licensing, Employment Security, Children, Youth and Families (DCYF) and Social and Health Services. The division also contains a torts section defending a variety of state agencies in both state and federal courts. Attorneys in the torts section include the primary risk management advisor for the state Department of Corrections. The division also houses staff in the Complex Litigation Division. 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:** In 2022, the division's DCYF section reviewed 367 new dependency petitions, a decrease from previous years due to increased efforts by DCYF to prevent removal of children. The division also reviewed 131 termination of parental rights actions and 77 guardianship petitions for children in foster care, which was an increase due to a change in the law to promote more guardianships and fewer terminations. The

section continues to be a leader in family recovery court programs, and paved the way for the state's first infant and mental health courts in Pierce and Kitsap Counties.

The division assigned DLI Paralegals to 612 lead cases and resolved 318 (52%) of those cases, while attorneys in the section represented the Department before the Board of Industrial Insurance Appeals, Office of Administrative Hearings and state trial and appellate courts.

The DLI's section's work also included assisting in investigations of wage theft allegations and mediating and litigating COVID-19-related Washington Industrial Safety and Health Act violations. Client advice included the implementation of a new law that provides new protections for transportation network company drivers (such as Uber and Lyft), the introduction of the new salary and wage disclosure requirement in job postings provided in the Equal Pay and Opportunities Act and the application of the isolated worker statute.

## Torts

**Deputy Attorney General:** Jennifer S. Meyer

**Overview:** Torts Division attorneys defend state agencies, officers and employees against personal injury or civil rights lawsuits for money damages in state and federal courts. Division attorneys also evaluate claims prior to litigation for potential settlement and provide risk management advice to state agencies. Many areas of state government operations are the subject of claims including child welfare services provided by the Department of Children, Youth and Families, highway design and maintenance by the Department of Transportation and community supervision by the Department of Corrections.

**Legal Highlights:** This year, more than 800 claims were referred to the division for investigation and close to 300 personal injury or civil rights lawsuits were filed against state employees and agencies. Torts lawyers and professional staff are responsible for all aspects of litigation including initial investigation, discovery, civil motion practice, trial and appeal. As with most years, 2022 saw almost half of the division's cases resolved with zero payout to the plaintiff, thereby preserving state resources. In consultation with agency clients, division attorneys use early work up and evaluation to negotiate mediated resolution of claims where liability is not contested, thereby reducing defense costs. Lawyers

using early resolution skills resolved 34 such matters this past fiscal year. Five cases went to trial and 24 cases were argued at the appellate courts, including two matters heard before the Washington State Supreme Court.

## Transportation and Public Construction

**Division Chief:** Bryce Brown, Senior AAG

**Overview:** The Transportation and Public Construction Division (TPC) represents and advises the Department of Transportation (WSDOT), Transportation Commission, County Road Administration Board, Transportation Improvement Board, Traffic Safety Commission, Department of Enterprise Services (DES), Military Department, WaTech, Recreation and Conservation Office, and the State Building Code Council (SBCC). TPC's workload includes litigation and client advice on a variety of issues, including contracting, real property acquisition and leasing, condemnation, bid protests, construction claims, environmental and property damage, development/land use, procurement, complex IT acquisitions, constitutional issues related to the Capitol Campus and emergency management preparation and response.

**Legal Highlights:** In 2022, the division advised DES as it created and implemented a statewide supplier diversity policy for procurement activities. The division also advised DES regarding the Capitol Lake – Deschutes Estuary project, including the Final Environmental Impact Statement selecting an estuary as the preferred alternative. It also assisted in negotiations for a Memorandum of Understanding regarding the long-term funding and governance of the estuary.

Division attorneys are defending the SBCC against assertions that state natural gas and electric appliance regulations are preempted by federal regulations or were improperly adopted.

The division also provided legal support to WSDOT regarding several "mega projects" (SR 520 Montlake, the I-405 Corridor and the Alaskan Way Viaduct). This included numerous eminent domain actions to acquire right of way, the defense of construction claims, the recovery of insurance and defense proceeds arising

from the Alaskan Way Tunnel project and numerous legal challenges to I-405's environmental review and permitting actions.

The division also supports WSDOT's implementation of its multi-billion dollar culverts correction program, construction of hybrid electric ferries and recovery of costs incurred from bridge damage by the traveling public. Additionally, the division assisted WSDOT with the passage of legislation to install cameras within highway work zones to reduce speeding and worker injuries.

The division provides legal advice to the Office of Equity and Civil Rights in connection with disadvantaged, women's, veterans, tribal and small business contracting. Also, the division embarked on an outreach program to increase the number of former Judge Advocate Generals and military legal support personnel into the Office.

## University of Washington

**Division Chief:** David Kerwin, Senior AAG

**Overview:** The University of Washington Division provides comprehensive legal services to the University of Washington ("UW"), which operates three campuses (Seattle, Tacoma and Bothell) and a large medical enterprise. UW enrolls more than 60,000 undergraduate, graduate, and professional students, employs over 45,000 faculty and staff and is ranked among the best higher education research institutions in the country.

The division has 19 attorneys, organized into three teams (General Practice, Employment, and Healthcare), and 10 support personnel. The division provides legal advice and representation across a variety of specialized areas, including healthcare, employment law, labor relations, student affairs, admissions, real estate, compliance and risk services, ADA, Title IX, business law, intercollegiate athletics, public finance, bonds, intellectual property, tax, benefits, IT, gifts and trusts and constitutional law.

**Legal Highlights:** The division provided legal advice to the Board of Regents, the President, the Provost, the Bothell and Tacoma campus chancellors and various deans, officers, directors and administrators on a range of legal issues. A few examples are:

- Advised on final aspects regarding the merger of Fred Hutchinson Cancer Research Center into Seattle Cancer Care Alliance, which became the Fred Hutchinson Cancer Center effective April 1, and was integrated as the cancer program for UW Medicine.
- Advised UW Medicine regarding regulation of reproductive care leading up to and following the Supreme Court's decision in *Dobbs*.
- Advised on COVID-related issues, including return to work or school, the expiration of the governor's vaccination mandate and religious and medical exemption claims and lawsuits.
- Advised on intercollegiate athletic issues, including a name, image and likeness policy, media rights and PAC-12 Conference realignment.
- Advised on real estate projects, including the redevelopment of four offsite university housing properties and a 250-unit affordable housing project with an onsite daycare center.
- Advised on a variety of labor and personnel matters, including faculty grievance procedures, bargaining matters, unfair labor practice complaints, discrimination claims and accommodations.
- Advised on a number of open government matters.

## Utilities and Transportation

**Division Chief:** Jeff Roberson, Senior AAG

**Overview:** The Utilities and Transportation Division provides legal services to the Washington Utilities and Transportation Commission (UTC). The UTC regulates the rates, services and practices of a wide range of investor-owned utilities and common carriers, including electric, natural gas, and water companies; telecommunications companies (excluding wireless, internet, and cable companies); solid waste collection companies; pipelines; railroads; intrastate household goods movers and bus companies and private ferries. It also regulates the only rates charged for marine pilotage services. The division's work focuses primarily on regulatory litigation and client advice related to the constantly changing state and federal regulatory landscape governing industries that the UTC regulates.

**Legal Highlights:** In 2022, the division staffed a wide variety of litigated cases. At the administrative level, divisional personnel represented the UTC's staff in contested general rate cases filed by Puget Sound Energy, Avista Corporation and the Puget Sound Pilots, as well as in numerous other rate filings by those and other

utility companies. The division also represented the Commission's staff in complaint proceedings against PacifiCorp and CenturyLink (now Lumen).

At the appellate level, the division defended before the Washington State Court of Appeals and the Washington State Supreme Court a UTC order requiring an unpermitted solid waste collection company to cease and desist its unlawful operations. The division defended the UTC in several federal district court proceedings brought by railroads challenging the state statutes allocating the maintenance costs of safety devices at highway-railroad grade crossings.

Beyond litigation, the division continued to represent the UTC at its open public meetings; in the six-state negotiation regarding PacifiCorp's cost-allocation methodologies and concerning the large-scale revisions to the public service laws passed by the Legislature over the last few years, including the Clean Energy Transformation Act, the Climate Commitment Act and 2021's Engrossed Substitute Senate Bill 5295.

## Washington State University

**Division Chief:** Nathan Deen, Senior AAG

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



# ADMINISTRATIVE DIVISIONS

## Facilities & Safety

**Facilities and Safety Director:** Karen Cowan

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

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

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

## Financial Services

**Chief Financial Officer:** Mark Melroy

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

Contracts and Grants; Budget.

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

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

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

## General Services

**General Services Director:** Karen Cowan

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

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

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

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

## Human Resources

**Chief Human Resources Officer:** Franklin Plaistowe

**Overview:** The Human Resources Division provides comprehensive human resources-related programs and services to managers, employees and candidates for employment. The division's goal is to promote effective and efficient human resource management throughout the office by supporting applicants and employees, assisting managers in administering collective bargaining agreements and civil service rules and recruiting, developing and retaining a diverse, highly qualified and highly competent workforce. With the growing number of employees in our office, the Human Resources staff are called on to assist and lead on a growing number of more complex matters involving leave and performance issues.

**Highlights:** In 2022 the division worked to support the office in tackling staffing challenges. The Attorney General's Office saw increased turnover and pronounced challenges

with recruiting due to a very tight labor market. While many areas of the office have encountered challenges, the difficulty to fill vacant legal support positions remained a significant challenge. The division led an agency-wide classification change resulting in pay adjustments for individuals who were historically classified as Legal Assistants in the office. Individuals previously working as Legal Assistants are now part of the modified Paralegal classification. This change called for extensive work with our employees, agency leadership, the Office of Financial Management and the labor organization representing impacted employees. This change more effectively acknowledges the complex work of our employees and better positions our organization to recruit highly qualified applicants. The division also enhanced the reporting of employee engagement information to leaders in the office. The updated reports provided leaders with information and resources that empowers leaders to take action to ensure we have a highly engaged workforce.

## Information Services

**Chief Information Officer:** Rick Griffith

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

## Legislative Priorities

**Legislative Director:** Joyce Bruce

**Overview:** The Legislative team leads the effort to define and advance the Attorney General's legislative priorities by cultivating relationships

with legislative members, stakeholders, state agencies and internal division staff to pass legislation. The team also collaborates with the policy staff, public affairs, and other appropriate office contacts to ensure external messaging is informed by policy and legislative development.

## Tribal Priorities

**AGO Tribal Liaison:** Asa Washines

**AGO MMIW/P Policy Analyst:** Annie Forsman-Adams

**Addressing the Missing and Murdered Indigenous Women and People crisis.** The state's Missing and Murdered Indigenous Women and People (MMIWP) Task Force published its first report in August. The report included 10 unanimous recommendations to address the crisis, including improved data collection and training. The report also recommended that the Legislature create and fully fund a cold case investigations unit in the Attorney General's Office focused on MMIWP cases.

**Creating the Missing Indigenous Persons Alert.** The office partnered with Rep. Debra Lekanoff, D-Anacortes, to introduce and pass legislation to create the country's first Missing Indigenous Person Alert. This alert, similar to "silver alerts," helps identify and locate missing Indigenous women and people. It broadcasts information about missing Indigenous people on message signs and in highway advisory radio messages, as well as through press releases to local and regional media.

**Successfully defending the Endangered Species Act from attack.** In 2019, the office filed a lawsuit challenging President Trump's attempt to weaken the Endangered Species Act, a law critical to protecting salmon and orca. Washington and a coalition of 18 states were successful in defending the ESA and a federal judge overturned the Trump administration's rule in July 2022.

**Supporting self-determination.** The office supports tribes' right to self-determination by operating gaming facilities through tribal-state compacts. Maverick Gaming, a Washington-based private cardroom operator, challenged Washington's laws and tribal-state compacts that limit certain types of gaming to tribal facilities, as well as the constitutionality of the federal Indian Gaming Regulatory Act. The office successfully petitioned to transfer the case from Washington D.C. to district court in Western Washington.

**Defending the Indian Child Welfare Act (ICWA) at the Supreme Court.** Washington joined a bipartisan coalition

of 25 other states to defend the constitutionality of ICWA in the *Brackeen v. Haaland* case. The Supreme Court accepted review of the case and will hear arguments in 2023. The office will continue supporting tribes on this issue by working with the multistate coalition and filing friend of the court briefs.

## Policy Team

**Policy Director:** Sahar Fathi

The policy team wrote eleven reports on behalf of the office, totaling 221 pages and 28 policy recommendations (not including 12 unanimous recommendations from the Law Enforcement Data Collection Advisory Group). The team also wrote one model policy, which generated over 1,000 public comments. Also, 247 non-tribal law enforcement agencies — 93% of statewide agencies — submitted their use of force policy to the office.

The team coordinated 90 sign-on letters, an average of one sign-on every 2.8 business days.

The team managed 13 task forces and working groups and facilitated 171 meetings of these groups in 2022.

### Task forces, advisory groups and work groups

- Law Enforcement Data Collection Advisory Group
- Sexual Assault Coordinated Community Response Task Force
- Washington State Missing and Murdered Indigenous Women and People (MMIWP) Task Force
- Office of Military and Veteran Legal Assistance (OMVLA) Advisory Committee
- Organized Retail Crime Theft Task Force
- Washington State Joint Legislative Taskforce on Jail Standards
- Tipline Advisory Committee
- Sexual Assault Forensic Examination Best Practices Advisory Group

### Internal office work groups

- AGO Worker Protection Work Group
- AGO Civil Legal Aid Work Group
- AGO Environmental Justice Work Group
- HB 1310 Work Group
- AGO Community Engagement Workgroup
- Catalytic Converter Theft Work Group

The team held the first MMIWP Task Force Summit in December, with over 100 attendees.

Through the Military Engagement and Directed Advocacy by Lawyers program, OMVLA responded to 395 requests for civil legal assistance from veterans, service members and their families in 2022, a 190% increase over 2021. The OMVLA program also established the Vet Hero program, which leveraged the pro bono departments of large law firms and corporations to provide civil legal aid to the military and veteran community.

The Youth Program Team, also called Tipline, met with more than 250 community organizations. They released two youth surveys for input that had over 1,200 responses.

## Public Affairs

**Director of Communications:** Brionna Aho

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

## Public Records & Constituent Services

**Director:** LaDona Jensen

**Overview:** The Public Records and Constituent Services Unit handles four essential programs for the Attorney General's Office: public records requests, constituent correspondence, records retention and state employee wage garnishments.

The unit's three Public Records Officers processed more than 1,000 complex records requests, providing nearly 473,000 pages of responsive records to requesters. The unit's Data Liaison coordinated and reported the office's work on the legislatively mandated public records data-reporting project.

The Constituent Correspondence Liaison reviewed, distributed and coordinated responses to more than 7,000 emails and letters on behalf of the Attorney General. The Records Retention Specialist oversaw

archiving practices for the Office and provided valuable input on revisions to the agency-specific records retention schedule. The Garnishment Liaison received and routed more than 4,800 state employee garnishment documents, while guiding state agency payroll staff through wage withholding procedures.

In addition to these core programs, the unit provides training on public records processes and software to all employees.





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

