



| 2019



Washington State Attorney General's Office



AG Ferguson participates in a “walk & talk” video with State Senator Joe Nguyen.

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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

Every day, I am inspired by the work of the 1,300 public servants who dedicate their time and expertise to the Attorney General's Office. This year in particular, that work exemplified our mission to represent Washingtonians.

Our office stood 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.

While these cases garner a lot of attention, they represent a fraction of the important work the Attorney General's Office does every day.

We made a difference in the lives of Washingtonians in a multitude of ways. For example: we provided excellent legal counsel to our clients, protected low-wage workers from unfair franchise agreements and wage theft, passed legislation increasing the purchasing age of tobacco and vapor products to 21, and garnered a record-setting penalty against Comcast for consumer protection violations.

We also created a first-of-its-kind policy that requires our office obtain free, prior and informed consent before initiating a program or project that affects tribes, tribal rights, tribal lands and sacred sites

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.

Governor Inslee honored our office's work by inviting AGO staff to a special reception, "in appreciation of the Attorney General's Office for its exemplary service to the state and your tireless efforts to protect all the people of Washington state."

This Annual Report highlights our accomplishments in 2019 – 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



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

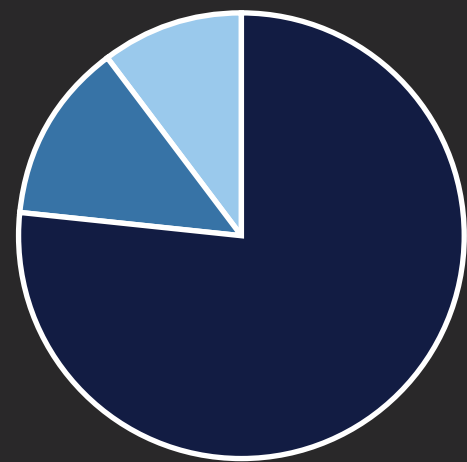


Approximately 20,000 open legal matters at any given time



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

CONSUMER PROTECTION:



\$89.9 MILLION

TOTAL IN RESTITUTION, CONSUMER SAVINGS, & PENALTIES

- **\$69 MILLION*** – Restitution & Consumer Recoveries
- **\$11.8 MILLION** – Informal Complaint Resolution Recoveries
- **\$9.1 MILLION** – Civil Penalties Returned to State General Fund

*Litigation benefit to consumers in the form of cash refunds, debt forgiveness, bill credits, etc.



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 54 lawsuits against the Administration.

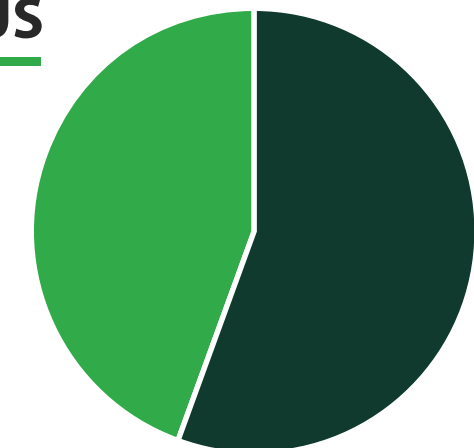
54 CASES FILED TOTAL



21 CASES FILED IN 2019

CURRENT FEDERAL CASE STATUS

- **30 Cases Ongoing**
- **24 Legal Victories***
- 0 Losses**



*24 legal victories total. 15 of these cases are complete and can not be appealed. 9 can be appealed.



Members of the Wing Luke Civil Rights Division pose for a photo after announcing that Motel 6 will pay \$12 million to resolve a lawsuit against the company for voluntarily providing guest lists to agents of U.S. Immigration and Customs Enforcement. From left to right: (back row) Patricio Marquez, Lane Polozola, Keely Tafoya, Anna Alfonso, Caitlin Hall, Andrea Brenneke, Mitch Riese, AG Ferguson, (front row) Neal Luna, Alma Poletti, Judy St. John, Vanessa Salinas, Chalia Stallings Ala'ilima, Colleen Melody.

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.

Combating Motel 6 Privacy Violations & Illegal Immigration Sweeps

In April, AG Ferguson announced that Motel 6 would pay \$12 million to resolve a lawsuit against the company for voluntarily providing guest lists to agents of U.S. Immigration and Customs Enforcement (ICE) on a routine basis. Motel 6 also signed a legally binding commitment agreeing to no longer give guest information without a warrant or other lawful basis at all of its locations across the nation.

From February 2015 through September 2017, Motel 6 locations in Washington turned over the personal information of their guests to ICE on a daily basis without requiring a warrant. Each time Motel 6 released a guest list, it included the private information of every guest at the hotel without their knowledge or consent and violated their expectation of privacy.

In addition to violating the privacy of around 80,000 guests in Washington alone, Motel 6's disclosures resulted in ICE's targeted investigation of many guests with Latino-sounding names on or near the Motel 6 properties where they stayed. For some guests, Motel 6's disclosures resulted in the loss of their homes and jobs and separation from their families.

Ferguson filed a lawsuit in January 2018, asserting Motel 6's disclosures of private guest information violated the Consumer Protection Act and the Washington Law Against Discrimination. During an investigation, Motel 6 admitted that at least six of its Washington state locations — in Bellingham, North Everett, South Everett, South Seattle, SeaTac and South Tacoma — shared personal information of its guests with ICE. The investigation found Motel 6's actions led to the detainment of at least nine Washingtonians and had serious consequences for several Washington families.

Motel 6's payments will provide restitution and monetary damages to the approximately 80,000 guests whose information Motel 6 unlawfully provided to ICE. The company also agreed to provide training for its employees to ensure they do not release guests' private information unlawfully. The Attorney General's Office will monitor Motel 6's policies and training for the next three years.



Burien Mayor Jimmy Matta speaks at a press conference on the office's resolution with Motel 6.

Upholding Washington's Anti-Discrimination Laws

The Washington State Supreme Court upheld in July a previous decision in the Attorney General's lawsuit against a Richland florist. The court again found that Arlene's Flowers violated Washington's Consumer Protection Act and the Washington Law Against Discrimination by refusing to serve a same-sex couple seeking to buy flowers for a wedding.

On March 1, 2013, Robert Ingersoll spoke with Arlene's Flowers proprietor Barronelle Stutzman about purchasing flowers for his upcoming wedding to his husband. Stutzman refused, saying she based her denial on her personal objection to marriage equality. On March 28, 2013, the Attorney General's Office sent a letter to Stutzman asking her to comply with Washington law, which prohibits businesses from discriminating on the basis of sexual orientation. Stutzman refused. On April 9, 2013, the Attorney General's Office filed a consumer protection lawsuit against Arlene's Flowers and Stutzman for refusing to serve the couple.

After multiple appeals, the case went before the U.S. Supreme Court in November 2017. The U.S. Supreme Court ruled in June 2018 on a case in Colorado involving a similar type of denial of service over a wedding cake then asked the Washington State Supreme Court to again make a ruling following its decision.

Securing Fair Contracts for Immigrants

In August, the Attorney General's Office ensured that Libre by Nexus, an immigration bond services company, will provide more than \$2.7 million in debt relief and refund a total of \$58,800 to Washington-based consumers. An investigation showed the company's contract practices confused clients about the monthly fees and obligations of its programs.

Libre facilitates posting bonds for people held in civil immigration detention centers and requires a friend or family member to co-sign for the detainee and pay an upfront, non-refundable fee. Libre then has a third-party company make a guarantee to the court that it will pay the person's bond if they do not show up for court.

Libre would not provide Spanish contracts for detainees or their co-signers, despite Spanish being the primary language for the majority of its clients. Before the agreement, Libre only provided one-page summaries in Spanish that failed to convey the full terms of a 15-page contract and relied on its employees to verbally interpret the complicated contract terms. The contract contained no limit to the number of monthly payments Libre could charge, even if the client had to wait years for their hearing.

In response to the investigation, Libre implemented a new contract that is available entirely in Spanish, limits the term of payments and clarifies that the monthly fee payments are not refundable collateral payments. It also changed the monthly fee from a flat rate of \$420 per month to a rate that varies depending on the amount of the bond.

Federal Civil Rights Cases

Combating Courthouse Arrests

In December the Attorney General's Office filed a lawsuit against the Department of Homeland Security (DHS) for arresting hundreds of immigrants in or near courthouses in Washington.

The lawsuit asserts this conduct violates the Tenth Amendment, which grants states the autonomy to control the operation of their judiciaries and prosecute crimes without federal interference. The courthouse arrests also violate the Administrative Procedure Act, which prevents the federal government from enacting a policy that violates the law. Congress did not grant DHS the authority to conduct courthouse arrests and the agency failed to consider the harm the policy would cause to state courts.

In January 2018, DHS formally issued a directive and "FAQs" admitting to its enforcement practices at courthouses. Its rules suggest that arrests at courthouses target specific individuals, including those with "criminal convictions, gang members, national security or public safety threats."

Contrary to the public justifications provided by DHS, significant evidence showed that many of the people DHS arrested at courthouses in Washington had no prior convictions or criminal histories. Many were crime victims or appeared in court on nonviolent charges with no prior criminal record. Others were there to register motor vehicles, pay traffic tickets or accompany a relative to court.

DHS's conduct also caused witnesses, victims and others to refuse to enter courthouses, which has a compounding effect on public safety.

Challenging the Border Wall "Emergency"

The Attorney General's Office filed a lawsuit in September to block the Trump Administration's plan to move funding for more than \$3.6 billion in congressionally approved military construction projects to help build a wall along the U.S. southern border with Mexico. The plan would have diverted nearly \$90 million from the Kitsap Peninsula's Bangor submarine base.

Washington's Bangor submarine base houses the U.S. Pacific Fleet's Trident ballistic missile submarines. The Trump Administration's plan would have subverted a congressionally approved \$88.96 million project to build a pier and maintenance facility at the base. The base houses vessels that escort and provide security for submarines but they currently have no dedicated docking space. This forces them to operate in a "nomadic state" according to the Department of Defense.

After filing the lawsuit, a bipartisan group of 100 former Congressional representatives signed a letter in support of Ferguson's legal claims as did numerous former high-ranking U.S. national security officials.

Defending the Flores Agreement

In response to a lawsuit filed by AG Ferguson and 19 other state attorneys general, a federal judge permanently blocked rules proposed by the Trump Administration that removed significant protections against the mistreatment of immigrant children and families apprehended at the U.S. border.

The Administration's new rules attempted to override a longstanding court-approved settlement — known as the Flores Agreement — that governs the humane treatment of immigrant children in federal custody. Washington asserted the new rules would have unlawfully permitted federal officials to detain children and families in unlicensed facilities without adequate standards of care to protect the safety and well-being of immigrant children. The new rules also would have allowed for their prolonged, even indefinite detention.

Federal immigration authorities transferred hundreds of immigrant children to Washington state-licensed facilities or released them into the state in 2019. Interviews with immigrant children and teenagers in Washington state facilities revealed

appalling conditions at federal detention facilities. In addition to a lack of toothbrushes, soap or access to showers reported earlier in the media, the children reported extremely cramped cells, younger kids put in cages as punishment and guards throwing food on the ground for children to fight over.

If the federal government's new rules had gone into effect, the state would not be able to tell these children's stories because they removed the state's oversight authority.

Challenging the Public Charge Rule

A federal judge in Eastern Washington issued a nationwide preliminary injunction, blocking the Trump Administration from implementing its changes to the "public charge" rule nationwide while a lawsuit led by Attorney General Bob Ferguson and a 14-state coalition progressed. The states filed a lawsuit in August against the U.S. Department of Homeland Security that asserted the Trump Administration's changes to the "public charge" rule violate federal immigration statutes, the Welfare Reform Act and the Administrative Procedure Act. A public charge is an individual whose survival depends upon a specific public benefit or who is institutionalized for long-term care at government expense.

Under the proposed rules, if an immigrant who legally resides in the country used benefits to which he or she is entitled — such as food assistance to feed their U.S. citizen children or housing assistance — even for a short time, the federal government would be able to revoke their legal status or even deport them. Further, the rule would have created a "bait-and-switch" where immigrants who used public assistance would have then jeopardized their chances of later renewing their visa or becoming permanent residents. It also would have expanded immigration officials' ability to deny visas and permanent residency to any individual who they predicted would have used public assistance programs.

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 it would be used against the immigrant parent. Estimates showed that more than 140,000 Washingtonians, including many U.S. citizen children, would have lost health insurance as a direct result of the blocked rule.



Wing Luke Civil Rights Division Chief Colleen Melody answers reporters' questions on a lawsuit against the Department of Homeland Security (DHS) for arresting hundreds of immigrants in or near courthouses in Washington.



Complex Litigation AAG Jeff Sprung speaks with ACLU Washington Legal Director Emily Chiang after a press conference on the office's lawsuit against the Trump Administration over its Title X "gag rule."

Protecting Washingtonians' Health



The office continued its multidivisional effort to ensure Washingtonians across the state have access to quality health care. In addition to combating medicaid fraud and standing up for consumers in the healthcare arena, the office's efforts focused on addressing the opioid epidemic and standing up to unlawful Trump Administration rules that would jeopardize the health care of Washingtonians.



Consumer Protection AAG Audrey Udashen speaks to press conference attendees after the office announced a resolution in its charity care lawsuit against St. Joseph Medical Center. Udashen served as a lead attorney on the case.

Fighting for Care for the Most Vulnerable Washingtonians

As a result of an Attorney General's Office lawsuit filed in 2017, St. Joseph Medical Center in Tacoma and seven other CHI Franciscan hospitals will forgive as much as \$20 million in debt, pay \$2.22 million in refunds, pay the Attorney General's Office \$2.46 million, and rehabilitate the credit of thousands of patients who qualified for charity care between 2012 and 2017 but did not receive it.

CHI Franciscan entered into a legally enforceable agreement in April to reform its charity care practices across all eight of its acute care hospitals. The Attorney General's Office just sued St. Joseph Medical Center over its charity care violations, but the resolution involves charity care reforms for eight CHI Franciscan hospitals and provides restitution for eligible patients who did not receive charity care at all eight hospitals.

The Attorney General's Office filed a lawsuit against St. Joseph in 2017, asserting that the hospital repeatedly violated the state Consumer Protection Act by failing to make charity care accessible to tens of thousands of low-income patients.

In Washington, state law requires hospitals to make charity care accessible to patients whose income is at or below 200 percent of the Federal Poverty Guidelines. Hospitals are required to provide notice of the availability of charity care both verbally and in writing; screen patients for charity care eligibility before attempting to collect payment, and only require patients to provide one income-related document to prove charity care eligibility.

Challenging J&J for Misrepresenting a Surgical Mesh Product

On the same day in April a trial was scheduled to begin, the Attorney General's Office announced that Johnson & Johnson will pay \$9.9 million to avoid going to trial for misrepresentations and failure to include serious risks in the instructions and marketing materials for surgical mesh devices. Washington was the first state attorney general to file a lawsuit against Johnson & Johnson regarding surgical mesh devices.

Approximately 14,000 Washington women had these devices implanted. While precise information is not available, the Attorney General's Office believes hundreds of those have been adversely impacted so far, ranging from having to go back for another procedure, to having their quality of life impacted dramatically.

In May 2016, Ferguson filed a lawsuit against Johnson & Johnson asserting that the multi-billion dollar corporation violated Washington's Consumer Protection Act by failing to include several serious, life-altering risks associated with its surgical mesh devices in materials for patients and doctors. Washington women experienced pain, suffering, and life-altering complications that Johnson & Johnson knew were associated with its devices, including chronic pain, pain with sexual intercourse, and numerous urinary issues. Furthermore, the mesh is very difficult and sometimes impossible to remove.

Johnson & Johnson's \$9.9 million payment will be used to assist women who received pelvic mesh implants. This is in addition to any recovery they receive in a personal injury lawsuit. Many lawsuits have been filed across the country.



Counsel for Environmental Protection Unit Chief Bill Sherman, joined by AG Ferguson and AAG Kelly Wood, speaks at a press conference on toxic school supplies.

Removing Toxic School Supplies from Amazon's Online Marketplace

Amazon committed in May to nationwide corporate reforms after an Attorney General's Office investigation found dozens of children's school supplies sold on its online marketplace had illegal levels of toxic metals lead and cadmium.

The AGO investigation revealed that individuals in Washington and across the country made at least 15,188 purchases of products with illegal levels of lead and cadmium from Amazon.com. The products included pencil pouches, backpacks, lunchboxes, book covers and more.

When it learned of the results of the investigation, Amazon contacted the purchasers in early 2019 encouraging the disposal of the toxic items and provided more than \$200,000 in refunds. To resolve the investigation without a lawsuit, Amazon entered into a nationwide legally binding agreement to block the sale of children's school supplies and jewelry on Amazon.com without lab reports and other proof from the sellers that the products are not toxic.

In addition, Amazon will pay the Attorney General's Office \$700,000, which will be used to fund future environmental protection efforts, including future investigations into toxic children's products.

Challenging Teva Pharma's Secret Move to Increase Drug Prices

Washington joined 42 other states and Puerto Rico in May to file a lawsuit against Teva Pharmaceuticals, the largest generic drug manufacturer in the world, and 20 other companies for conspiring in secret to increase prices of 116 common medications, including everyday antibiotics, antidepressants, contraceptives and statins.

In one of the most egregious and damaging price-fixing schemes in United States history, Teva and its co-conspirators raised prices on some drugs by well over 1,000 percent at the height of the conspiracy from July 2013 to January 2015. One blood pressure medication increased by as much as 2,700 percent.

According to the lawsuit, filed May 10 in U.S. District Court for the District of Connecticut, the companies created an anticompetitive culture in the generic drug industry and met routinely to agree to raise prices of generic drugs in violation of state and federal antitrust laws and the Washington State Consumer Protection Act.

The lawsuit names 21 generic drug manufacturers as conspirators in the price-fixing scheme: Teva, Sandoz, Mylan, Pfizer, Actavis, Amneal, Apotex, Aurobindo, Breckenridge, Dr. Reddy's Laboratories, Glenmark, Greenstone, Lannett, Lupin, Par, Rising, Taro Israel, Taro USA, Upsher-Smith, Wockhardt USA and Zydus.

“I appreciate all of the work from the Attorney General's Office to protect consumers from health care monopolies such as the one CHI Franciscan created in Kitsap County. This settlement will increase provider options and, hopefully, reduce costs to patients.”

- Rep. Michelle Caldier, R-Port Orchard

Resolving an Antitrust Lawsuit Against CHI Franciscan

CHI Franciscan agreed to pay up to \$2.5 million in May to resolve a federal antitrust lawsuit the Attorney General's Office filed against the Tacoma-based non-profit health system in 2017.

CHI Franciscan is also required to divest its controlling interest in an outpatient surgery center it acquired in Silverdale, restoring competition for services on the Kitsap Peninsula.

The money will be distributed to health clinics and organizations to increase access to health care services for the Kitsap Peninsula.

In addition, CHI Franciscan is required to notify the Attorney General's Office of future deals that could decrease competition. The agreement also includes other contract changes and notice requirements.

The Attorney General's Office filed the lawsuit after CHI Franciscan acquired the assets of WestSound Orthopaedics in Silverdale, and then announced an affiliation with The Doctors Clinic, a multi-specialty practice with more than 50 physicians and seven locations throughout Kitsap County.

The deals combined the three largest providers of orthopedic physician services in the Kitsap region, greatly reducing choices for Kitsap consumers seeking orthopedic services close to home.

Taking a Stand Against Practitioners who Defraud Washington's Medicaid System

The Attorney General's Office announced in March that CareOne Dental Corporation and its owners will pay \$1 million over allegations they repeatedly billed Medicaid for non-covered services and for services the company didn't provide, the second-largest resolution of an in-state Medicaid False Claims Act case in Washington.

One of the defendants, Dr. Liem Do, also agreed to no longer provide or be employed in any setting that involves state Medicaid and Medicare services. He also agreed that if Medicaid and Medicare initiate formal proceedings to bar him, he waives his right to contest them, a process known as “voluntary exclusion.”

In 2015, Ferguson filed a Medicaid fraud lawsuit in Clark County Superior Court against the Clark County company and its owners, Dr. Do and his wife Dr. Phuong-Oanh Tran. Ferguson alleged that CareOne Dental filed about \$1 million in fraudulent claims to Medicaid between January 2011 and June 2015, including billing non-covered services to Medicaid as covered services, a practice known as “upcoding.”

Combating the Opioid Epidemic

Standing up to Opioid Distributors

The Attorney General's Office filed a lawsuit in March against the three largest distributors of prescription opioids in Washington state, arguing that they failed to alert law enforcement of suspicious opioid orders, and illegally shipped those orders into Washington for years, and contributed to the illegal supply of opioids, fueling the state's opioid epidemic.

The lawsuit, filed in King County Superior Court, asserts that McKesson Corp., Cardinal Health Inc. and AmerisourceBergen Drug Corp. made billions of dollars feeding the opioid epidemic, shipping huge amounts of oxycodone, fentanyl, hydrocodone and other prescription opioids into the state even when they knew or should have known those drugs were likely to end up in the hands of drug dealers and addicts.

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

Instead, McKesson, Cardinal Health and AmerisourceBergen have faced repeated actions from the DEA for continuously failing to stop and report suspicious opioid shipments, paying hundreds of millions in fines for their failure to follow the rules.

A trial is scheduled for October of 2020.

Holding Reckitt Benckiser Accountable

The Attorney General's Office announced in October that opioid manufacturer and distributor Reckitt Benckiser Group will pay nearly \$2.2 million to Washington state as the result of a Medicaid fraud investigation that alleged the pharmaceutical company improperly kept the price of opioid addiction treatment drug Suboxone high by delaying generic versions, resulting in false or fraudulent claims to Washington's Medicaid program.

The investigation also alleged that the company improperly marketed Suboxone.

Washington's Medicaid program processed approximately 46,000 Suboxone claims between 2010 and 2014, the time covered by the allegations.

The agreement resolves six whistleblower lawsuits in federal courts in Virginia and New Jersey, and involves \$700 million in payouts to the federal government and state Medicaid programs. Washington was a party to five of the six lawsuits.

Washington is required to return \$1,073,357 to the federal government for administration of Medicaid in Washington state.

Overall, Reckitt will pay \$700 million to resolve various civil fraud allegations impacting Medicaid and other government healthcare programs.

Fighting for Opioid Prescribing Guidelines

The Attorney General's Office led a bipartisan coalition of 38 other attorneys general in April to submit a comment letter urging the federal government to reverse course on its proposal to eliminate opioid prescribing guidelines in the midst of the opioid epidemic.

The guidelines, issued by the Centers for Disease Control & Prevention (CDC) in 2016, curb overprescribing by providing health providers a framework for prescribing opioids. Overprescribing contributes to the opioid epidemic by increasing the illegal supply of opioids. U.S. Department of Health and Human Services (HHS) proposed eliminating key components of the guidelines in a draft report issued December 2018, specifically provisions relating to dose and duration of opioid treatment.

Washington and Montana co-wrote the letter to Health & Human Services. The broad bipartisan support from state attorneys general across the nation highlights the dangerousness of the federal government's proposal.



AG Ferguson speaks with Quinault Indian Nation President Fawn Sharp after announcing a lawsuit against a group of opioid distributors.

Federal Health Care Cases

Challenging the Title X "Gag Rule"

In March, the Attorney General's Office filed a lawsuit in U.S. District Court for the Eastern District of Washington challenging President Donald Trump's Title X "gag rule," which prohibits Title X providers from referring their patients to abortion providers. It also requires Title X providers to refer each pregnant patient into a prenatal care program, regardless of the patient's wishes or the provider's medical judgment.

The rule also requires clinics that provide any abortion care or referrals to create a physical wall between their family planning functions and their abortion services, requiring separate entrances and exits, treatment facilities, and personnel as well as duplicate health care records. Clinics have one year to comply with costly, time-consuming and counterproductive physical separation requirements, which will be impossible for many clinics.

In April, U.S. District Court Judge Stanley Bastian granted the Attorney General's Office's motion for a nationwide preliminary injunction blocking the rule. In June, the 9th Circuit Court of Appeals stayed the injunction. In September, Washington argued the merits of the injunction before an en banc panel of the 9th Circuit.

Protecting Contraception Access

In January, a federal judge temporarily blocked a Trump Administration birth control policy from going into effect in 13 states, including Washington, due to a lawsuit brought by those states' attorneys general. The federal birth control policy allows employers who object to contraception to deny their female employees access to free birth control.



AG Ferguson with a group of stakeholders from health care and women's rights organizations after the office's press conference on Title X.

In October 2017, without notice or comment, the Trump Administration issued illegal interim final rules that allowed employers claiming religious or moral objections to contraception to ignore the Affordable Care Act's (ACA) contraceptive mandate. The rules were immediately blocked by multiple federal judges. In December 2018, the U.S. Court of Appeals for the Ninth Circuit affirmed the injunction.

In November 2018, the Administration issued final rules identical in all material respects to the interim rules.

The following month, a group of states led by California filed a motion for preliminary injunction asking the court to halt the final rules while the case proceeded. The states, including Washington, argued the final rules violate the ACA and are arbitrary and capricious. They also argued the final rules violate the Establishment Clause and the Equal Protection Clause.

Challenging the "Conscience Rule"

In November, a federal judge in Spokane agreed with the Attorney General's Office that the Trump Administration's so-called "conscience rule" is unlawful, granting summary judgment to Washington.

The Trump Administration's "conscience rule" would have allowed health care workers to deny a patient access to medical care and services — including reproductive care, end-of-life decisions, and care for transgender patients — for moral or religious reasons, with no exception for medical emergencies. Under the rule, if the federal government believed Washington, its health care institutions, or other recipients of federal health care funds violated the rule, the federal government would be allowed to cut off all health care funding to the state — more than \$10 billion per year.

The Attorney General's Office filed the lawsuit in federal court in Spokane because rural communities, including those in Eastern Washington, have fewer health care providers and would be more likely to be harmed by the rule.

The day before Washington's ruling, a federal judge in New York also found the rule was unlawful and struck it down.



Members of the office's Counsel for Environmental Protection Unit volunteer to pick up trash at Green Lake Park in Seattle. Brad Roberts, Renae Smith, Cindy Chang, John Huntington, Tricia Kealy, Kelly Wood, Bill Sherman, Aurora Janke.

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 2019 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 Counsel for Environmental Protection, Ecology and Complex Litigation.



“The Trump Administration recognized that if it went forward with its unlawful and dangerous plan to drill for oil and gas off of our coast, it would lose in federal court — again.

- Attorney General Bob Ferguson ”

Protecting Washington's Coast

In February 2018, the Attorney General's Office sent a letter to then-Interior Secretary Ryan Zinke to express opposition to President Trump's proposal to allow oil and gas drilling off Washington's coast. The administration announced in April that they shelved the plan — putting it on indefinite hold, sparing Washington's coast from drilling.

The Trump Administration planned to open more than 90 percent of all federal waters to offshore drilling, but granted the state of Florida an exemption in January. The Attorney General's Office argued that every reason Zinke identified in his Florida exemption also applied to Washington. In the letter, the office also asserted that drilling off Washington's Pacific coast would harm the state's economy and ecosystem.

In 2014, Washingtonians took an estimated 4.1 million trips to Washington's coast, generating \$481 million for the economy. Commercial fishing and seafood processing added another \$117 million that year, not to mention the intangible benefits generated by the coast's diverse and unique ecosystems and the communities and tribes that rely on the coast.

Coal Leasing on Public Lands

In 2017, Washington joined California, New Mexico and New York to file a federal lawsuit challenging then-Interior Secretary Ryan Zinke's decision to restart a federal program that leases coal-mining rights on public lands. Zinke made the decision without supplementing or replacing a nearly 40-year-old environmental impact study of the program.

The states argued that climate change, national priorities and market conditions, among other things, were dramatically different 38 years ago, when the initial study was completed. The program would contribute to significant coal train traffic through Washington. Additionally, the lawsuit argued that increased coal production and consumption could affect Washington's efforts to reduce greenhouse gas emissions to slow the pace of climate change.

On the eve of Earth Day this year, a federal judge ruled that the Trump Administration illegally restarted the program and must comply with federal law requiring federal agencies to conduct an environmental review before taking actions that impact the environment.



AG Ferguson is joined by a group of Whidbey Island residents who are concerned over the Navy's expansion of its Growler airfield operations on the island.

Holding the Navy Accountable for the Impact of its Growler Jets

In June, the Attorney General's Office filed a lawsuit against the U.S. Navy over the Navy's expansion of its Growler airfield operations on Whidbey Island. The Navy authorized increasing Growler take-offs and landings to nearly 100,000 per year for the next 30 years.

Growlers are aircraft that fly low in order to jam enemy communications. The aircraft's training regimen involves frequent, loud take-offs and landings. According to the Washington Department of Health, exposure to noise levels similar to those at the naval air station could cause negative health impacts, including sleep disturbance, cognitive impairment and cardiovascular disease. The Growlers' loud take-offs and landings near coastal habitat affects endangered birds' ability to feed and breed.

The Attorney General's Office asserts that the Navy's environmental review process for the expansion unlawfully failed to measure the impacts to public health and wildlife in communities on and around Whidbey Island.

Protecting Puget Sound from Unlawful Vessel Scraping

In April, Washington intervened in a case challenging the U.S. Navy's practice of scraping the hulls of decommissioned vessels in a way that releases metals and other contaminants into Sinclair Inlet near Bremerton. This contamination can harm marine life up and down the food chain, including salmon and orcas.

In June 2017, Puget Soundkeeper Alliance, the Washington Environmental Council and the Suquamish Tribe filed the lawsuit against the Navy, which asserts that the military branch violated the federal Clean Water Act by releasing toxic substances into the inlet without a permit. The lawsuit follows the Navy's January 2017 efforts to blast marine debris off the hull of a 60,000-ton,

decommissioned aircraft carrier before transport and scrapping. In doing so, the Navy released approximately 50 dump truck loads of solid materials into Puget Sound, including metals highly toxic to marine life.

Forcing the EPA to Turn Over Public Records

Washington filed a lawsuit claiming the Environmental Protection Agency failed to respond to the Attorney General's Office's Freedom of Information Act request, seeking communications from the EPA to advisory committee members regarding the EPA's new policy barring scientists who receive EPA grants from serving on advisory committees. As a result of the lawsuit, the EPA provided more than 1,700 pages of documents not previously made public. In May 2019, the EPA agreed to pay Washington state \$6,000 in attorney costs and fees to resolve the case.

Combating Pres. Trump's Vehicle Emission Standards Rollback

In 2018, the Attorney General's Office joined a multistate coalition in a lawsuit challenging then-EPA chief Scott Pruitt's decision to roll back emissions and fuel efficiency standards for certain vehicles. The standards, put in place for car and light-duty truck models produced between 2022 and 2025, ensure that new vehicles have better fuel economy and lower greenhouse gas emissions. The EPA had determined in January 2017 that these standards were viable for the auto industry, but Pruitt rescinded the standards without providing any evidence that invalidates the EPA's 2017 determination.

On Oct. 25, 2019, the court recognized the EPA has a high bar to overcome the extensive evidence supporting these standards. The panel held that "if EPA's rulemaking results in changes to the existing ... standards, it will be required to provide a reasoned explanation and cannot ignore prior factual findings and the supporting record evidence contradicting the new policy."



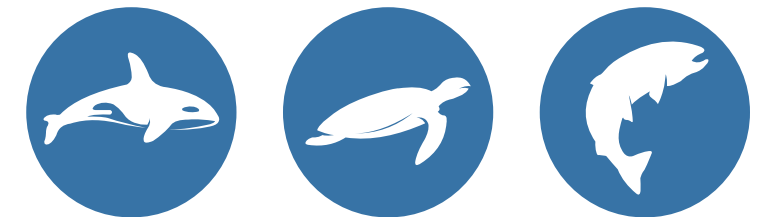
AAG Aurora Janke answers questions for reporters during a press conference on the office's lawsuit challenging the Trump Administration's rollback of the Endangered Species Act.

Protecting Washington's Endangered Species

In September, Washington led a multistate lawsuit challenging Trump Administration rules that significantly undermine the Endangered Species Act, a cornerstone of national conservation law critical to Washington's effort to save species such as the southern resident orca.

Nearly every species afforded protections under the Endangered Species Act have been saved from extinction. Washington is home to 49 species listed under the federal Endangered Species Act, including southern resident killer whales, pygmy rabbits, green sea turtles and several salmon species such as Chinook, chum and sockeye. The new rules gut essential protections for these species by making it more difficult to protect their critical habitat and making it easier for federal agencies to take actions that may jeopardize species' survival and recovery.

Three species in Washington — western pond turtles, wolverines and island marble butterflies — are candidate species, meaning they are under consideration for threatened or endangered status. These species, and others needing protections in the future, are more likely to be denied federal protection under the new rules.



Washington is home to **49 species listed under the Endangered Species Act, including southern resident killer whales, green sea turtles and several salmon species.**



AG Ferguson announces a lawsuit challenging the Trump Administration's rollback of the Endangered Species Act.

Federal Litigation

In 2019, the Attorney General's Office filed or joined 21 new cases against the Trump Administration. Washington led nearly half of those cases. Nearly two thirds of the new cases relate to protecting the environment by challenging damaging, unlawful policies from the administration. Four of the cases challenge the administration's immigration policies, and three relate to protecting health care access for all Washingtonians. Washington also led a case that seeks to increase safety on our nation's rails in the wake of devastating oil train accidents in the last decade.

New Cases Filed in 2019

* led by Washington

Federal environmental cases

* *Puget Soundkeeper Alliance, et al v. U.S. Navy* — Washington intervened in a case challenging the U.S. Navy's practice of scraping the hulls of decommissioned vessels in a way that releases metals and other contaminants into Sinclair Inlet. — [Read more on Page 18](#)

* *Washington v. U.S. Navy* — Asserts the U.S. Navy violated the National Environmental Policy Act, the federal Administrative Procedure Act and the National Historic Preservation Act by improperly analyzing the impacts of an expansion of its Growler program. — [Read more on Page 18](#)

California, et al. v. Chao, et al. — Challenging the Trump Administration's attempt to block Washington's and other states' ability to set more stringent vehicle emission standards. — [Read more on Page 18](#)

California, et al. v. Bernhardt, et al. — Challenging Trump Administration rules that significantly undermine the Endangered Species Act. — [Read more on Page 19](#)

* *Oceana v. Ross* — Washington intervened in a case accusing the U.S. Department of Commerce and the National Marine Fisheries Service of violating the Magnuson-Stevens Act by refusing to publish a final regulation designed to address the "bycatch" of endangered and threatened marine species by the gillnet fishery.

* *Washington v. EPA* — Challenging the Environmental Protection Agency's decision to revise Washington's water quality standards, which are used to determine how clean the state's waters must be in order to protect human health.

California et al. v. EPA — Seeking to force the EPA to establish rules concerning industry reporting requirements for asbestos under the Toxic Substances Control Act.

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

New York et al. v. Wheeler — Challenging the Trump Administration's decision to deny the states' objections and allow the continued use of the neurotoxic pesticide chlorpyrifos.

New York et al. v. EPA — Challenging the Environmental Protection Agency's decision to repeal the Clean Power Plan and replace it with the "Affordable Clean Energy" rule.

New York v. Department of Energy, et al. — challenging

Department of Energy's rollback of energy efficiency standards for lightbulbs.

California et al. v. Wheeler et al. — Challenging the Trump Administration's decision to revoke California's Clean Air Act waiver.

New York et al. v. Wheeler et al. — challenging the Environmental Protection Agency's attempt to repeal the 2015 Clean Water Rule.

Federal civil rights cases:

* *Washington v. Department of Homeland Security, et al.* — Challenging the Trump administration over arresting immigrants in and near courthouses in Washington. — [Read more on Page 8](#)

* *Washington, et al. v. U.S. Department of Homeland Security, et al.* — Challenging the Trump administration's unlawful expansion of the "public charge" rule that targets immigrants and their families. — [Read more on Page 9](#)

* *Washington v. Trump, et al.* — Challenging the Trump Administration's diversion of nearly \$89 million of congressionally approved military construction funds from the Bangor submarine base to help fund the president's border wall. — [Read more on Page 9](#)

California v. McAleenan, et al. — Challenging Trump Administration rules that remove significant protections against the mistreatment of immigrant children and families apprehended at the U.S. border — [Read more on Page 9](#)

Federal health care cases:

* *Washington v. Azar, et al.* — Challenging the Trump Administration's "gag rule" that impacts Title X, the federal funding program for reproductive healthcare and family planning services.— [Read more on Page 15](#)

* *Washington v. Azar* — Challenging the Trump Administration's "conscience rule," which gives health care professionals broad discretion to refuse lawful and medically necessary care to patients for religious or moral reasons, even when the patient's life is at risk.— [Read more on Page 15](#)

California et al. v. Azar — Alleging the U.S. Department of Health & Human Services and its director, Secretary Alex Azar, are unlawfully attempting to reinterpret the Medicaid Act, disrupting well-established collective bargaining relationships authorized for decades by state labor laws.

Federal public safety cases:

* *Washington v. U.S. Department of Transportation et al.* — Challenging the Trump Administration's decision to withdraw proposed 2016 regulations establishing minimum requirements for train crew staffing.



AG Ferguson presents the Washington State Patrol 111th Trooper Basic Training graduates with their commission cards.

Crime & Public Safety

The office continued its work to reduce crime and enhance public safety around Washington state. This work spans multiple divisions within the office from Criminal Justice to Counsel for Environmental Protection. Work in this area included an expanded effort to test sexual assault kits, the first conviction under the Washington Animal Trafficking Act, and our office's efforts to keep untraceable 3-D printed guns out of the hands of terrorists and domestic abusers.

Keeping Sexually Violent Predators off the Streets

The office's Sexually Violent Predator (SVP) Unit prosecutes cases that seek the civil commitment of offenders who are likely to offend again if they are released into the community after serving their criminal sentences. The cases are based on expert psychological testimony that details the offender's typically lengthy criminal sexual history. Victims and witnesses involved in the offender's crimes frequently testify about their contact with the offender.

The SVP Unit was established in 1990, when Washington became the first state in the nation to pass a law permitting the involuntary civil commitment of sex offenders after they have served their criminal sentences. The unit is responsible for prosecuting sex predator cases for 38 of Washington's 39 counties. Offenders who are subject to civil commitment are granted many of the rights of criminal defendants, such as the right to counsel, the right to a unanimous jury and proof beyond a reasonable doubt. Once committed, the SVPs are entitled to annual reviews of their condition, and SVP Unit attorneys must produce evidence that the offenders continue to meet SVP criteria at a yearly hearing.

In 2019, the SVP unit handled the following:

- Cases filed = 6
- Trials conducted = 5
- Appellate arguments/decisions = 20
- Annual review hearings of civilly committed SVPs = 38

Prosecuting a Sexual Assault Case

In April, the Attorney General's Office accepted a request from the Asotin County Prosecutor's Office to handle the case of Asotin County Superior Court Judge Scott Gallina, who was charged with seven counts of sexual misconduct stemming from alleged sexual assault and harassment, including second-degree rape, fourth-degree assault with sexual motivation and indecent liberties.

Gallina took administrative leave while the case proceeds and has pleaded not guilty. His trial was set to begin in September, but was pushed back to March of 2020.

Supporting Additional Resources for Sexual Assault Cold Cases

The Sexual Assault Forensic Examination (SAFE) Best Practices Advisory Group released its report to the Legislature and Governor in December, calling on the state to provide resources for the investigation and prosecution of cold cases, and to establish a statewide practice of collecting court-ordered DNA samples.

The group was created by bipartisan legislation co-sponsored by Rep. Tina Orwall, D-Des Moines, and Rep. Gina Mosbrucker, R-Goldendale, and supported by Attorney General Bob Ferguson. Both legislators also serve as advisory group co-chairs.

The SAFE advisory group unanimously recommended that the state provide resources to support law enforcement and prosecutors as they investigate and prosecute cold cases arising from new DNA matches.

Testing backlogged kits has already led to the prosecution of cold cases. In one case, a kit was collected in 2007, but remained untested until December 2017. Ten years after the sexual assault, the suspect was charged with child rape.

Among other recommendations, the report also calls for the state to establish a uniform practice of collecting DNA samples from qualifying offenders in the courtroom at the time of sentencing.

Increasing Washington's Efforts to end the Sexual Assault Kit Backlog

Over the last several years, the Legislature has invested more than \$10 million to clear a statewide backlog of more than 10,000 untested sexual assault kits. In addition, The Attorney General's Office has won \$5.5 million in federal grants since 2017 — including \$2.5 million in 2019 — to assist in inventorying and testing the backlogged kits, as well as collecting court-ordered DNA profiles of thousands of convicted offenders across Washington who have not submitted samples.

“As much as the physical processing of untested rape kits, these important changes will help transform a system that has too often dismissed or diminished these heinous crimes. The casual disregard that persisted for too long cannot be tolerated in Washington or any other state.”

- Seattle Times Editorial Board, 12/11/2019

The backlog of untested kits is likely to produce new evidence in hundreds of open cold case sexual assaults, potentially identifying serial rapists, linking cases across the country and providing critical evidence that could help solve homicides.

In 2017, the Attorney General’s Office won its first \$3 million Sexual Assault Kit Initiative (SAKI) grant from the Department of Justice to begin efforts to end the backlog of sexual assault kits. The office designated half of the total \$3 million grant to pay for testing backlogged kits, the maximum amount allowed under the grant.

The Attorney General’s Office also used some of the grant to complete a statewide inventory of unsubmitted sexual assault kits in 2018, finding more than 6,000 kits that had not yet been submitted to the state crime lab for testing. Kits in the inventory dated, in some cases, back to the 1980s.

In 2019, the AGO won an additional \$2.5 million in federal grants. Of the new funds, \$1 million will fund a new effort to add DNA profiles of thousands of convicted offenders across Washington — court-ordered DNA tests that still haven’t been collected — to the national DNA evidence database. The office will use the remaining \$1.5 million to test backlogged kits, train law enforcement and hire additional personnel to support its SAKI team.

Continuing the Fight Against 3-D Printed Guns

A federal judge agreed with the Attorney General’s Office in November, ruling that the Trump Administration violated federal law in its efforts to allow 3D-printed gun files to be released on the internet.

In 2015, Defense Distributed, an organization dedicated to global distribution of open-source, downloadable 3D-printed guns, sued the federal government after the U.S. State Department forced the removal of the files from the internet. The federal government successfully argued before federal trial and appellate courts that posting the files online violates firearm export laws and poses a serious threat to national security and public safety.

Then, in an abrupt reversal, the Trump Administration settled the case in June of 2018. As part of the settlement, the Trump Administration agreed to allow unlimited public distribution on the internet of the downloadable files for 3D-printed guns.

In July 2018, the Attorney General’s Office filed a lawsuit in the U.S. District Court for the Western District of Washington, arguing that Trump Administration efforts to allow the distribution of data files for downloadable, 3D-printed firearms violated the Administrative Procedure Act and the Constitution.

In November, Judge Robert Lasnik agreed, ruling that the Trump Administration’s decision to allow the unlimited distribution on the internet of data files for untraceable, undetectable 3D-printed guns was arbitrary, capricious and unlawful.



Complex Litigation Chief Jeff Rupert speaks with a reporter after a federal judge issued a temporary restraining order in the 3D-printed guns case.

Combating Hate Crimes

The Attorney General’s Office’s Multidisciplinary Hate Crime Advisory Working Group held its first meeting in September. The working group was created in the 2019 legislative session with the goal of developing strategies to raise awareness of hate crimes and enhance law enforcement and the public’s responses to hate crimes and incidents. The Attorney General’s Office testified in support of the bill, which Rep. Javier Valdez, D-Seattle, sponsored.

The working group will research and propose best practices on how Washington can increase reporting and strengthen responses from law enforcement and prosecutors. The group also will research how to best support victims of hate crimes. Washington state law defines a hate, or “bias motivated” crime, as a crime or threat against someone because of their race, color, religion, ancestry, national origin, gender, gender identity or expression, sexual orientation or mental, physical or sensory handicaps.

The Attorney General’s Office must report the working group’s recommendations to the governor and the Legislature by July 1, 2020.



AG Ferguson feeds a rhino at the Woodland Park Zoo after an event to raise awareness about animal trafficking. Photo by Jeremy Dwyer-Lindgren | Woodland Park Zoo

Bringing the first Charges Under Washington’s Animal Trafficking Act

The Attorney General’s Office announced in November that Donald Frank Rooney of Everett pleaded guilty to trafficking in species threatened with extinction under a voter-approved initiative banning the sale or transfer of products made from certain endangered species.

Rooney’s plea and sentencing in Snohomish County Superior Court represents the first-ever conviction under the Washington Animal Trafficking Act (WATA). Rooney was sentenced to 15 days in jail, 30 days of electronic home monitoring, and will pay a \$10,000 fine and a \$4,000 criminal wildlife penalty paid to the state Department of Fish & Wildlife to help fund future enforcement. Rooney will also forfeit more than 1,500 suspected ivory items found in his home.

The charges against Rooney were among the first brought under WATA, which was created by voter-approved Initiative 1401. The law took effect in 2016. WATA makes it a felony to sell, purchase, trade or distribute parts of specific endangered or vulnerable species of elephant, rhinoceros, tiger, lion, leopard, cheetah, pangolin, marine turtle, shark or ray.



AG Ferguson announces the start of his initiative to end the use of no-poach clauses nationwide at a 2018 press conference. Since then, more than 150 chains ended no-poach practices at an estimated 160,900 locations nationwide.

Protecting Washington Workers

The Attorney General's Office is proud to support Washington workers across a range of industries. In 2019, the office stepped up its efforts to protect workers from non-compete and no-poach clauses and wage theft.

Protecting Workers from a Non-Compete Clause

The Attorney General's Office investigated King County coffee chain Mercurys Coffee, discovering that Mercurys required its hourly baristas to sign non-compete agreements. The restrictive agreements prevented employees from working at any coffee shop within 10 miles of a Mercurys Coffee location. The prohibition lasted for 18 months after leaving the company. Non-compete agreements targeting low-wage, hourly employees give companies an unfair advantage at the expense of workers.

In order to avoid a lawsuit, Mercurys voided all of its existing non-compete agreements and can no longer require hourly baristas to sign them. Additionally, the company paid \$50,000 to reimburse the Attorney General's Office for the costs associated with the investigation.

Labor Dept. Apprenticeship Rule

In August, Washington led a coalition of 13 attorneys general in a letter to the U.S. Department of Labor challenging a proposed rule that fails to protect individuals entering apprenticeship programs. The attorneys general assert that the Department of Labor rule would weaken the certification process for these programs and incentivize groups to approve the largest number of programs possible, regardless of their quality.

The attorneys general write that the proposed rule fails to provide necessary protections for individuals in potentially low-quality programs. Under the proposed rule, apprenticeships would have no specific minimum requirements for instructor credentials, skills or on-the-job training hours or employment rates. Furthermore, the federal government would have little oversight and almost no enforcement of apprenticeship programs that fail to meet industry standards.

In the letter, the attorneys general write, "The balance of power between industry and workers is tilted far to the side of industry, and we fear that the Proposed Rule is simply one more opportunity for unscrupulous businesses to prey on individuals seeking the training and work experience that apprenticeships can provide. We urge the Department not to proceed with the Proposed Rule."

Worker Protection Report

This August, the Attorney General's Office released an inaugural Labor Day Worker Protection Report detailing the efforts the office has taken to protect workers' rights in the State of Washington and beyond. This annual report includes overviews on civil and criminal cases handled by the office and agency-request legislation.

For example, the office helped strengthen Washington's prevailing wage laws, protected Hanford workers from unsafe working conditions and successfully eradicated "no-poach" agreements in 67 national chains in the state and around the country.

Standing up Against Wage Theft

In October, the Attorney General's Office filed felony criminal charges against two former Auburn residents, alleging they failed to pay more than \$33,000 in wages to 24 employees of their house cleaning businesses. The two individuals co-owned Advanced Cleaning Solutions and Washington Cleaning Solutions, providing cleaning services to residents in King County. Homeowners purchased cleaning services from the companies, which in turn hired house cleaners to perform the work at an hourly rate.

In June 2017, the Washington Department of Labor & Industries (L&I) began receiving complaints about the company failing to pay employees for their services. L&I referred the matter to the Attorney General's Office.

The lawsuit alleges the couple failed to pay workers their wages and, at times, gave workers checks that could not be cashed. In addition to potential time in jail, the co-owners face thousands of dollars in fines, as well as restitution, and repayment of unpaid premiums to L&I with interest.

Eliminating No-Poach Clauses

This year, the Attorney General's Office continued its initiative to end the use of no-poach clauses nationwide. As a result of this initiative, more than 150 chains ended no-poach practices at an estimated 160,900 locations nationwide — benefiting millions of workers across the U.S.

In order to avoid a lawsuit, these companies signed legally enforceable agreements to remove no-poach clauses. These companies include those within the restaurant, home repair, health care, cleaning services and fitness industries, among others.

No-poach clauses appear in franchise agreements between owners of franchises and corporate headquarters. The clauses prohibit employees from moving among stores in the same corporate chain, a practice that economists believe stagnates wages. For example, the clauses would prohibit an employee at one Ben & Jerry's location from accepting employment from another Ben & Jerry's franchise location for higher pay.

The Attorney General's Office will continue to investigate and obtain legally enforceable agreements from companies until the practice is eliminated.



AG Ferguson takes a photo with the Consumer Protection team who worked on the J&J Pelvic Mesh case. From left to right: (back row) Daena Temkova, Michelle Baczkowski, Jeffrey Grant, Jessica Moore, Joshua Bennett, Judy Lim, Jen Eng, Todd Johanson, (front row) Mary Beth Haggerty-Shaw, Patricia Bower, Lesli Ashley, Rosa Hernandez, Shannon Smith, Khalid Ali, Kate Barach, Breena Roos, Heidi Anderson, Daniel Allen, AG Ferguson.

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.

“Any time a judge rules that a corporation like Comcast violated the Consumer Protection Act half a million times, it’s a big deal.”

- Attorney General Bob Ferguson

Winning Record-Setting Penalties

In June 2019, a King County Superior Court judge ordered multi-billion dollar telecommunications corporation Comcast to pay \$9.1 million for charging thousands of Washington customers for its “Service Protection Plan” without their consent. The fine represents the highest trial award in a state Consumer Protection case to date.

Attorneys brought the case in August 2016 after learning Comcast had charged customers for a “Service Protection Plan” without their consent. Overall, about half a million overcharges went to nearly 31,000 residents and Comcast made around \$85 million in the state from the additional charges. In some cases, residents said they did not want the plan added to their account but Comcast put it on anyway or told the customers they would get it for free. Comcast stopped using the Service Protection Plan in spring 2018, shortly before the trial began.

At trial, members of the Attorney General’s Consumer Protection Division presented call recordings and internal communications that showed Comcast knew about the deceptive practices. Internal documents also show Comcast knew its call agents pushed the plan on customers and employees testified they received customer complaints about the practice then reported them to company managers. Those managers ignored the warnings.

Previously, the largest consumer protection award to the state as a result of a trial was \$4.3 million in the office’s 2016 case against Living Essentials and Innovation Ventures for the company’s misrepresentations of its 5-Hour Energy products.

Hanging Up on Robocallers

In September, the Attorney General’s Office filed a lawsuit in King County Superior Court asserting that a Vancouver-based air duct cleaning service violated the law when it made illegal robocalls and engaged in deceptive marketing. The office filed the lawsuit against US Air Ducts & Sky Builders Inc. and DLM Services Inc. after dozens of Washingtonians filed complaints. An investigation revealed the companies contacted more than a million Washington consumers and made more than 13 million robocalls. Additionally, the companies sent tens of millions of deceptive advertisements to Washingtonians’ homes over a two year period.

The lawsuit asserts that the companies and their owner violated the Consumer Protection Act in numerous ways, including robocalling Washingtonians without permission, misleading people about who was calling and creating fake Google reviews to mislead people about their reputation. The companies called people on the “No Call” registry list and altered their caller identification numbers to trick the system. They also advertised cheaper “limited offer” rates they never honored.

The lawsuit also alleges that the companies created a false “VIP” membership for customers where they would sell a long-term package of service for over \$1,000. The company would provide an annual visual inspection for customers but would then charge additional money for any additional work.

As a result of the lawsuit, the judge issued an order prohibiting the companies’ and their owner’s use of these illegal practices, including making robocalls from their locations in Washington.

Uncovering Hidden Fees

The Attorney General’s Office’s first Honest Fees Initiative success in court in December 2019 resulted in a \$6.1 million fine the state will return to CenturyLink subscribers. CenturyLink added additional charges to customer bills without accurately disclosing those fees and 650,000 Washingtonians paid the costs. CenturyLink also failed to provide discounts their sales agents had promised to about 16,000 Washingtonians.

The Honest Fees Initiative aims to ensure companies adequately disclose all fees and charges to Washington consumers and requires those fees to be lawful. There were three main fees CenturyLink did not disclose: a broadcast fee of \$2.49 per month, a sports fee of \$2.49 per month and CenturyLink’s “Internet Cost Recovery Fee.” These fees ranged from \$0.99 to \$1.99 per month. CenturyLink charged its Internet Cost Recovery Fee to 650,000 Washingtonians. Of those, 60,000 residents paid for the broadcast and sports fees. These fees alone added up to \$7 per month to a television subscriber’s bill — \$84 per year. Added together, this would have brought nearly \$55 million in revenue to CenturyLink for fees people did not want.

Plaintiffs in Minnesota filed a separate lawsuit against CenturyLink for the same violation. If that lawsuit brings enough financial relief to Washingtonians, the office will use the remaining funds to continue combating dishonest fees targeting residents.

Protecting Washingtonians' Online Privacy

Between July 2018 and July 2019, data breaches in Washington state increased by nearly 20 percent. However, those breaches affected fewer Washingtonians in 2019 due to their limited scope.

During that timeframe, data breaches impacted 390,000 Washingtonians. This represents a significant decrease from 2018, when data breaches hit 3.4 million Washingtonians, mainly due to a mega-breach reported that year by credit-reporting firm Equifax. That breach alone affected more than 3.2 million Washingtonians, and resulted in the largest-ever data breach enforcement action in United States history.

There were no mega-breaches affecting Washington residents in fiscal year 2019. Still, the number of Washingtonians impacted by small to mid-size breaches more than doubled in 2019 — from 180,000 to 390,000.

Responding to trends identified in past data breach reports, Ferguson proposed legislation in 2019 to further protect Washingtonians. House Bill 1071 reduced the deadline to notify consumers and the Attorney General's Office of a data breach from 45 to 30 days and expanded the definition of "personally identifiable information" to include:

- Tax ID numbers
- Passport numbers
- Health insurance policy numbers
- Biometric data, such as fingerprints and DNA profiles
- Medical history
- Keys for electronic signatures
- Student ID numbers
- Military ID numbers
- Usernames and email addresses

The bill passed both houses unanimously and went into effect March 1, 2020.

Winning a Historic Resolution Regarding the Equifax Data Breach

Washington will receive more than \$3.7 million from Equifax after a state and federal investigation into the credit reporting agency's 2017 data breach opened the data of nearly 150 million individuals nationwide. During the breach, hackers accessed the private information of more than 3 million Washingtonians, including their Social Security numbers, birth dates, credit card numbers and addresses. A multistate investigation also found the credit-reporting agency failed to follow industry standards to protect individuals' personal information, such as saving personal information in insecure locations and not encrypting passwords

As part of resolution with the Attorney General's Office, 49 other attorneys general and federal agencies, Equifax will pay a total of \$175 million to the states and up to \$425 million to affected consumers. The resolution represented the largest data breach enforcement action in U.S. history.

Washington's \$3.7 million share will go toward continued enforcement of state data security and privacy laws.

Equifax will also provide free credit monitoring to affected individuals for 10 years. Individuals under 18 years old at the time of the breach will receive 18 years of free credit monitoring. In addition to free credit monitoring, affected individuals who become victims of identity theft may be eligible for free services to help restore their identity. For at least five years, all consumers can request two additional credit reports from Equifax every 12 months at no cost. Federal law allows individuals to request one free report every 12 months.

Keeping Patients' Information Secure

As a result of an Attorney General's Office investigation, Premera Blue Cross, the largest health insurance company in the Pacific Northwest, will pay \$10 million nationwide for failing to secure sensitive consumer data and for misleading consumers. The office led a coalition of 30 state attorneys general investigating the company's practices.

The data breach affected the information of more than 10.4 million individuals nationwide, including more than 6.4 million Washingtonians. Premera will pay \$5.4 million of the total recovery to the office, which will go toward continued enforcement of state data security and privacy laws, and nearly \$4.6 million to the coalition of states who joined the case.

From 2014 through 2015, a hacker took advantage of multiple known weaknesses in Premera's data security. For years prior to the breach, cybersecurity experts and the company's own auditors repeatedly warned Premera of its inadequate security, yet the company accepted many of the risks without fixing its practices. After the breach became public, Premera's call center agents told consumers there was "no reason to believe that any of your information was accessed or misused." They also told consumers that "there were already significant security measures in place to protect your information," even though multiple security experts and auditors warned the company of its security vulnerabilities prior to the breach.

The consent decree requires Premera to implement specific data security controls to protect personal health information, annually review its security practices and provide data security reports to the office.

"Meanwhile, Washington is toughening its reporting rules under a new law crafted by Attorney General Bob Ferguson. Starting March 1, 2020, the time allowed for notifying consumers and the Attorney General's Office of a data breach will be trimmed from 45 to 30 days."

- Seattle Weekly, 12/09/2019

Toppling Pyramid Schemes

In January 2019, the Consumer Protection Division filed a lawsuit against multi-level marketing business LuLaRoe, asserting the company's former bonus structure constituted a pyramid scheme. The lawsuit also claimed LuLaRoe's inventory refunds were unfair and deceptive.

LuLaRoe is a California-based multi-level marketing business that sells leggings and other apparel. The company is made up of individual retailers who sell the company's clothing, referred to as "Independent Fashion Consultants." The "onboarding" fee to become a LuLaRoe consultant ranges from \$2,000 to \$9,000, depending on the amount and type of inventory included. More than 3,500 Washingtonians have become Independent Fashion Consultants since January 2014.

The lawsuit asserts that most of the Washingtonians who joined the company made far less money than advertised by recruiting brochures, and many took financial losses. The company forced its retailers to buy more products than they could sell, and many retailers also would return items for refunds they never received.

A direct selling business becomes a pyramid scheme when its primary business model is based on recruiting rather than actual retail sales to consumers. Pyramid schemes often charge steep startup costs and/or require minimum purchases on a regular basis. In a LuLaRoe webinar, a LuLaRoe executive explained they later changed the company's business model because of the "need to get away from being a pyramid scheme."

Getting Students Relief from Predatory Educational Lenders

In 2019, the office secured millions of dollars in student debt relief for thousands of Washington students who attended for-profit schools that used deceptive practices to get students to enroll. The office received settlements from two companies totaling over \$12 million who provided loans to students to attend for-profit schools.

In January, the office announced that 3,000 Washingtonians will receive more than \$7.6 million in debt relief from Career Education Corporation (CEC) for misleading Washington students about employment opportunities following accreditation through its networks of for-profit schools. CEC misled students about the total costs of enrollment at its institutions. The company did not disclose how some of its programs lacked the necessary professional accreditation, which left students unable to obtain employment or the licensing they needed to continue in their fields.

In several consumer complaints to the Attorney General's Office, former CEC students reported that the company did not disclose that their credits could only transfer to other CEC schools. As a result, some students took out loans for degree programs they were unable to finish, either at CEC schools or other institutions. In some cases, students incurred as much as \$50,000 in debt.

In mid-June 2019, CU Connect (CUSO) agreed to pay \$5.1 million in fines after a for-profit school it provided loans to—ITT Technical Institute—closed its Washington campuses in 2016. CUSO continued to issue loans to students—with interest rates from 16 to 19 percent—despite internal data showing up to 90 percent of students would default on their loans. When students were unable to pay, CUSO would then push them to receive additional loans by barring them from class or withholding course materials. Students who refused the private student loans faced expulsion from the school.

This allowed ITT Tech to skirt federal regulations governing for-profit schools and shift the risk of providing loans to students at high risk of default, while continuing to profit off their tuition. Because transferring ITT Tech credits to other schools was virtually impossible, students who refused to take out the loans would likely lose their entire educational investment.

Ferguson will continue to defend rules designed to protect students from predatory and deceptive practices by colleges, including for-profit institutions.



AG Ferguson announces a first-of-its-kind policy that requires the Attorney General's Office to obtain free, prior and informed consent before initiating a program or project that affects tribes.

Government & Campaign Finance

The Attorney General's Office plays a key role in supporting effective government. The office handles campaign finance-related litigation to ensure campaigns are fair and transparent. The office also provides additional assistance to government agencies, including a program that provides public records training and assistance to local governments.

“Through his actions today, Attorney General Ferguson has listened to, learned from, and followed through on the advocacy of countless Native American leaders nationwide and Indigenous leaders globally who have defended the sovereignty and rights of their peoples. By adopting ‘free, prior, and informed consent’ as the basis of his Administration’s interactions with Tribal Governments, Attorney General Ferguson has become a global standard bearer for recognizing the full sovereignty and political equality of Indigenous peoples.”

- Fawn Sharp, Quinault Indian Nation President

Implementing a Historic Tribal Consent & Consultation Policy

In May, AG Ferguson announced a first-of-its-kind policy that requires the Attorney General's Office to obtain free, prior and informed consent before initiating a program or project that affects tribes, tribal rights, tribal lands and sacred sites. As part of the policy, the office will also refrain from filing any litigation against a tribal government or tribal-owned business without first engaging in meaningful consultation to resolve the dispute, provided that doing so does not violate the rules of professional conduct.

Additionally, the policy requires broad, meaningful notice to all 29 federally recognized tribal governments in Washington when the office is engaging on or made aware of issues that affect Tribes and tribal lands.

Supporting military service members & Veterans

In support of Washington's military service members, veterans and their families, the Attorney General's Office works in collaboration with partners across the state to promote the availability of civil legal assistance and resources for those who have served our country in uniform. In 2019, the Attorney General's Office of Military & Veteran Legal Assistance hosted a number of legal clinics around the state, connecting volunteer attorneys to eligible military and veteran families facing select civil legal issues. The Office of Military & Veteran Legal Assistance coordinated legal clinic events in Spokane, Pierce and King counties. In addition

to receiving requests for volunteer attorneys and resources during clinics, the Office of Military & Veteran Legal Assistance regularly receives direct requests for civil legal assistance and resources outside of clinics. The Office of Military & Veteran Legal Assistance also works to share legal assistance resources directly with military leadership. For example, in July, the Office of Military & Veteran Legal Assistance shared information related to consumer protection and legal assistance resources with the 7th Infantry Division leadership at Joint Base Lewis-McChord. The office also publishes a “Military & Veteran Legal Resource Guide” to help service members and Veterans understand their rights and access to legal resources.

Attorney General Ferguson also advocated for service members, veterans and their families through letters of support and the development of proposals. In May Attorney General Ferguson sent correspondence to the Department of Education encouraging forgiveness of student loans for veterans with service-related total and permanent disabilities. In November, Attorney General Ferguson sent a letter in support of the federal Veterans Treatment Court Coordination Act. Additionally, in December the Office of Military & Veterans Legal Assistance drafted a proposal to help courts locate volunteer attorneys willing to represent military service members as appointed counsel under the SCRA, produced a volunteer resource manual, and associated template forms and correspondence.

The Attorney General's Office is proud to support Washington's military service members, Veterans and their families.

“Today’s agreement is a victory for good government and the people of Wapato. Our audits documented an appalling disregard for accountability in the city’s administration. I am proud of our local audit team, who investigated and reported on the facts in this case. I also thank the Attorney General’s Office for their work in taking the information we provided and obtaining an agreement that is in the best interest of the community.”

- Pat McCarthy, Washington State Auditor

Challenging a City Official’s Scheme to Enrich Himself

In May, the Attorney General’s Office filed a lawsuit against the Wapato city administrator, Juan Orozco, the City of Wapato, the Wapato City Council and Wapato mayor Dora Alvarez-Roa. The AGO accused Orozco of violating the Open Public Meetings Act (OPMA), and the Code of Ethics for Municipal Employees.

Orozco was elected mayor of Wapato in November 2017. According to a report from the state auditor, Orozco later asked the Wapato city attorney to draft an ordinance creating the position of city administrator. The contract set the salary at \$95,000 and a contract term of seven years. If the contract ended early, even if the city administrator was fired, the contract entitled the city administrator to six months’ severance pay.

The city council later adopted the ordinance in violation of the Open Public Meetings Act. The council’s approval also violated a separate statute, prohibiting them from taking final action or adopting an ordinance at a special meeting. Immediately after the council adopted the ordinance, the auditor’s report states, Orozco resigned as mayor. When the council convened for its regular meeting, it appointed Councilmember Alvarez-Roa mayor, who then appointed Orozco as city administrator, without discussion.

As a result of the lawsuit, Orozco resigned in July and agreed to pay a \$500 fine for violating the Code of Ethics for Municipal Employees — the maximum penalty under the statute — and is prohibited from seeking or accepting employment from the City of Wapato or any elected office in the city in the future.

Providing Public Records & Public Meetings Trainings to Local Governments

In 2017, the Washington State Legislature created the Attorney General’s Office Local Government Public Records Consultation Program. The program is a free service assisting local government agencies by providing information, training and resources for developing PRA best practices, including but not limited to:

- Responding to records requests;
- Seeking additional public and private resources for developing and updating technology information services; and
- Mitigating liability and costs of compliance.

In 2019, the program launched the “Public Records Act University,” a pair of conferences for local government officials hosted in Spokane and Lynnwood. The events featured presentations and seminars from public records professionals from around the state. More than 700 people attended, representing counties, cities, towns, parks, schools and other special purpose districts. Because of its success, the “University” is now an annual event.

Campaign Finance Cases

Freedom Foundation

The office filed a lawsuit against the Evergreen Freedom Foundation, alleging campaign finance violations based on a referral from the state Public Disclosure Commission (PDC). The lawsuit asserts that the Freedom Foundation paid its staff to engage in opposition to an Olympia ballot proposition, but failed to report these independent expenditures to the PDC, as required by law.

Initiative 1 was a 2016 ballot proposition in the City of Olympia that proposed a progressive income tax of 1.5 percent on households with incomes of \$200,000 or greater. The Freedom Foundation mobilized in opposition to Initiative 1, paying staff to disseminate opposition messaging in podcasts, an opinion piece in the local newspaper, on their website, and at least one email to a Freedom Foundation mailing list. Freedom Foundation also paid staff to support litigation to prevent a public vote on Initiative 1.

The Freedom Foundation did not report these in-kind contributions to the PDC, denying the public access to information regarding the source of funding for the opposition campaign. The lawsuit asserts these activities should have been reported to the PDC as independent expenditures.

Citizen Solutions

A Thurston County Superior Court judge ordered for-profit signature gathering firm Citizen Solutions and its principal, William Agazarm, to collectively pay more than \$1 million for their role in deceiving Washingtonians by funneling campaign donations to Tim Eyman.

The ruling stems from a 2017 lawsuit, accusing Citizen Solutions and Agazarm of unlawfully concealing a \$308,185 payment to Eyman. Judge James Dixon found that Agazarm “personally approved Citizen Solutions’ kickback payment” to Eyman, knowing that Eyman “planned to and, in fact, did use the funds for his own personal expenses and to support the signature gathering effort for a different Eyman-supported initiative, Initiative I-517.”

Eyman Sanctions

A judge granted the Attorney General’s Office’s motion for non-monetary sanctions against initiative promoter Tim Eyman, agreeing that Eyman has “willfully and deliberately” continued to defy court orders compelling him to produce documents related to the case.

In his order, Judge Dixon found that \$766,447 in funds deposited in Eyman’s accounts between February 2012 and July 2018 “are hereby found to be ‘contributions’ in support of ballot propositions ... and not gifts.” This \$766,000 is separate from Eyman’s alleged improper personal use of more than \$300,000 in contributions made to political committees and concealment of more than \$490,000 in contributions that prompted the Attorney General’s Office’s original lawsuit.

The decision noted that multiple previous orders and contempt sanctions against Eyman have not accomplished their purpose of compelling him to turn over documents. Eyman has racked up more than \$236,000 in daily contempt sanctions related to discovery violations since February of 2018. The court originally ordered \$250 per day in sanctions starting Feb. 16, 2018, while Eyman failed to provide the required information to the state. When Eyman continued his refusal to comply, the court doubled the daily penalty to \$500 as of Sept. 7, 2018.

In July, Eyman was found in contempt a second time because of his refusal to disclose complete information related to hundreds of thousands of dollars of payments he solicited from individual donors.

The case stems from a 2017 campaign finance lawsuit against Eyman, alleging improper personal use of more than \$300,000 in contributions made to political committees, concealment of more than \$490,000 in contributions and misleading reporting. Additional concealed contributions were discovered during the State’s investigation since then. The lawsuit also accuses Citizen Solutions of participating in a scheme to conceal campaign money the company funneled to Eyman.



Deputy Legislative Director Brittany Gregory speaks with state Senator Mona Das and AG Ferguson at the office's 2019 Legislative Reception.

Legislative Priorities

Attorney General Ferguson's 2019 legislative priorities included keeping tobacco and vaping products away from teens, expanding protections for Washington consumers and workers and combating firearm-related violence.

Increasing the Age of Sale for Tobacco & Vape Products to 21

This legislation raises the sale age for tobacco and vapor products from 18 to 21, aligning tobacco and vapor products with marijuana and alcohol. It does not increase possession penalties for those 18, 19 and 20 years of age.

This bill, sponsored by Sen. Kuderer, D, and Rep. Harris, R, was signed into law on April 5.

Prohibiting Ghost Guns

This legislation prohibits ownership or transfer of any firearm that cannot be reliably detected by a metal detector, such as a plastic 3D-printed gun. It also prohibits anyone from facilitating the manufacture or assembly of an undetectable firearm by a Washingtonian who is ineligible to own a firearm under state law.

This bill, sponsored by Sen. Dhingra, D, and Rep. Valdez, D, was signed into law on May 7.

Prohibiting Pocket Service

This legislation stops the practice known as "pocket service," in which a collection agency serves a debtor with a summons and complaint but keeps the pleadings in its "pocket" instead of filing them with the court. The result of this practice is that debtors contact the court, where they receive no record of the filing. Meanwhile the clock is ticking toward the deadline, which leads to a default judgment without a debtor's response or input.

This bill, sponsored by Sen. Dhingra, D, and Rep. Kilduff, D, was signed into law on April 30.

Closing a Wage Theft Loophole

This legislation closes a loophole in the law that bars the Department of Labor & Industries from issuing civil penalties for wage theft violations if the employer returns the stolen wages before a citation can be issued. This legislation deters repeat or willful violations of the prevailing wage statute.

This bill, sponsored by Sen. Saldaña, D, and Rep. Sells, D, was signed into law on May 7.

Data Breach Notifications

This legislation reduces the deadline for notice to consumers and the Attorney General's Office after discovery of a breach and expands the definition of "Personally Identifiable Information" to include e-mail plus password, passport identification numbers, and other sensitive information.

This bill, sponsored by Sen. Nguyen, D, and Rep. Kloba, D, was signed into law on May 7.

Presumption of Occupational Disease for Hanford Workers

This legislation amends presumption law to ensure that the lack of a qualified medical exam on the employer's behalf will not exclude a Hanford worker from the cancer provisions of the State Industrial Insurance Program.

This bill, sponsored by Sen. Keiser, D, and Rep. Ormsby, D, was signed into law on April 23.

Legislation to be reintroduced:

Repealing the Death Penalty

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

Banning the Sale of Assault Weapons & High Capacity Magazines

This legislation bans the sale, manufacture, transfer, transport and import of assault weapons and high-capacity magazines 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.

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.

Dependency Caseload Forecast

This legislation adds dependency and termination caseloads to the biannual budget caseload forecast. This will address the fact that the caseloads of Assistant Attorneys General who handle cases involving abused and neglected children are more than 50 percent above the maximum recommended by the American Bar Association.



Senior AAG Lynette Weatherby-Teague joins Chief Deputy Shane Esquibel on stage at the 2019 Attorney Conference to receive a Steward of Justice Award.

Supporting Our Employees

The Attorney General's Office is committed to being an outstanding employer. Recognizing employees as its most valuable asset, the office promotes diversity, supports employee training, fosters wellness, ensures workplace safety and cultivates a culture of integrity, professionalism, civility, and transparency.

Employees have access to a wide variety of agency groups and committees with goals ranging from making the AGO a better place to work to supporting veterans and service members. The following are just a few of the options available to AGO staff.

Infants in the Workplace Program

The Attorney General's Office continued to implement its Infants in the Workplace program, allowing employees to bring their infants to work when the infants are between six weeks and nine months of age and not yet crawling. The program also allows parents to assign two co-workers as designated caregivers to trade off watching the baby if the parent needs to go to a meeting.

Research shows that well-structured infants in the workplace programs result in numerous benefits, including higher morale, increased teamwork and lower employee turnover. Parent-child bonding, especially in the very early stages of life, is extremely influential on how a child views themselves, other people and the world for the rest of their life. Our Infants in the Workplace program acknowledges that when infants are able to stay with their parents for a greater period of time it benefits both the family and our office.

This program has been highly successful at the Attorney General's Office. The program helps the office attract and retain talented staff, but more importantly, it gives parents the flexibility and support they need in the first months of their child's life.

Training and CLE

AGO staff have access to a range of training and development opportunities. The office's Training and Development Unit supports and assists employees with individual training needs and interests, and assists in maintaining compliance with required trainings for all agency staff.

The Attorney Training Committee provides in-house CLE programs to enhance the knowledge and development of attorneys at all experience levels.

Experts from both within and outside the agency present interesting, varied, and practical programs focused on government law and topics of interest to public employees.

AGO Affinity Groups

In 2019, the office expanded its affinity group program, initially launched in 2015. These groups allow employees to share ideas about matters that affect their professional development and work. The groups support the office's commitment to diversity and inclusion, strengthen networking and cohesiveness across the agency and promote career development. Affinity groups are an important resource to the office in other ways, as well. They provide important feedback to management and assist with efforts to attract and retain highly qualified job candidates.

Staff Mentoring Program

The office's Staff Mentoring Program matches mentor/mentee partners from different divisions and job classifications across the agency based on each participant's interests and skills. The goal of the program is to develop and retain quality attorneys and professional staff through growth and leadership opportunities, career guidance and advancement within the AGO workforce.

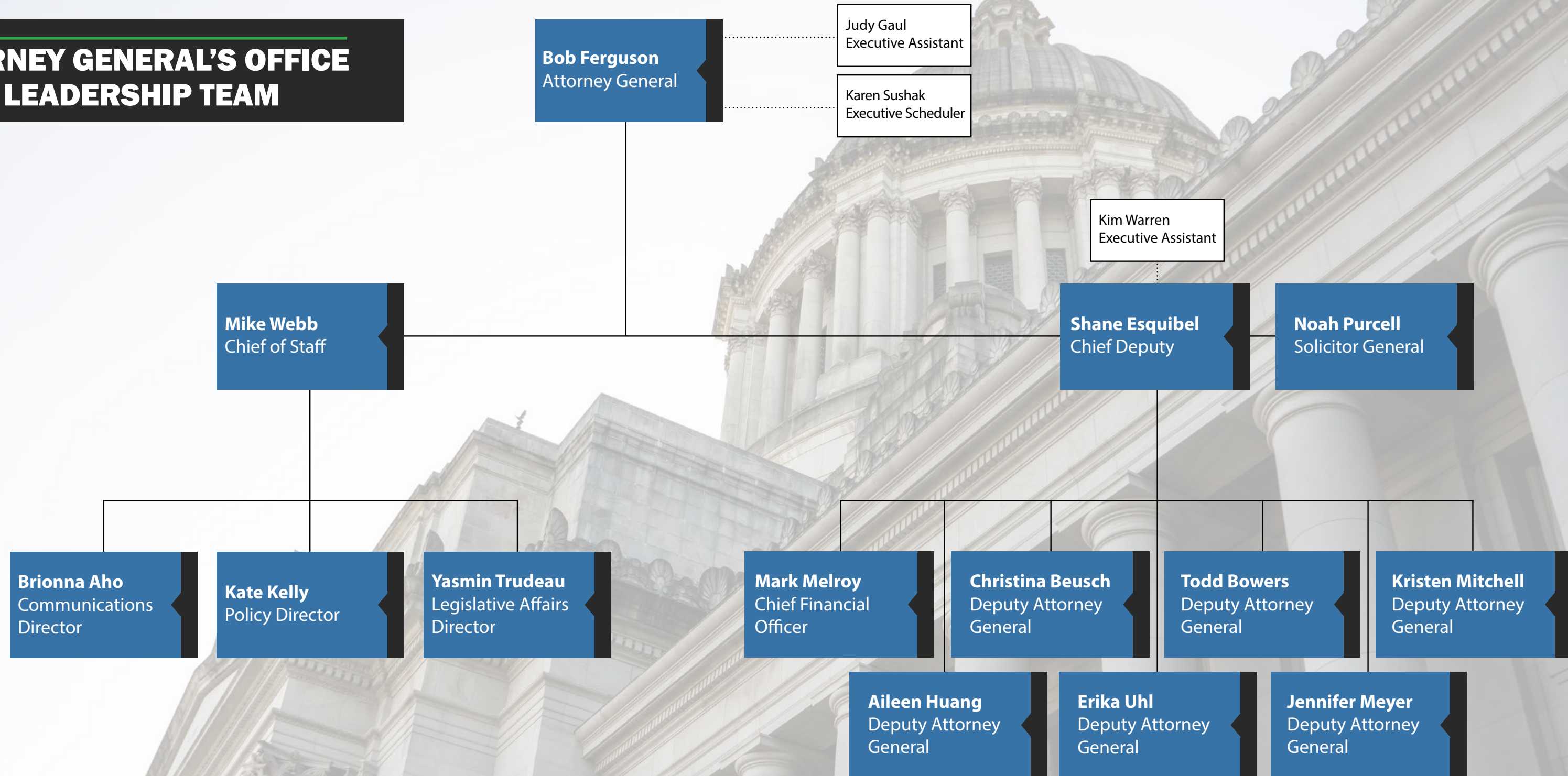
AGO Academy

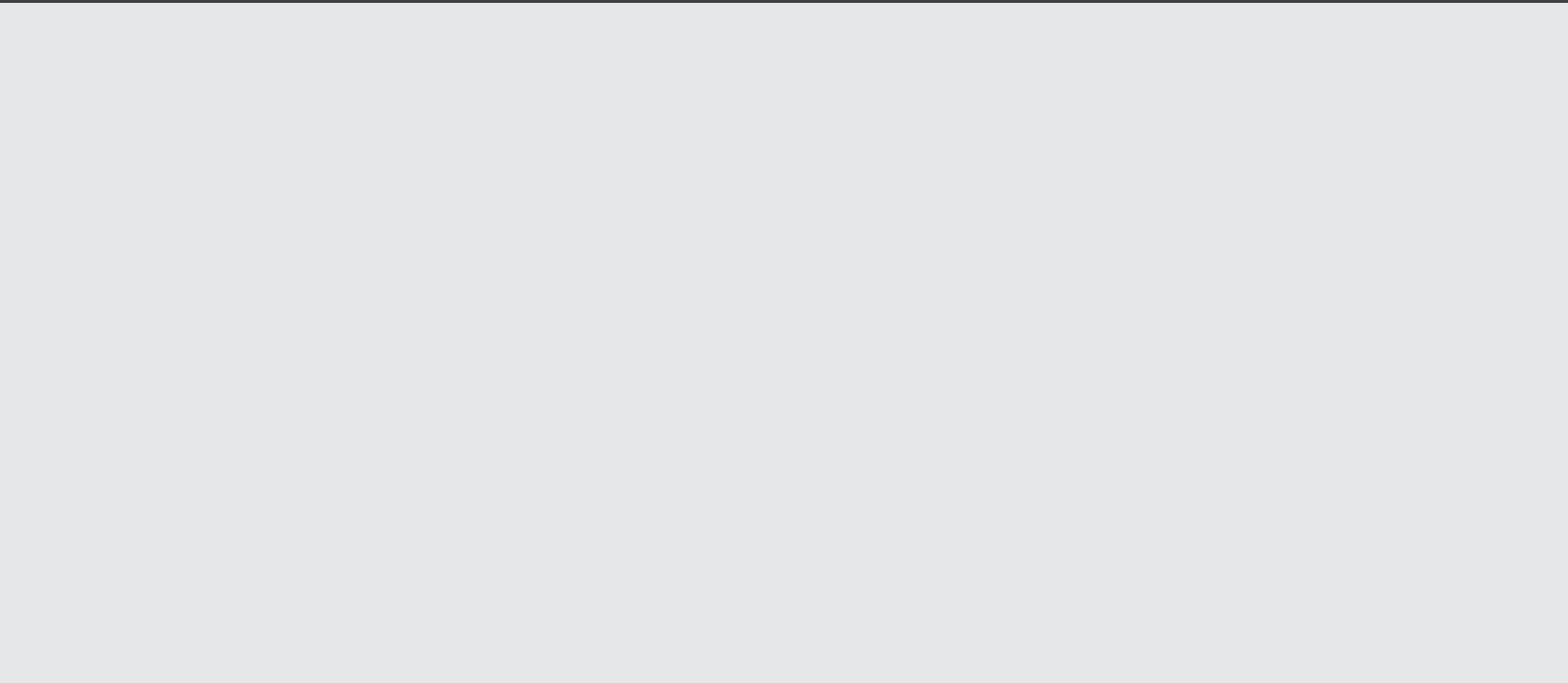
The AGO Academy is a comprehensive attorney training and orientation program designed to acquaint newly-hired attorneys with the practice of law in our office. The three-day course immerses attorneys in the Attorney General's Office culture and covers the office's Mission, Vision & Values. It also highlights the agency organization, case and witness preparation, client interaction, depositions, media relations, public records, professionalism, ethics and more.



A group of AGO employees pose for a photo with Governor Inslee. From left to right: July Simpson, Haylee Mills, K'Laine Hatfield, Robbyn Ramirez, Eric Peterson, Governor Jay Inslee, Michelle Carr. Inslee hosted a reception at the Governor's Mansion in Olympia to thank AGO staff for their work on behalf of Washingtonians.

ATTORNEY GENERAL'S OFFICE CORE LEADERSHIP TEAM







Washington State Attorney
General's Office
Olympia, WA 98504
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OFFICE DIVISIONS 2019



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.



Members of the Wing Luke Civil Rights Division pose for a photo with AG Ferguson, Chief Deputy Shane Esquibel & Deputy AG Todd Bowers.

Back Row: Patricio Marquez, Keely Tafoya, Shane Esquibel, Bob Ferguson, Mitch Riese, LaRond Baker, Andrea Brenneke, Chalia Stallings-Ala'ilima, Todd Bowers. **Front Row:** Alma Poletti, Colleen Melody, Judy St. John, Vanessa Salinas, Marsha Chien, Caiti Hall.

CONSUMER PROTECTION & CIVIL RIGHTS

Civil Rights Division

Division Chief: Colleen Melody, Senior AAG

Overview: The Wing Lukes Civil Rights Division investigates and files affirmative enforcement actions to protect and defend the state and federal civil rights of Washingtonians. 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 2019, including in the areas of employment, housing, commercial transactions, government services and police practices. The division also took a lead role in protecting the rights of Washingtonians against unlawful actions of the federal government, including advocating for Dreamers before the U.S. Supreme Court in a case challenging the Trump Administration's termination of the Deferred Action for Childhood Arrivals program and filing litigation against the Department of Homeland Security over its practice

of arresting Washingtonians at state and local courthouses. Under state law, the division continues to advocate for vulnerable workers in its litigation against the private contractor that operates the Northwest Detention Center and achieved a \$12 million settlement from Motel 6 for discriminating against guests at its Washington motels and violating their privacy rights. In addition to prosecuting these lawsuits, the division successfully litigated a number of matters on behalf of the Washington State Human Rights Commission, including claims involving discrimination in housing on the basis of race, disability and status as a family with minor children.

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 successfully resolved its litigation against the CHI Franciscan health care system, by requiring CHI Franciscan to enter into a consent decree that restores competition for primary care physicians and orthopedists on the Kitsap Peninsula. Among other items, the consent decree bars CHI Franciscan from entering into future similar anticompetitive agreements, requires it to separately contract for primary care physicians and orthopedists and requires it to divest a controlling share of an ambulatory surgery center that it had previously made inactive. CHI Franciscan also must pay \$2.5 million, which was distributed to health clinics and organizations throughout the Kitsap Peninsula to increase access to health care services.

The division continued to pursue new enforcement actions in labor markets. The division filed a lawsuit against a local coffee chain for requiring its employees to sign restrictive non-compete agreements. The lawsuit was resolved through a consent decree requiring the company to cease using non-compete agreements, wave all of its existing non-compete agreements and pay \$50,000. The division also prevailed in a lawsuit against restaurant chain Jersey Mike's over its use of no-poach provisions. To resolve the lawsuit, Jersey Mike's will not add no-poach provisions to new contracts, will remove the provisions from all of its franchise contracts nationwide and paid \$150,000. In addition, the division continued as a national leader working to eliminate no-poach clauses in franchise agreements, obtaining an additional 163 legally enforceable agreements from companies across the nation, benefitting tens of thousands of workers.

The division also supported efforts to enact Washington legislation requiring pre-notification of transactions that may substantially lessen competition in health care markets. The new law requires hospitals, hospital systems and health care providers to provide a 60-day notice of any transaction that will result in a material change, including a merger, acquisition or contracting affiliation.

Consumer Protection

Division Chief: Shannon Smith, Senior AAG

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 2019 to protect consumers and businesses. The division sued multilevel marketer LuLaRoe for violating the Consumer Protection Act and state law prohibiting pyramid schemes. The lawsuit alleges that LuLaRoe's bonus structure constituted an illegal pyramid scheme and that the company made misrepresentations about the profitability of its program and the availability of refunds for unsold product. Following a multi-week trial, the division obtained a judgment against cable provider Comcast in which the court determined that Comcast violated the Consumer Protection Act more than 400,000 times by signing up customers for its Service Protection Plan — and its monthly charges — either without their knowledge or consent, or while failing to disclose the monthly cost of the plan. The division resolved its lawsuit against St. Joseph Medical Center, which alleged the hospital withheld charity care to tens of thousands of low-income patients. In the legally enforceable agreement to resolve the lawsuit, St. Joseph and seven other CHI Franciscan hospitals agreed to reform their charity care practices and provide approximately \$20 million in refunds and debt relief to thousands of patients. The division also resolved a lawsuit it filed against Johnson & Johnson in May 2016 for unfair and deceptive marketing of its transvaginal mesh products. The division had alleged that Johnson & Johnson, and its subsidiary Ethicon, did not disclose to patients and doctors known risks associated with the transvaginal products and misrepresented the complications of mesh. The division led a multistate investigation into a data breach of Premera, a large health insurance provider, that focused on how Premera protected the sensitive data of its insureds. As a result of the investigation, Premera entered into a legally binding agreement to implement specific data security controls. The CP Division sued nonprofit organization Veterans Independent Enterprises of Washington (VIEW) and its executive director for pocketing money intended to benefit veterans. In a preliminary order requested by the CP Division, the court appointed a receiver to manage VIEW's remaining assets to assure continued benefits to veterans.



Members of the AGO Fish, Wildlife & Parks Division pose with Karelina Bear Dogs used by WDFW for non-lethal wildlife control. From left to right: Diane Newman, Officer Nicholas Jorg, Lauren Kirigin, Jennifer Seely, Noelle Chung, John Nygren, Hang Nguyen-Le, Jason Ruyf, Marian Graham, Jeanne Roth, Andy Woo, Joe Shorin, Kristen Mitchell.

PROTECTING THE ENVIRONMENT & NATURAL RESOURCES

Fish, Wildlife and Parks

Division Chief: Joseph Shorin, Senior AAG

Overview: The Fish, Wildlife and Parks Division represents the Department of Fish & Wildlife (WDFW) and the Parks & Recreation Commission (State Parks). It also represents the state in certain 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, regulatory permitting and administrative procedure.

Legal Highlights: The division provided extensive assistance to WDFW in its implementation of the Wolf Conservation and Management Plan, which included defending WDFW's management decisions in lawsuits filed in Thurston and King Counties. The division successfully defended WDFW in a challenge to its rules and permits for a program managing black bears that cause springtime damage to commercial timber. In

collaboration with the Solicitor General's Division, the division successfully defended the governor's partial veto of legislation that provided WDFW with enhanced Hydraulic Project Approval civil penalty authority. The vetoed provisions would have undermined WDFW's ability to exercise expanded civil penalty authority the Orca Task Force recommended for saving Washington's Southern Resident Killer Whale population.

On behalf of WDFW, the division obtained reversal of a subdivision permit issued to a developer in Wenatchee who failed to adequately consider effects to critical mule deer habitat, as required by the city's critical area ordinance. In collaboration with the Natural Resources Division, we obtained summary judgment confirming state title to a popular recreation shellfish beach in Dewatto Bay in Kitsap County. Finally, in Division III of the Court of Appeals, we obtained an affirmance of an Adams County Superior Court ruling dismissing a quiet title claim involving a segment of the former Milwaukee Road railroad corridor that Washington State Parks operates as the Palouse to Cascades cross-state recreational trail.



AG Ferguson is joined by members of Citizens for Ebey's Reserve for a photo. The group supported the office's lawsuit against the Navy over the expansion of its Growler operations on Whidbey Island, which failed to adequately analyze human health, environmental and historic impacts.

Natural Resources

Division Chief: Patricia O'Brien, Senior AAG

Overview: The Natural Resources Division represents the Commissioner of Public Lands, Department of Natural Resources (DNR), Board of Natural Resources, Forest Practices Board and other related boards and commissions. The division provides a broad spectrum of client advice, dispute resolution and litigation services to DNR, which manages more than 5.6 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 also provides legal services to the Forest Practices Board, which adopts rules and standards for forest practices, such as timber harvest.

Legal Highlights: In August 2019, the State Court of Appeals issued a unanimous opinion in *Northwest Alloys & Millennium Bulk Terminals, LLC v. DNR*, et al., upholding DNR's denial of Millennium's requested sublease to operate the largest coal terminal in North America on state-owned aquatic lands on the Columbia River near Longview. Northwest Alloys' and Millennium's petition for review to the State Supreme Court was denied. In *Columbia Riverkeeper v. DNR*, et al., Riverkeeper appealed the Board of Natural Resources' approval to transfer 153 acres of Common School Trust property to the Port of Woodland. In April 2019, the superior court affirmed the resolution approving the sale and ruled in the State's favor on all issues. Riverkeeper withdrew its appeal to the Court of Appeals, Division

II, because it was untimely. DNR settled the fire cost recovery case of *DNR v. Pulley Corporation and Bow Alger Logging, Inc.*, for \$550,000. In May 2016, employees of Pulley and Bow-Alger were logging a DNR timber sale named Hot Shot near Oso. The logging crew allowed a yarding cable to rub on a downed log, starting a fire that could have been prevented with adequate precautions. Another fire cost recovery case, *DNR v. Okanogan County Electric Cooperative, Inc.*, involved the Twisp River fire, which started from a tree branch to power line contact in August 2015. The fire burned some 11,200 acres, claimed the lives of three USFS firefighters, and critically injured another. In a \$15 million settlement involving multiple plaintiffs with losses, DNR recovered \$900,000, amounting to all of its suppression costs and some of its attorney's fees in pursuing this case. In *Hood Canal Shellfish Co. v. DNR*, tideland owners in Dewatto Bay filed suit in 2015 against DNR claiming ownership of an adjacent public recreational shellfish beach and damages for the public's use of the beach. DNR counterclaimed for damages and to quiet title to the beach in the state, and joined several third-party defendants. The court granted DNR's motion for partial summary judgment, finding that the state holds superior title to the portion of the tidelands in the cove that have been held out as a public beach for decades, and that DNR's survey accurately establishes the boundaries of the parcels at issue. The Hood Canal Shellfish Company and subset of the plaintiffs have appealed to the Court of Appeals, Division II. The division assisted DNR in developing leasing opportunities for solar development on DNR managed lands. The first solar lease, developed through direct negotiations between Avangrid Renewables and DNR, was executed in March 2019.



Snoqualmie Tribe Vice Chair Michael Ross speaks at a press conference on the office's challenge of the federal rollbacks to the Endangered Species Act.

Counsel for Environmental Protection

Division Chief: Bill Sherman, AAG

Overview: The Counsel for Environmental Protection 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: AG Ferguson created the Counsel for Environmental Protection Unit in October 2016. Since that time, it has brought a wide range of civil and criminal cases. Working with outside counsel, it has litigated the nation's first statewide case against the Monsanto Corp. for PCB contamination, securing favorable rulings on removal from the U.S. District Court and the U.S. Court of Appeals for the Ninth Circuit, and prevailing against a motion to dismiss in King County Superior Court. In 2019, the unit continued litigation against the federal government over rollbacks of environmental protections, including cases against the U.S. Department of the Interior over weakened protections for endangered species, the federal Environmental Protection Agency over harmful pesticides and others.

In addition, the unit served as the lead drafter of amicus briefs in support of other similar actions, including a multistate brief defending the Bears Ears and Grand Staircase-Escalante National Monuments against unlawful federal action. Moreover, the unit led multistate comments challenging a number of regulatory rollbacks, such as the attempt to permit oil and gas drilling in the Arctic National Wildlife Refuge, the weakening of Clean Water Act Section 401 state certifications and the proposed permitting of the Pebble Mine in Alaska, which would threaten the Bristol Bay salmon fishery.

In 2019, the unit also took action to compel environmental compliance by an important neighbor, the U.S. Navy. The unit intervened in a lawsuit over the in-water scraping of decommissioned warships, which released debris containing large amounts of copper and zinc, into Sinclair Inlet. In addition, the unit filed a lawsuit challenging the adequacy of environmental reviews and historic resources consultation related to the expansion of the Navy's EA-18G "Growler" fleet at Naval Air Station Whidbey Island.



Counsel for Environmental Protection Unit Chief Bill Sherman speaks at a press conference on toxic school supplies.



AG Ferguson feeds a rhino at the Woodland Park Zoo after an event to raise awareness about animal trafficking. Photo by Jeremy Dwyer-Lindgren | Woodland Park Zoo

CEP completed a successful investigation and enforcement action dealing with the sale of children's school supplies and children's jewelry containing unsafe concentrations of lead and cadmium by Amazon.com. Amazon agreed to an Assurance of Discontinuance, requiring substantial steps by third-party sellers to demonstrate compliance with state and federal law, and paid \$700,000 toward the Attorney General's costs and fees.

The unit also continued to prosecute environmental criminal cases, obtaining six convictions, bringing the total number of convictions since the Attorney General's establishment of the environmental crimes program in 2013 to 34. Among other new cases, the unit filed the first two cases under the state's new Washington Animal Trafficking Act, one of which resulted in a guilty plea. The other case is ongoing.

Ecology

Division Chief: Andy Fitz, Senior AAG

Overview: The Ecology Division represents the Department of Ecology, the Energy Facility Site Evaluation Council, the Puget Sound Partnership, the Pollution Liability Insurance Agency and the Washington 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 radioactive and hazardous waste at the Hanford Nuclear Reservation.

Legal Highlights: The division advised and represented the Department of Ecology on hundreds of matters, including defense of rulemaking to mitigate greenhouse gas emissions, natural resource damage assessments to restore water and land damaged by pollution, and defense of several lawsuits challenging Ecology's decision to deny an environmental permit to a proposed coal-export facility. Division attorneys handled complex litigation in federal and state courts and participated in a number of multistate matters challenging federal regulatory rollbacks. A major milestone was reached through the Yakima County Superior Court's entry of the Final Decree in *Department of Ecology v. Acquavella*, a long-running general adjudication of water rights in the Yakima River Basin. The division also worked on complex negotiations to address cleanup of hazardous waste sites. This included work that facilitated one of Seattle's biggest real estate deals in total dollars, as well as detailing a process for funding cleanup in conjunction with constructing affordable housing units, and working with the agency to address the impact of per- and polyfluoroalkyl substances (PFAS) on the environment and public water supplies.



AAG Andrew Hughes, joined by Gov. Inslee and AG Ferguson, speaks at a press conference on the office's lawsuit to block the Trump Administration's plan to "reprogram" funding for more than \$3.6 billion in congressionally approved military construction projects to help build a wall along the U.S. southern border with Mexico.

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 2019, 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, and the division has worked with many other divisions to gather responsive information. The division represented the state in a number of actions against the federal government, including cases on the "public charge" rule, Title X and the conscience clause. The division also took the lead on numerous campaign finance enforcement actions, including those related to Tim Eyman. The division represented the state at the tobacco diligent enforcement arbitration hearing regarding the holdback amount and potential offset issues in the Tobacco Master Settlement Agreement. 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 and Collections Unit

Section Chief: Susan Edison, AAG

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. Client advice is provided on a daily basis to revenue agents as they work to collect unpaid taxes.

Legal Highlights: The unit collected more than \$5.4 million for its clients in 2019. Those recoveries include more than \$3 million recovered in 361 cases in the contractor bond program, primarily to collect delinquent taxes owed to the Departments of Revenue, Labor & Industries and Employment Security. The unit also opened 172 bankruptcy files, primarily for cases under Chapters 11 and 13, recovering more than \$1.5 million. The unit's participation in 127 other legal cases resulted in recoveries of nearly \$840,000.

Torts

Deputy Attorney General: Jennifer S. Meyer

Overview: The Torts Division celebrated its 50th anniversary in 2019. The Division was created by Attorney General Slade Gorton in 1969, after legislative changes and court decisions expanded state government tort liability. Torts lawyers defend state agencies, officers, and employees, in state and federal courts, against personal injury and civil rights claims. These matters can involve any area of state government operation, including such diverse subjects as 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 has an annual caseload of more than 300 claims and 450 lawsuits. Torts lawyers and professional staff (including paralegals, legal assistants, and investigators) handle all aspects of litigation including discovery, civil motion practice, trial, and appeal. Between 40 and 50 percent of the division's cases are resolved with a zero payout. In addition, 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. Where a reasonable settlement cannot be reached, Torts lawyers try cases to juries in county superior and federal courts across the state. Torts lawyers also provide legal and risk management advice and training on tort-related subjects to state agencies and the state Office of Risk Management.

Legal Highlights: On behalf of the Department of Transportation (DOT), Torts Division lawyers obtained a defense verdict in the "Ride the Ducks" matters. The verdict followed four months of trial on consolidated lawsuits arising out of the collision on Seattle's Aurora Bridge between a chartered motor coach and a tourist "duck boat," operated by Ride the Ducks Seattle, on September 24, 2015. 69 passengers on the motor coach and duck boat suffered injuries, ranging from minor to fatal. Plaintiffs' tort theory against the DOT was that the design and maintenance of the Aurora Bridge, including narrow lanes and no median barrier, was responsible for the duck boat crashing into the motor coach. The jury did not agree.

Revenue and Finance

Division Chief: Cam Comfort, Senior AAG

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

Legal Highlights: The division successfully handled a significant number of appeals before the Washington Court of Appeals and the Washington Supreme Court, involving a wide variety of complex and challenging legal issues. Those issues included: are school bus operators subject to tax under the business and occupation (B&O) tax or the public utility tax; are fees paid to a pallet pooling service subject to retail sales tax; is a taxpayer's management and provision of dining services at Washington colleges subject to B&O tax under the wholesaling classification or the service classification; does a pharmacy network management service owe B&O tax on prescription drugs that third-party pharmacies provide to its clients pursuant to contracts with the pharmacy network management service; and does a B&O tax deduction for medical services paid by certain state programs also apply to amounts received under other states' comparable programs. The division also prevailed in two appeals for the Department of Retirement Systems.

SUPPORTING HEALTHY COMMUNITIES & COMBATING MEDICAID FRAUD

Agriculture and 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; 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 2018, 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. The division opened more than 170 disciplinary cases against licensed health professionals for engaging in unprofessional conduct. Division attorneys helped combat the opioid crisis by advising a workgroup of health professional boards and commissions on the development of opioid prescribing rules and assisting the Department of Health in drafting opioid legislation. A division attorney advised the Department of Health on the implementation of the nation's first state-administered drug take-back program. Division attorneys successfully defended decisions of the Department of Health granting certificates of need to open new healthcare facilities, providing much needed beds for mental health care. A division attorney prevailed in a disciplinary proceeding against a licensed pesticide applicator who unlawfully sprayed pesticide on dozens of agricultural workers. A division attorney secured a settlement with a shellfish harvester that agreed to a substantial fine and corrective action for harvesting on beaches closed due to pollution.

Social and Health Services Olympia

Division Chief: Paige Dietrich, Senior AAG

Overview: The Social and Health Services Olympia (SHO) 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 51 attorneys and 38 professional staff provide legal services, advice and representation to the Department of Social and Health Services' many programs and functions, including mental health services and the state psychiatric hospitals, adult protective services, home and community services for elderly and disabled individuals, service to individuals with developmental and intellectual disabilities, income assistance, revenue recovery and child support, vocational rehabilitation and the Special Commitment Center. We provide legal services to Health Care Authority programs, such as public employee benefits, school employee benefits, Medicaid and other medical assistance programs, alcohol and drug rehabilitation and behavioral health. We assist the Department of Children, Youth, & Families with a broad range of state-provided services to children — 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 and the operation of institutions for juvenile offenders. 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 adequacy of services provided to foster children. 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, 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.

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.

Legal Highlights: In 2019, the division finished its expansion to 58 full time employees, nearly doubling in size. As part of this expansion, the division built out its digital forensics laboratory in May 2019, which became operational in July 2019, and hired a digital forensics investigator to image and process digital evidence. The division received approximately 3583 referrals: 2954 abuse and neglect in residential facilities and 629 fraud. The division referred out approximately 521 matters to other agencies. It also continued to diversify its case mix and opened 325 investigations: 217 civil and 108 primarily criminal. The division saw a dramatic increase in Qui Tam filings naming the state of Washington due in part to MFC's successful in-state qui tam litigation at the end of 2018 and renewed effort to publicize the Washington false claims act over the past year. The team secured 23 criminal convictions (18 fraud, 5 abuse and neglect) and filed 18 criminal cases (11 fraud, 7 abuse and neglect), a dramatic increase from the 7 convictions and 6 filings in 2018 and obtained \$11,349,526.97 in ordered false claim act recoveries. Representatives from the division serve on numerous task forces and the division has a team member on every NAMFCU committee. An instate civil case filed in Clark County against a dental provider called CareOne resulted in a \$1 million settlement, compensating the state Medicaid fund for the provider's systematic upcoding of services. An example of the division's criminal work was *State v. Gullett*, a case against a licensed nurse practitioner working in a skilled nursing facility, involved the practitioner engaging in sexual contact with a 92-year-old resident of the facility between November 2017 and February 2018. Several employees of the facility reported seeing Mr. Gullett engaged in suspicious physical contact with the victim. Gullett eventually admitted to touching the victim for the purpose of sexual gratification. The

Attorney General's Medicaid Fraud Control Division and the Shelton Police Department conducted a joint investigation. Gullett plead guilty to one count of Indecent Liberties and the court sentenced him to 20 months in prison - the high end of the standard range.

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 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 2019, the division opened new dependency matters on 720 children, as well as Child in Need of Services (CHINS) cases on 39 children. In the same year, 373 children were referred to the division for permanency litigation and the division filed 240 termination and guardianship petitions. 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 (APS) in cases involving vulnerable adults alleged to be abused, neglected and/or financially exploited. This includes guardianships, protection orders, guardianship fee disputes and appeals. In 2019 we handled 102 APS cases, an increase of about 60 percent over the previous year. 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.

SUPPORTING GOVERNMENT

Government Compliance and Enforcement Division:

Pictured from back to front, left to right: John Meader, Tom Graham, Jordan Nimon, Chad Standifer, Doug Van de Brake, Jong Lee, Ian McDonald, Matt Kernutt, Suzanne Becker, Penny Allen, Mary Valley, Tracy Bahm, Joan Ross, Melinda Brown, Julie Feser, Debra De-freyn, Jennifer Hernandez, Heather Wulf, Yael Chadwick, Meghan Anderson, Becky Charles, Junko Seaman, Tina Bert, Deana Sullivan, Josh Orf-Rodriguez, Stacia Hollar, Christina Pfluger, Sarah Wright, Greg Rosen, Diane Graf, Sharon James, Marlena Mulkins, Marta Deleon, Tracy Guinotte, Alan Anderson, Kristin Brewer, Mary Louise Gordon.



Government Compliance and Enforcement

Division Chief: Stacia Hollar, Senior AAG

Overview: On a daily basis, Government Compliance and Enforcement (GCE) 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. GCE 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 and 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 and Women's Business Enterprises. GCE attorneys also serve as the AGO's representatives on the state and local records committees.

Legal Highlights: In 2019, the division's 26 attorneys and 21 professional staff litigated nearly 1,400 matters before state and federal trial and appellate courts and administrative tribunals. In the past year, GCE 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. GCE staff obtained monetary recoveries for the state through ethics, gambling, financial regulation, campaign finance, liquor and marijuana enforcement and through civil forfeiture matters on behalf of the Washington State Patrol (WSP).

They also protected the public by suspending vapor licenses of those who failed to comply with the flavored vapor product ban, filing amicus briefs with the Washington Supreme Court clarifying the scope of the Washington State Securities Act and the Franchise Investment Protection Act, prosecuting numerous financial professionals for securities fraud and advised and represented WSP troopers statewide in vehicle impound hearings.

Additionally, the division provided client advice on significant contract amendments for statewide digital library services, regulation of captive insurance companies, negotiation of nine tribal gaming compact amendments, the preservation and use of historic film footage and an investigation of significant misappropriation of public funds.

Public Counsel Unit

Unit Chief: Lisa W. Gafken, Senior AAG

Overview: The Public Counsel Unit represents customers of companies regulated by the Utilities and Transportation Commission (UTC), including Washington's investor-owned electric, natural gas, water, and telecommunications utilities and transportation companies transporting people, property, and solid waste. The unit 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.

Legal Highlights: In 2019, Public Counsel represented consumers in major rate cases before the UTC involving Avista, Puget Sound Energy, Northwest Natural Gas, and Cascade Natural Gas. The unit also addressed a complaint against CenturyLink for a 911 outage from July 2017, a complaint against a water company (Harrison Water Company), and an investigation into an outage of the Colstrip electric generation plant. The unit litigated a remand proceeding stemming from its successful appeal of the UTC's order in Avista's 2015 general rate case in Division II of the Court of Appeals. The case resulted in over \$8 million being refunded to Avista's customers.

Utilities and Transportation

Division Chief: Sally Brown, 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 industries: telecommunications (excluding wireless, Internet, and cable companies), electricity and natural gas, solid waste collection, water, pipelines, railroad carriers and facilities, in-state household goods movers, as well as private ferries and bus companies, and marine pilotage. Changing market conditions, technology, federal and state laws and consumer expectations create a dynamic policy and legal landscape. The division's work focuses primarily on administrative and judicial regulatory

litigation, including rate cases, merger proceedings, and conservation and clean energy proceedings.

Legal Highlights: In 2019, the division advised and represented the UTC in energy rate cases brought by Puget Sound Energy, PacifiCorp, Avista Corporation, and Cascade Natural Gas. These cases include: 1) Puget Sound Energy's proposed sale of its ownership interest in one of the two remaining coal-fired power plants in Colstrip, Montana, 2) Frontier Communication's proposed merger with Northwest Fiber, LLC, and 3) Washington's new Clean Energy Transformation Act. 2019 also saw enactment of RCW 81.116, which brought rate-setting for marine pilotage under the UTC's jurisdiction.

Transportation and Public Construction

Division Chief: Bryce Brown, Senior AAG

Overview: The Transportation and Public Construction Division represents and advises the Department of Transportation, Washington State Ferries, Transportation Commission, County Road Administration Board, Transportation Improvement Board, Traffic Safety Commission, Department of Enterprise Services, Military Department, WaTech, Recreation and Conservation Office, State Building Code Council, Public Employment Relations Commission and Personnel Resources Board. 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 litigation, cost recovery actions for damages to highway infrastructure, regulatory compliance, hazardous waste claims, land use issues that arise from state construction projects and the operation of state facilities, 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. Division attorneys also handle tort cases seeking recoveries for property damage allegedly caused by floods, erosion and landslides.

Legal Highlights: In 2019, the division provided legal support for the following: Alaskan Way Viaduct replacement project, including the recovery of \$57,200,000 in liquidated damages as a result of the contractor's late delivery of the Bored Tunnel; SR 520 Montlake Project, I-405 Renton to Bellevue Project; real property acquisition, disposal, and leasing, including



Transportation & Public Construction Division: Front row: Maudelle Padilla, Joshua Weir, J Nelson, Deborah Cade, Meredith Quinn-Loerts, Amy Flanigan, Yasmine Tarhouni, Brenda Larson. Back row: Dan Galvin, Albert Wang, Matt Huot, Guy Bowman, David Merchant

leasing to Sound Transit for its light rail facilities within WSDOT's highway right of way; the state's highway tolling program, the design of up to five new 144 Automobile Ferries with hybrid propulsion systems, implementation of WSDOT's culvert correction program under the Permanent Injunction issued in *United States of America, et al. v. State of Washington*, the Capitol Lake project in Olympia, the acquisition of the Special Commitment Center residence facility in Seattle, and resolution of many construction contract disputes for the state Department of Enterprise Services and Department of Transportation public works projects. The division also served as legal advisor to the Governor's Subcabinet on Business Diversity and continued assisting with implementation of the new ESInet for statewide NG911 services.

Licensing and Administrative Law

Division Chief: Eric Peterson, Senior AAG

Overview: The Licensing and 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. It provides legal advice and representation to clients, including the Departments of Licensing (and affiliated regulatory and licensing boards) and Employment Security, and the Boards of Accountancy, Professional Engineers and Land Surveyors, Liquor and Cannabis, Executive Ethics, Certified

Professional Guardianships, Industrial Insurance Appeals, 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 Exemption 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 engaged in widely varied litigation and advice impacting nearly all Washingtonians in some manner. AAGs assisted with

successful defense of litigation involving the Department of Licensing (DOL), including a constitutional challenge to motor vehicle excise taxes and challenges to initiatives relating to car tabs (I-976) and firearms purchasing, transfer, secure storage, and background checks (I-1639). AAGs advised on the impact of the decision by the U.S. Supreme Court in *Cougar Den, Inc. v. DOL*, which affirmed a ruling that the Yakama Treaty "right to travel" provision preempts assessment of taxes on fuel imported to the state by a tribal-member-owned business. For our Employment Security Department (ESD) client, division members continued to advise on implementation of the paid family and medical leave law, which went into effect for employers in 2019, with employee benefits claims starting in 2020. This includes aiding with writing and adopting rules, reviewing legislation, developing operational processes, and vendor contract issues. Also, AAGs successfully defended challenges to ESD's surveys that led to determinations of the prevailing wage rate for H-2A workers' activities harvesting blueberries and certain apple crops. Division members assisted the Liquor and Cannabis Board (LCB) with the regulation of vapor products and the production and sale of marijuana, including negotiating multiple state-tribal marijuana compacts, which protect health and safety while providing economic benefits. Agreements have been reached or are being negotiated with most of Washington's tribes, and AAGs litigated an arbitration involving one tribe concerning compact interpretation. Division members also helped prepare LCB adjudicative orders suspending or revoking the licenses and seizing the product of marijuana businesses who engaged in black market activity.

Labor and Personnel

Division Chief: Valerie Petrie, Senior AAG

Overview: The Labor and Personnel 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. Division attorneys have expertise in a variety of employment issues, including labor relations, public disclosure, wage and hour laws, immigration, disability and reasonable accommodation, family medical leave, employee 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: In 2018, the division handled seven interest arbitration hearings to resolve the contract terms for the 2019-2021 state collective bargaining agreements. Interest arbitrations 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. Another 12 union contracts eligible for interest arbitration reached agreement on contract terms just prior to hearing. The division will handle interest arbitration hearings in the summer of 2020 for resolution of contract terms for the 2021-2023 state collective bargaining agreements. The division has also been involved in defending the state in multiple lawsuits relating to exclusive bargaining representation and union dues deduction provisions.

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 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 10,000 matters in 2019. The division is one of the largest in the AGO with over 100 personnel and, statewide, LNI has nearly 200 AGO employees contributing to programmatic work at any given time.

Legal Highlights: In 2019, LNI went 27-4 in appellate cases across all programs. LNI, with assistance from the Solicitor General's Office and the Complex Litigation Division, obtained summary judgment against the U.S. Department of Justice to defend the 2018 Hanford Presumption law. This law is designed to help sick Hanford workers obtain coverage and LNI continues to defend this important protection at the 9th Circuit on appeal. LNI also provided legal advice to DLI throughout much of 2019 to support the creation of new overtime rules. Gov. Inslee described the rules as "a nation-leading overhaul...that restores overtime protections for thousands of workers. Washington now has the most progressive rules in the nation and the update makes sure workers get fairly compensated for overtime work."

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. Here are a few of those efforts:

- Being a fiduciary of the \$18.4 billion industrial insurance trust account that provides workers' compensation benefits for 3.05 million eligible Washington workers and 182,000 Washington employers, including handling over 6,800 state-funded workers' compensation appeals.
- Ensuring worker safety for 3.14 million Washington workers across 239,880 establishments statewide. Washington's workplace fatality rate has been in the 10 lowest of all states for 21 consecutive years. LNI is responsible for upholding all DLI safety citations that are appealed.
- 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.

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 colleges, 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: In *Madison v. OSPI*, the division successfully defended the Superintendent of Public Instruction in a legal challenge seeking to hold the agency responsible for school districts' disciplinary actions. Division attorneys also assisted in several labor dispute cases at state community colleges. Division attorneys helped the Washington Student Achievement Counsel implement a new Student Loan Bill of Rights and helped students find new classes after the Art Institute of Seattle closed. Education attorneys worked behind the scenes on the day-to-day operations on Washington's colleges and universities, which included free speech on campus, harassment and Title IX protections and numerous business transactions that ensured a quality education for Washington students in 2019.

University of Washington

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 (union and non-union), and students in



AG Ferguson poses for a photo with Cami Brix and Madison Langer, high school students who advocated for the office's Tobacco 21 legislation.

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 three teams — the General Practice Team, the Employment Team, and the Healthcare Team — and 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 an exceptionally broad range of legal issues in 2019. Just a few examples illustrate the scope and breadth of the division's work over the course of the year:



AGO University of Washington Division: James Buder, Alec Engber, David Kerwin, Dalvin Yarbrough, Kyle Richard, Thomas Vogliano, Rolf Johnson, Jennifer Schubert, Colin Caywood, Mike Fink, Lanse Jones, Mary Taylor, Felicia Foster, Liz Dahl, Jessica Creighton, Christina Thacker, Megan Gibbons, Kristin Perry, Vidya Tejwani, Shane Esquibel, Nancy Garland, Nancy Gwin, Ali Maki, Jessica Russell, Grace Lin, Jeanie Hines, Daniel Baker

- Litigated and advised the university on a variety of open government and public records cases, including requests for records of union members, employees working on projects utilizing fetal tissue, and federal government immigration records related to minor detainees in the state.
- Advised and provided transactional support on several large real estate projects expanding the university's footprint in the community, both local and global, including the Center for Advanced Materials and Clean Energy Technologies (CAMCET), a high rise building to be constructed on top of the Sound Transit light rail station in the University District, and a UW Medicine building in Spokane being developed with Gonzaga University.
- Counseled, advised, and represented the university in response to a large radiation spill that occurred at the Harborview Research and Training Building, which required working with local, state, and federal authorities.
- Advised UW Medicine as it integrated Northwest Hospital into the UW Medical Center.
- Advised on a wide variety of labor and personnel matters, including faculty grievance procedures, collective bargaining issues and personnel classification matters.



Deputy AG Aileen Huang presents awards at the office's 2019 Attorney Conference.

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.

AROUND THE STATE

In Loving Memory of AGO Tacoma Division Chief Julian Bray



It is with great sadness that the Attorney General's Office said goodbye to beloved Tacoma Division Chief Julian Bray, who passed away after battling an aggressive form of cancer. Julian was continuously recognized by colleagues and clients for extraordinary legal skills, professionalism and outstanding leadership. Julian was also a leader in the Tacoma community fighting to end childhood hunger and malnutrition through his work with Lawyers Helping Hungry Children (LHHC). LHHC posthumously named the founder's award the Julian Bray Hunger Warrior Award in Julian's honor. In 2019, Julian received the Tacoma-Pierce County Bar Association's Distinguished Service Award for his many years of dedication and service in changing lives for the better in the community.

Julian's passion for protecting children and the vulnerable was deep and authentic. Julian co-led the AGO's Vulnerable Adult taskforce. He also helped train and mentor attorneys handling juvenile litigation in a skilled and compassionate manner. Julian's child welfare work was filled with many accomplishments including being a significant factor in the success of Family Recovery Court in Pierce County, leading the AGO and the State in spearheading the development of the first Baby Court in Washington, and being instrumental in helping the local Child Advocacy Center obtain a Facility dog to sit and comfort children while they endure the tough forensic interview process. Julian's mirth and humor added lightness to the difficult work. He never sugar-coated the truth of a problem, but he also never despaired of finding a solution. Being in his company, you could not help but smile and have at least one really good laugh. Julian left us a lot to admire and emulate. Despite Julian's humility, he leaves a lasting legacy at the Attorney General's Office. He will be greatly missed.

Tacoma

Division Chief: Julian Bray, 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 (L&I); Licensing; Employment Security; Children, Youth and Families (DCYF); and Social and Health Services (DSHS). The division also contains a torts section defending a variety of state agencies in both state and federal courts and houses members of the Labor and Personnel and Complex Litigation Divisions. L&I cases include appeals of workers' compensation claims and occupational safety and health citations (DOSH). Licensing and Employment Security cases include appeals of administrative decisions and DCYF and DSHS cases involving child abuse and neglect, licensing of care providers and the protection of vulnerable adults. 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 2019, the division's DCYF section was involved in filing approximately 750 new dependency matters, 220 termination of parental rights actions, and 80 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 L&I Section resolved nearly half of the over 1,000 workers' compensation appeals they received in 2018, while attorneys in the section continued leadership roles in the statewide Superior Court trial program, the appellate program, and employment standards/prevaling wage program. One division attorney assisted in ongoing significant client advice relating to the updates to the rules addressing Executive-Administrative-Professional exemptions from the Minimum Wage Act. Another division attorney took on the role as a state-wide mediator for WISHA appeals. Division attorneys in the torts section include the primary risk management advisor for the state Department of Corrections and the chair of the Tacoma-

Pierce County Bar Association's judicial qualification committee. Division staff includes 2019 recipients of the AGO Steward of Justice award and William V. Tanner award, a member of the 2019 AGO Conference and one member of the statewide AGO Diversity Advisory Committee.

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 and 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 and Culture, the "MAC") 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 criminal cases, provides consumer protection investigation services and consumer protection education, provides state agencies with advice and representation on labor and personnel matters and defends lawsuits filed against the state.

Legal Highlights: In 2019, the Spokane Division filed 510 dependency petitions, and 319 termination petitions in its 7 counties all to protect children from abuse or neglect and freeing them to move into permanent homes. It also filed 72 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 36 administrative appeals and fair hearing appeals; 17 appeals to the various State appellate courts, and 25 developmental disability, mental health and program challenges. The division opened another 503 matters not detailed above, many of those being civil commitment hearings for Eastern State Hospital. This is a total of 1,482 matters handled in the Social and Health Services Section.

During this same time period, the paralegals in the Labor and Industries Section (LNI), who mediate claims before the Board of Industrial Insurance Appeals, received 829 new cases for mediation, and the Labor and Industries Section attorneys received 287 new cases for litigation.

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 126 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. The division began in the mid-1970s. Attorneys in these offices represent multiple agencies and attorneys and professional staff are adept in a wide variety of practice areas. The division's clients include the Departments of Children, Youth and Families; Labor and Industries; Social and Health Services; Employment Security and Department of Licensing, as well as 17 state educational institutions.

Legal Highlights: Along with a significant amount of client advice, division attorneys and professional staff handled a great number of litigation matters both in court and in administrative settings. In Fiscal Year 2019, more than 890 children who had been in the care of the state were returned to parents who remedied their deficiencies and had their cases dismissed and more than 583 children were freed for adoption through the juvenile courts. In that same period, the attorneys and professional staff of the division resolved the industrial insurance appeals of more than 1,000 workers. This was a typical year of the division's work affecting the citizens in our communities.



AAGs Regional Services Division: Tim Davis, Will Kostas, Dale Becker, Dale Lehrman, Dave Coe, Michael Rothman, Tomas Caballero, Jody Campbell, Jennifer Mankowski Dixon, Arlene Anderson, Ed Sullivan, Bethany Kirk, Cindy Gideon, Bryan Ovens, Scott Majors, Teresa Otsubo, Cathy Dodd, Anne Ryan, Emily Prestbo, Lisa LaGuardia, Rachel King, Kate Schiewetz, Sarah Woodward-Pratt, Sarah Reyes, Jasmine Alonso, Lauren Danskine, Amanda Beard, Michael Shinn, Kim Loran, Gigi Tsai, Sarah Flory, Karen Dinan, Ariel Speser, Kerena Higgins, Sara King.

KEEPING COMMUNITIES SAFE



Governor Inslee signs the AG-request SVP Unconditional Release Statutory Fix bill into law.

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 also provides investigative expertise and assistance to law enforcement agencies through the Homicide Investigation and Tracking System Unit and provides legal representation to the Washington State Patrol and the Criminal Justice Training Commission.

Legal Highlights: The division handled a wide range of criminal cases across the state, resolving 46 cases, obtaining 23 new convictions and favorable appellate rulings and opening 30 new criminal referrals. The Sexually Violent Predator Unit obtained the civil commitment of 3 new high-profile sex offenders, opened 19 new referrals, filed 6 new cases, conducted 40 annual review hearings of previously committed sexually violent offenders and handled 79 active appeals.

Corrections

Division Chief: Tim Lang, Senior AAG

Overview: The Corrections Division advises and represents the Department of Corrections (DOC), the Indeterminate Sentence Review Board, 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: The division litigated hundreds of matters in 2018 (approx. 375 new cases opened and 350 cases closed). Highlights included three decisions from the Washington Supreme Court on sentencing-related issues: affirming DOC's ability to maintain community custody conditions for sex offenders (Petterson), determining the state's standard of proof in Drug Offender Sentencing Alternative (DOSA) revocation hearings (Schley) and confirming the state's release date calculation for consecutive sentences (Gronquist). The division represented the state in two federal habeas evidentiary hearings in cases involving murder on a fishing boat (Rieman) and a federal jury trial of civil rights claims alleging deliberate indifference to a prisoner's medical needs (Choquette). The Corrections Division defended the state's position in a U.S. Supreme Court certiorari petition on a case addressing whether prisoners have First Amendment right to use abusive language in grievances (Richey). The division defended DOC in a federal ADA lawsuit challenging DOC's placement of mentally ill individuals at the Washington State Penitentiary. The division successfully argued for the dismissal of Public Records Act lawsuits brought by an inmate against the Washington Legislature (Matthews).

SOLICITOR GENERAL'S OFFICE

Solicitor General: Noah Purcell

Overview: The Solicitor General's Division oversees the state's participation in appellate cases before the U.S. and 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 Secretary of State, Lieutenant Governor, Administrative Office of the Courts, and Office of Public Defense.

Legal Highlights: In 2019, the division worked with other divisions across the office to help the state secure important victories in many cases before the Washington Supreme Court, including prevailing again in the Arlene's Flowers case to prohibit discrimination against LGBTQ individuals. The division also worked on many important cases against the federal government, from defending the DACA program to protecting workers at Hanford to blocking politicization of the Census. Over the course of the year, the division also drafted 123 ballot titles, coordinated roughly 125 moot courts, and issued 7 formal and 3 informal Attorney General Opinions.

Representative Opinions:

The Attorney General's Office issued seven formal Attorney General Opinions in 2019. Some of these opinions addressed legal questions involving:

- Authority of registered nurse practitioners to perform certain abortion services;
- Constitutionality of legislation to require Presidential candidates to disclose tax returns;
- Disclosure of lists of names of property owners for a commercial purpose where the records are in the form of a database;
- Who may exercise the authority of the Governor when both the Governor and the Lieutenant Governor leave the state; and

- Eligibility of county commissioners or council members for appointment to fill legislative vacancies.

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 94 amicus briefs, 31 of which Washington drafted. The following briefs are a few highlights of briefs written by Washington from 2019:

Sampson v. Knight, Wash. Supreme Court No. 96264-2
Our office filed two amicus briefs in this case. The brief on behalf of the AGO argued that the Minimum Wage Act required employers to pay an hourly wage to workers who are paid a "piece rate" (in this case truck drivers paid by trip or by mile) for non-"piece rate" work (in this case non-driving work such as inspections, fueling, or washing trucks). The brief on behalf of the Department of Labor & Industries explained L&I regulations and identified that precedent regarding whether an hourly wage must be paid for non-piece-rate work was in tension, so the Court should clarify that issue. [L&I brief authored by AAG James Mills; AGO brief authored by Julian Beattie].

City of Seattle v. American Hotel & Lodging Ass'n, et al., Wash. Supreme Court No. 96781-4
Amicus brief filed on behalf of the State of Washington, arguing that a Seattle ordinance addressing health, safety, and labor standards did not violate the constitutional rule that an ordinance (or statute) may not address more than a single subject in one bill. [Authored by DSGs Jeff Even and Peter Gonick].

Grace v. Barr, D.C. Cir., No. 19-5013
Supporting a challenge to a United States Attorney General opinion and memorandum effectively barring immigrant victims of domestic violence or gang-related violence from applying for asylum.

Brackeen v. Zinke, 5th Cir., No. 18-11479
Defending the constitutionality of the Indian Child Welfare Act and its implementing regulations.

ADMINISTRATIVE DIVISIONS



AGO Public Records & Constituent Services Division: Kathy Bodnar, Andrea Baker, Emily Kok, LaDona Jensen, Kristin Young, Jessica Schenck.

Public Records & Constituent Services

Director: LaDona Jensen

Overview: The Public Records and Constituent Services Unit handles four essential programs for the AGO. Three full-time Public Records Officers process and respond to hundreds of complex requests on behalf of the office. Our Constituent Correspondence Liaison reviews, distributes and responds to thousands of emails and letters on behalf of AG Ferguson. Our Garnishment Liaison receives and processes hundreds of state employee garnishments per statute while guiding state agency payroll staff through wage withholding procedures. Our 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 is leading the Office's work on the legislatively mandated public records data-reporting project.

Policy

Policy Director: Sahar Fathi

Overview: The Policy Team supports the development and implementation of the Attorney General's policy priorities and initiatives. The policy work of the AGO is accomplished through the collection of data, analysis and evaluation of

potential and existing policy, and sharing information. The Policy Team works across divisions in the AGO, with counterparts in other states and government agencies, and with other organizations working on the Attorney General's policy priorities. Policy initiatives and projects in 2019 included such issues as veterans and military legal assistance, the opioid epidemic, data breaches, and worker protection. In addition, the Policy Team expanded its portfolio through a number of new legislative initiatives that included hate crimes, immigrant and refugee issues, use of force data collection, and youth safety and well-being.

Facilities & Safety

Facilities and Records Director: Karen Cowan

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

The Safety Office directs the safety and security of agency staff and facilities and manages the agency's safety program. They develop and manage agency, division and building safety plans and documents; coordinate with building safety committees regarding training, drills and best practices; represent the agency on interagency committees and workgroups; oversee agency safety programs like threats and security, radios and communications 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 states' resources.

Financial Services

Chief Financial Officer: Mark Melroy

Overview: The Financial Services Division (FIS) provides accountability for the office's financial and budgetary accounting practices. The division ensures the integrity and transmission of financial data are complete, accurate and timely for state and federal compliance. FIS is responsible for agency budget development and monitoring, accounting, payroll, contracts, grants, and purchasing functions. FIS contains three main units: Accounting, Contracts and Grants and Budget.

The Accounting Services Unit is responsible for accounting, purchasing, payroll, and legal services billing functions. The Contracts and Grants Unit is responsible for the centralized management and oversight of all AGO procurements, contracts, and grants. The Budget Unit is responsible for all agency budget functions, expenditure monitoring and budget projections.

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 recruiting, developing and retaining a well-qualified and highly competent 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 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.

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.

General Services

General Services Director: Karen Cowan

Overview: The General Services Division supports the Olympia, Seattle and Tumwater office staff by providing facility and office support, including copying, scanning, digital file conversion, audio/video conversion and editing, booklet making and binding and preparation of trial exhibits; reception and centralized mail services; law library maintenance and upkeep; vehicle and conference room scheduling and maintenance; and security access system oversight and maintenance.

Legislative Affairs

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.



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