



Office of the
Attorney General

Budget Narrative

To the Joint Standing Finance
Committee of the WV Senate
and House of Delegates

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Mission of the Office of the Attorney General

The overarching mission of the Office of the Attorney General, as set forth in the West Virginia Constitution and the West Virginia Code, is to serve as the chief legal officer for the State of West Virginia. The Attorney General speaks for the legal interests of the State.

Pursuant to the Attorney General's broad mission, the Office is responsible for providing skilled legal counsel and representation to the State, its officers, agencies, and boards on a wide range of legal matters. More specifically, the Office of the Attorney General is responsible for prosecuting and defending legal actions on behalf of the State and for ensuring that the rights of the State and its citizens are protected in matters before the circuit courts of this State, the West Virginia Supreme Court of Appeals, and all federal courts. The Attorney General takes action to uphold the terms of the Tobacco Master Settlement Agreement to prevent a reduction in tobacco settlement payments to the State. The Attorney General is also entrusted with enforcing the laws of the State as they relate to consumer protection, unfair trade practices, civil rights, and other significant areas. The Attorney General represents the State in wrongful incarceration claims before the Legislative Claims Commission and represents the West Virginia Crime Victims Compensation Fund to ensure proper payment from the fund. Additionally, the Office of the Attorney General may appoint outside attorneys to serve as special assistant attorneys general on certain legal matters.

The Office of the Attorney General also plays a critical role with regard to state criminal law. In addition to providing advice and consultation to county prosecuting attorneys, the Office of the Attorney General has the exclusive responsibility for representing the State in all state criminal appeals and all habeas corpus proceedings filed by prisoners within the State. Finally, the Attorney General is charged with defending the U.S. and West Virginia Constitutions; this includes filing independent actions against the federal government and other entities as needed.

Structure of the Office of the Attorney General

The Office of the Attorney General, as currently structured, has three major divisions—the Administrative Division, Appellate Division, and Client Services Division. The Office currently is comprised of approximately 180 employees, of which 78 are attorneys.

ADMINISTRATIVE DIVISION

The Administrative Division is responsible for the day-to-day operations of the Office. Functions of the Administrative Division include, but are not limited to: providing the infrastructure and support necessary for rendering legal services to the State, its officers, agencies and boards; managing and directing all constituent services and requests made to the Office; implementing policies and procedures for the Office; and handling all personnel matters.

APPELLATE DIVISION

The Appellate Division represents the State and its citizens in matters before the West Virginia Supreme Court of Appeals and in the various federal courts. This Division provides critical legal defense for the State in habeas corpus proceedings filed by prisoners in West Virginia and also handles State appellate responses required under the West Virginia Supreme Court of Appeals' Rules of Appellate Procedure. This division also reviews federal regulations and actions to determine where legal action by the Office is appropriate, and provides written opinions from the Office of the Attorney General upon request.

CLIENT SERVICES DIVISION

The Client Services Division provides the bulk of the legal representation for the State, its officers, various agencies and boards, and the citizens of West Virginia. Housed within this overarching division are more specialized branches relating to Civil Rights, Consumer Protection, Anti-Trust, Health and Human Resources, Medicaid Fraud Control, and the Revenue agencies, among others. The attorneys and staff in this division provide essential legal services to the State on a daily basis. Responsibilities of the Client Services Division include enforcing state consumer protection laws; responding to the thousands of consumer complaints received every year; enforcing the West Virginia Human Rights Act, the West Virginia Fair Housing Act and the Pregnant Workers' Fairness Act; and providing legal counsel and representation for the State's numerous professional and occupational licensing boards and commissions. The Division also represents some state agencies with regard to claims brought in the Legislative Claims Commission including, but not limited to, claims for additional compensation based upon allegations of increased costs incurred under contracts with the state agencies.

The Medicaid Fraud Control Unit had a seamless transition into the Office of the Attorney General. The Unit has hired four experienced investigators, a chief auditor, a seasoned litigation attorney, a data analyst, and a data clerk. The Unit has referred fourteen matters to county prosecutors for criminal charges and settled six civil matters for a total return of \$14,887,447.63 to the Medicaid programs since the October 2019 transition. The Unit's growth and synergies with the strengths of the Office have allowed the Unit's case load to grow to 215 cases. The Attorney General's push into data analytics has resulted in over 100 outliers that merit further investigation. As part of a federal grant every 25 cents the State allocates is matched with 75 cents by the federal government.

The Office of the Attorney General

The Office of the Attorney General is committed to enforcing and protecting the rights afforded West Virginians under both the United States and West Virginia Constitutions. To that end, the Office strives to provide West Virginians with the best legal representation in the most efficient manner possible. The Office of the Attorney General made great strides towards this objective in 2020, and achieved many notable accomplishments for the State.

Notable successes for the State include, but are not limited to, the following:

SAVING STATE MONEY THROUGH REFORMS

The Office of the Attorney General's comprehensive Outside Counsel Policy ("Policy") continues to enhance transparency and public confidence in the appointment process of private sector attorneys to represent the State. Requiring competitive bidding, the Policy marked a departure in the manner in which these attorneys were previously selected to represent the State. The Policy increased transparency and helped to restore public confidence in the appointment process.

In 2016, the West Virginia Legislature codified the existing policy, including limits on contingency fee arrangements. See W.Va. Code § 5-3-3a. Prior to any use of outside counsel, the Office of the Attorney General conducts an analysis to determine whether such an appointment will be cost-effective and in the public interest. Such determinations are posted to the Attorney General's website (<http://www.ago.wv.gov/outsidecounsel/Pages/RFP.aspx>), along with the corresponding requests for proposals for legal services. Once outside counsel has been selected, the Office publishes another written determination explaining the specific reasons for the selection.

Since implementing the Policy, the Office of the Attorney General has issued 95 requests for proposals to seek outside counsel to provide competitively priced legal services to a wide variety of agencies including, but not limited to, the Division of Tourism, West Virginia Public Broadcasting, the Tax Department, the Secretary of State, and the Department of Health and Human Resources. The policy has saved at least \$37.574 million.

The Cooperative Disability Investigations ("CDI") Unit, a partnership with the Social Security Administration, investigates suspicious or questionable disability claims. It investigates beneficiaries, claimants and any third party who facilitates fraud.

The Unit's findings help disability examiners make informed decisions and ensure payment accuracy, while also equipping state and federal prosecutors with the facts needed to secure a conviction. This, in turn, generates significant savings for taxpayers.

CDI Units help resolve questions of potential fraud, in many instances, before benefits are ever paid. The Office joined the program in December 2015 and has achieved approximately \$25 million in total savings through the end of calendar year 2020.

PROTECTING WEST VIRGINIA'S CONSUMERS

The Consumer Protection and Antitrust Division is central to the Office of the Attorney General's mission to protect the public from unfair or deceptive acts or practices. In furtherance of these missions, the Office vigorously enforces and advocates for the State's consumer laws through a base of attorneys, investigators, and staff, including eight consumer representatives/compliance specialists who promote consumer awareness and outreach throughout the state.

The Division aggressively combats scams against consumers through proactive public awareness and devotion of resources to monitor and identify emerging and reoccurring schemes. The Division also reviews and updates multiple informational brochures that are distributed to consumers.

Over the course of the past year, the Office has taken on many notable investigations and obtained several important lawsuit settlements on behalf of West Virginia consumers. This year settlements were reached regarding defective airbags installed in in Honda and Acura vehicles, emissions test issues with Robert Bosch companies, and claims of misrepresentation against Johnson & Johnson and Ethicon for surgical mesh and hip implant products.

After reviewing the Pennsylvania Grand Jury Report in August 2018, which reported on sexual abuse against children in the Catholic Church in the Commonwealth of Pennsylvania, the Attorney General commenced an investigation in West Virginia to see if similar allegations of abuse had been levied against priests of the Catholic Church in West Virginia. Ultimately, as a result of the Attorney General's work, the Diocese produced a list of 40 priests who were credibly accused of sexual abuse—this information may never have been produced if not for the Attorney General's investigation.

In antitrust litigation, the Attorney General and the State Secretary of Transportation and Commissioner of Highways filed suit in 2017 against various paving and materials companies. The suit alleged that the defendants illegally divided sections of West Virginia among themselves for the sale of asphalt and asphalt paving services to the State, and that this market allocation caused the prices paid for asphalt and asphalt paving services to be more than they would have been in a competitive market. A settlement of \$101,350,000 was reached with all defendants, which included cash payments to the State and municipalities, paving credits of \$71,000,000 to the Division of Highways, and restructuring of companies and joint ventures to ensure competition in the industry. After fees and expenses, the State netted \$86,751,104 while the municipalities recovered \$2,825,651.99. This represents the largest anti-trust settlement in State history.

The Office may participate with other state Attorneys General in multistate litigation and settlements, where two or more states participate in investigations and litigation of actions by businesses that impact consumers across state lines. In the past year, the Office has participated in several multistate cases, such as the lawsuit against Community Health Systems for a medical record data breach suit and Santander Consumer USA, a subprime lender that placed consumers into unnecessarily risky loans with high probabilities of default.

In reporting year 2020, the Division had a total of 56 consumer protection lawsuits pending; there were nine cases that were resolved, fifteen new cases filed, and ten new assurances or settlement agreements that were reached outside the litigation process. There were eight antitrust matters pending during the year, and three new assurances or settlement agreements reached. The average processing time for a consumer complaint was 37 days.

The Division also has been diligent in educating consumers so that they may be better protected against scams, schemes, and attempted identity theft. During this reporting year, our Division received over 13,900 telephone calls to our consumer hotline and more than 5,290 written complaints from consumers. The end results, whether they be more knowledgeable consumers, settlements for consumers, in-depth and exclusive investigative findings, or lengthy litigation, would not be possible without the hard work and dedication of our Consumer Protection Division employees.

In 2020, Americans received about 20.6 billion scam robocalls. These scam calls are an annoyance but also can be dangerous when the caller is attempting to steal money and personal identifiable information. In prior years, the Attorney General initiated discussions with telephone companies, consumers, the federal government and experts to address the problem of robocalls. West Virginia later joined attorneys general from every state and twelve telephone companies in an agreement to attack the root causes of robocalls. West Virginia also joined a bipartisan coalition of attorneys general that urged the Federal Communications Commission to push phone companies to implement these principles. Our office also pressed Congress to pass legislation which would require telephone companies to do more to block unwanted calls and create a framework to hold telemarketers and robocallers accountable. In addition, our Office collaborated with the Federal Trade Commission to raise public awareness of the dangers of robocalls and continues to educate consumers through our Scam Protection and Awareness outreach.

The Division also updated internal procedures to better categorize and track consumer complaints of robocalls. These changes have increased office efficiency and enhanced our ability to notice trends in robocalls. This allows the Division to get out in front of the latest scams and warn consumers through alerts. The Division continues to educate consumers through our Scam Protection and Awareness outreach.

West Virginia is a state with a significant older population, and national research estimates ten percent of persons age 60 and older have experienced some form of abuse or exploitation. To address this significant issue, in 2018 the Attorney General established an Elder Abuse Education and Prevention Unit to focus on increasing awareness and recognition among the general public of elder abuse, whether physical, psychological or financial, and increasing the access to help for those being abused. The Unit also collaborates with senior services, law enforcement and families.

Assistant attorneys general assigned to consumer protection and assigned to represent state agencies work with office clients and county prosecutors to refer matters as appropriate. The Unit has two parts: education and prevention.

The education component starts with the consumer representatives who give presentations on senior abuse and provide information at local events and community centers. The Division has developed handouts that describe red flags of abuse, including risks and how to be better protected. The prevention component collaborates with state agencies such as the Bureau of Senior Services, financial institutions, community groups, local senior citizen organizations and other entities across West Virginia. The civil prosecution component includes enforcement of consumer protection laws affecting seniors, such as debt collection activities, deceptive business practices and preneed funeral contracts. The Unit's attorneys assigned to the State's Adult Protective Services ensure petitions for guardianship, conservatorship and attachment are filed by a trusted individual who oversees the senior's financial and non-financial affairs, as well as prepare for emergency medical care. The attorneys also represent various regulatory agencies, such as the Office of Health Facility Licensure and Certification and professional licensing boards that revoke licensure for facilities or individuals who are alleged to have abused or neglected seniors in health care facilities or those who receive in-home care.

The Office opened a Senior Protection Hotline number (304-558-1155). During this reporting period, there have been 698 calls to the Hotline, with the number of calls unfortunately increasing each year; we have received 1,756 calls since the inception of the Hotline in March 2018. There is also an email address (HelpForSeniors@wvago.gov) to answer questions and make referrals. Calls and emails are handled by designated attorneys within the Unit who can refer the call to other appropriate agencies or for the filing of a consumer complaint. A "Senior Protection" page is accessible on the Consumer Protection tab of the office website. In an effort to increase awareness of ongoing scams to which our older citizens are often targets, the Office has a Scam Watch—a scam alert database to monitor the types of scams that are trending in the State. The Office routinely sends email notices regarding current scams, as determined by the calls received in our office and monitored by our Scam Coordinator. Consumers may sign up to receive these reports at the office website at <http://bit.ly/SeniorScamAlert>. The website also includes descriptions of common scams and "dos and don'ts" for responding to scammers.

FIGHTING WEST VIRGINIA'S OPIOID EPIDEMIC

Our state's opioid epidemic remained a top priority in 2020.

The Office has filed and settled multiple lawsuits with drug wholesalers totaling more than \$84 million, including \$73 million from Cardinal Health, Amerisource Bergen and McKesson. The Office also has filed lawsuits against three pharmacies, settling one for over \$500,000, and has multiple cases against entities in the pharmaceutical supply chain. In 2019, the Office filed suits against Endo Health Solutions Inc., Endo Pharmaceuticals Inc., Par Pharmaceutical, Inc., Janssen Pharmaceuticals, Inc., Johnson & Johnson, Mallinckrodt, LLC, Spec GX, LLC, Purdue Pharma, LP, Purdue Pharma, Inc., Richard Sackler, M.D., Teva Pharmaceuticals USA, Inc. and Cephalon, Inc. alleging the defendants engaged in strategic campaigns that mischaracterized and

failed to disclose the serious risk of addictions, through false and deceptive safety, efficacy and comparative claims, and helped fuel the substance abuse epidemic in West Virginia. During 2020, the Office filed suits against four national pharmacies: CVS, Rite-Aid, Walgreen and Walmart, alleging disbursement claims and failure to halt or report suspicious opioid prescription orders.

The Opioid Prevention in Sports Initiative, started in 2016, encourages the use of other forms of pain management and treatment instead of opioids for athletic injuries. Office representatives attend high school football games, each identified as a “Opioid Abuse Awareness Game of the Week,” to work with coaches, administrators, and officials to help bring awareness to the public about the problem of high school students being exposed to prescription opioids through athletics and the availability of alternative treatments. Representatives from the Office of the Attorney General attended more than 209 games since the inception of this initiative. The Office plans to re-initiate the program next year.

The “Kids Kick Opioids” contest was created to spur creativity and raise awareness of prescription painkiller abuse. For the 4th Annual Youth Opioid Awareness Public Service Announcement Contest, there were 3,366 entries received from 3,521 students at ninety-one middle and elementary schools. The First Place Winner was Taylor Wright of Lashmeet Matoaka Elementary School, Mercer County, and there were two Runners-Up: Dakota Niebergau of Rivesville Elementary/Middle School, Marion County, and Mia Pietranon of St. Paul Catholic School, Hancock County.

Although the April 2020 event was cancelled, in October of 2020, the Office continued to coordinate with the Department of Military Affairs and Public Safety and the Division of Protective Services at the State Capitol to host two-day take back locations for the National Prescription Drug Take Back Days. The Office expanded its participation by staffing additional disposal sites throughout West Virginia. For the October Take Back, our office assisted law enforcement in staffing four additional disposal sites across the state: Teays Valley, Morgantown, Charles Town, and Brooke County. Statewide total for West Virginia was 5,865 pounds. Since West Virginia began participating in the Take Back event, 97,301 pounds of prescription drugs have been collected.

In addition, the Attorney General’s Public Health Trust previously awarded prescription drug incinerators to five law enforcement offices. The unit awarded to the Parkersburg Police Department was re-assigned in June 2020 to the Metropolitan Drug Enforcement Network Team (“MDENT”) located in Charleston. These incinerators are used to destroy unwanted/expired pills and are shared among law enforcement agencies, including the West Virginia State Police, Metro Drug Enforcement Network Task Force, US RT 119 Task Force, Federal Bureau of Prisons, Monongalia County Sheriff’s Department and Police Departments in Madison, Danville, Milton, South Charleston, Kenova, and Barboursville. In excess of 1,372 pounds of prescription drugs were reported destroyed using these incinerators in 2020.

The Office also has won legal challenges that led to changes in federal drug policy that will help limit the amount of drugs in the State that are diverted from legitimate medical uses to illicit purposes. In December 2017, the Office filed a lawsuit in the U.S. Court of Appeals for the

District of Columbia Circuit challenging federal Drug Enforcement Administration (“DEA”) policies regarding annual quotas for opioid production and manufacturing. In 2018, following this lawsuit, the DEA issued its final rule that incorporated many of the issues raised by our office, including better accounting of diversion and seeking greater input from states and federal agencies. This rule will ultimately lead to large reductions in the number of commonly misused opioids manufactured. The 2020 quotas were the first time the DEA used the new rule to formulate their quotas. The new rule resulted in a 20% decrease in hydrocodone and a 15% decrease in oxycodone among the changes in opioids allowed to be manufactured. In 2021, the DEA proposed to further reduce hydrocodone by 9% and oxycodone by 13%. We will continue to submit comments to the DEA in response to their quotas and work with them to ensure that the disastrous system of the past never comes back.

FIGHTING REGULATORY OVERREACH

Combating abusive federal overreach is a top priority of the Office of the Attorney General. In a recent letter to President Biden, the Office outlined the principles of constitutional federalism that will continue to guide our work in representing the State in national, high-stakes legal matters: limiting Congressional and executive power; reining in the administrative state; and protecting individual liberties. The Office has always worked diligently to ensure that West Virginia’s voice is heard on these topics, ranging from Second Amendment protections to public health and safety issues.

For example, the Office led an 18-state coalition before the United States Supreme Court to stay an order from a single federal judge blocking pipeline construction projects all across the country. A federal district court judge in Montana was faced with a permitting question relating to a single pipeline, and took that opportunity to halt construction of all projects that used the same permitting process—none of which were at issue in the case before the judge. The Office’s coalition asked the Supreme Court to stay this order, emphasizing that the district court order would have immediately disrupted the economy at an already precarious time as the projects—and the energy resources they provide—are critical to each state.

West Virginia also takes a leading role in the fight against federal overreach by the United States Environmental Protection Agency (“EPA”)—whose actions threaten to cripple our State’s energy economy.

The Office of the Attorney General won a major victory for a bipartisan group of 27 States in challenging EPA’s rule targeting existing coal-fired power plants—what the EPA calls the “Clean Power Plan.” The suit was filed in October 2015, the same day that the Obama Administration published the rule, and in February 2016, this Office won an unprecedented stay of the rule from the United States Supreme Court. Among other things, the lawsuit argued that the EPA is unlawfully attempting to act as a central planning authority for the nation’s energy needs. In September 2016, the Office participated in oral argument on the merits of the challenge before the full U.S. Court of Appeals for the D.C. Circuit. While the decision in that case was pending, the Office worked closely with President Trump to ensure a proper repeal of the unlawful rule. Specifically, the Office led a coalition of states in filing a series of public comments—several

that were filed in 2019—that helped EPA strengthen the legal justifications for repealing the existing rule and replacing it with the Affordable Clean Energy (“ACE”) rule that the Administration finalized in July 2019. These comments were designed to help EPA consider the full range of issues implicated in its decision to adopt a different rule, to ensure that the new regulations respect the rule of law and sufficiently account for the rule’s economic consequences for all stakeholders within the State.

Building on that momentum, the Office leveraged its experience creating coalitions to assemble and lead a similar group of states, state officers, and state agencies to intervene in defense of the ACE rule. The Office filed briefs and participated in over nine hours of oral arguments in the U.S. Court of Appeals for the D.C. Circuit in this case, emphasizing that the ACE rule is legally defensible, protective of states’ rights to regulate their energy sector, and vital to the economy of states like West Virginia. Although a 2-1 majority of the D.C. Circuit ruled against our position on January 19th, we are carefully reviewing our options to get our case before the United States Supreme Court.

This Office also lent support to other Trump Administration regulatory reforms. In November, the Office led a group of 10 states in highlighting the improvements made to a proposed EPA rule regulating greenhouse gas emissions from newly constructed facilities that process, transmit, and store oil and natural gas. The Office had previously led a group of states in challenging an Obama-era rule that would have subjected all such facilities to costly EPA regulations beyond the scope of the agency’s statutory authority. Here too, the litigation was paused while the Trump Administration considered reforms to correct the legal flaws. Last fall, the Administration announced a new rule that adopted much of what we sought through litigation, eliminated redundant elements of the Obama-era proposal and scaled the rule back to fit the limits set forth in federal law. Our comments once again gave a roadmap for finalizing the Rule and restoring the appropriate balance to the regulatory landscape.

Major victories have been achieved in other areas, including the Office’s leading role over the past year combating efforts to expand federal regulation of state waters and sometimes-wet state lands, and to protect the property interests of West Virginians.

Together with the Georgia Attorney General’s Office, we led a bipartisan group of nine states in a lawsuit challenging the EPA and Army Corps of Engineers’ unlawful rule known as the “Waters of the United States” (“WOTUS”) Rule. In July 2015, the Office succeeded in obtaining from the U.S. Court of Appeals for the Sixth Circuit a nationwide stay of the rule, which seeks to expand federal authority over small streams and sometimes-wet lands. The court held the main litigation in abeyance after newly-elected President Trump explained that he was going to revisit the rule. In June 2018, the Office persuaded the district court to grant a new preliminary injunction protecting West Virginia and the other states in our coalition, and in 2019 secured a full win on summary judgment.

Further, the Office simultaneously assisted the Trump Administration in rescinding the rule and explained that the Administration should adopt a new rule that respects the State’s authority over local water and land features. The Office has filed a series of comments on behalf of a

coalition of more than 20 states in support of the Administration’s rules rescinding the existing WOTUS rule and replacing it with a rule that is both consistent with federal statute and respectful of states’ roles as environmental regulators. Again in partnership with the Georgia Attorney General, the Office is leading a coalition of 23 states defending the replacement rule against an opposing multistate coalition, and recently secured a win when the United States District Court denied a motion to enjoin the new rule.

On another matter, the Office helped secure U.S. Supreme Court review in a case critical to the energy economies of West Virginia and the nation overall. In December of 2018, the U.S. Court of Appeals for the Fourth Circuit halted construction of the Atlantic Coast Pipeline, which would have transported natural gas through Harrison, Lewis, Upshur, Randolph and Pocahontas counties en route to Virginia and North Carolina. The court did so because a 0.1-mile stretch of the pipeline passed under land that is owned by the United States Forest Service and that is also crossed by the Appalachian National Scenic Trail. Because the trail—but not the land itself—is administered by the National Parks Service, the court concluded that the trail crossing was “land in the park system” and therefore off-limits for any pipeline purposes. By cutting off jobs and tax revenue, this strained interpretation of federal law would have kept hundreds of millions of dollars out of West Virginia. And if applied nationwide, the decision would have erected more than 11,000 miles of barriers to energy transmission. Our Office led multistate coalitions in filing briefs both urging the Supreme Court to take the case and arguing for the decision to be overturned, and ultimately prevailed in a 7-2 vote. The Court went so far as to adopt a new doctrine—advanced in our briefs—that Courts must presume federal laws do not abrogate the sovereign rights of states without a “clear statement” from Congress.

Similar efforts have continued to push back against federal overreach in non-environmental matters, as well.

Through these and other actions, the Office of the Attorney General is working to protect the rights of West Virginians and ensure that our State’s voice is loudly heard in federal matters that impact our way of life.

BRINGING THE OFFICE INTO THE 21ST CENTURY

Continued implementation of upgrades has helped internal systems operate more efficiently and effectively. The Office has used monies previously appropriated and approved by the Legislature to take several important steps towards upgrading its hardware and infrastructure.

The Office successfully transitioned from an outdated Novell platform and GroupWise email system to a Microsoft Windows domain and Microsoft Exchange/Outlook email system, allowing for improved efficiency for attorneys and staff, as well as greater compatibility with most other email programs used by many of our state agency clients. The Office has transitioned to a more modern solution for working remotely. The website has been entirely redesigned to better align with other state agency websites and to promote better usability and ease of access. This redesign has also made it possible for individuals to submit electronic consumer complaints.

Core network and server hardware infrastructure has been replaced; this includes a transfer to state data center facilities as well as an alternate off-site disaster recovery facility—a move that allows for increased business continuity. A replacement schedule has been implemented for the technology inventory. Additionally, the Office has completed the installation of its new voice over internet protocol (VoIP) phone system, which provides much-needed voicemail capabilities for the Consumer Protection Division.

Information and property have been more adequately secured through the installation of many new systems and practices. This includes the implementation of an electronic key card system for the Capitol Building offices and updated manual locks for all other locations. The Office's computer network was secured with robust firewalls and more strict access controls. Content filtering was added to ensure safe and appropriate browsing. A centrally managed and monitored antivirus and antimalware solution was deployed on all PCs and servers; this system provides immediate alerts in the event of a detection which allows further investigation. Furthermore, all laptops and desktops have been encrypted.

Work has been completed on a document automation system for standard correspondence and litigation documents to improve the consistency of the legal work. The Office successfully negotiated an upgrade to the Westlaw research services that will save the State thousands of dollars every month. Importantly, the Office now has all managed offices using document management systems, including the use of secure electronic document cabinets for each division.

PROTECTING THE FEDERAL CONSTITUTIONAL RIGHTS OF WEST VIRGINIANS

West Virginia has a strong history of defending citizens' Second Amendment rights, and the Office of the Attorney General has maintained its efforts to secure and expand those rights over the past year for the State's law-abiding gun owners.

The Office has continued its concerted effort to expand the recognition of West Virginia concealed handgun licenses by other states, including the provisional concealed handgun license for qualified non-prohibited persons who are at least 18 and less than 21 years of age. Negotiations are continuous, as at least each year the Office contacts all 50 states in writing to determine whether any changes in their laws may allow for even more reciprocal agreements.

Because West Virginians with a valid concealed handgun license may also legally carry in numerous additional states that either honor West Virginia licenses without a reciprocity agreement or do not require a license to carry concealed firearms, our state concealed handgun license holders now enjoy recognition privileges in more than three-quarters of the states – leaving only a few remaining states with which West Virginia does not yet have any concealed handgun reciprocity.

In addition, since the enactment of the provisional concealed handgun license statute, the Office has been able to secure official notification of recognition of concealed carry rights for West Virginians age 18 to 21 with a valid provisional concealed carry license in 20 states: Alabama,

Arkansas, Georgia, Idaho, Indiana, Kentucky, Michigan, Missouri, Montana, Nevada, New Hampshire, North Carolina, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Utah, Vermont and Wyoming.

In order to secure these rights, and to ensure continued recognition of concealed handgun licenses, the Office has reached out, both in writing and through telephonic contact, to provide a detailed explanation of the changes in West Virginia law to our recognizing states. This action yielded both new recognition of provisional licenses in the aforementioned states and continued recognition for West Virginia concealed handgun licenses in each of the other states.

The Office also maintains an up-to-date website providing comprehensive information to West Virginia residents as to the current firearms laws and which jurisdictions recognize their valid licenses. The website includes such information as a printable map of the reciprocal or recognizing states, the West Virginia Handbook on Laws Relating to Firearms, links to license application forms and the informational pamphlet “On the Mark: A Guide to Concealed Handgun Laws in West Virginia.”

Additionally, the Office regularly works with members of the Legislature, State Police, the West Virginia Sheriffs’ Association, the Bureau of Alcohol, Tobacco, Firearms and Explosives, and other federal agencies to ensure appropriate compliance with both federal and state laws.

In 2017, the Office began providing training for law enforcement and public service workers to identify and reduce human trafficking. The purpose of the training is to raise awareness of this expanding criminal industry. In the three years following, the Office expanded its training efforts to include health care workers and hospital staff at many major medical centers across the state, students at the state’s medical schools and schools of nursing, public school educators, all county prosecutor offices, and countless others who may have contact with the victims of these crimes. To date, the Office has provided training or public awareness presentations to over 7000 West Virginians.

**Budget Request for
Fiscal Year 2022**

In accordance with recommendations, the Office of the Attorney General prepared and submitted a 100% current-level funding budget request for FY2022. While the Office of the Attorney General will not be adversely impacted in FY2022 by the 100% current-level funding, a significant variance from this level will have a long-term detrimental impact on the agency.

CURRENT FINANCIAL POSITION

Expenditure	WVOASIS Approp	FY 2017 Base Budget	FY 2018 Base Budget	FY 2019 Base Budget	FY 2020 Base Budget	FY 2021 Base Budget	Agency Request
Personal Services	00100	\$2,859,112.00	\$2,281,145.00	\$2,537,784.00	\$2,818,788.00	\$2,818,788.00	\$2,818,788.00
Repairs and Alterations	06400	\$ 5,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00
Equipment	07000	\$ 33,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00	\$ 1,000.00
Unclassified	09900	\$ 24,478.00	\$ 24,428.00	\$ 24,428.00	\$ 24,428.00	\$ 24,428.00	\$ 24,428.00
Current Expenses	13000	\$ 100,458.00	\$ 752,408.00	\$ 762,097.00	\$ 762,097.00	\$ 762,097.00	\$ 762,097.00
Criminal Convictions and Habeas Corpus Appeals	26000	\$ 988,689.00	\$ 908,529.00	\$ 923,582.00	\$ 946,078.00	\$ 946,078.00	\$ 946,078.00
Better Government Bureau	74000	\$ 273,416.00	\$ 271,991.00	\$ 275,194.00	\$ 279,412.00	\$ 279,412.00	\$ 279,412.00
BRIM Premium	91300	\$ 105,000.00	\$ 112,761.00	\$ 120,654.00	\$ 120,654.00	\$ 120,654.00	\$ 120,654.00
Total		\$4,389,153.00	\$4,353,262.00	\$4,645,739.00	\$4,953,457.00	\$4,953,457.00	\$4,953,457.00

The Office of the Attorney General’s special revenue funding continues to supplement the general revenue funding. Nevertheless, the Office returned more than \$1.87 million from the Office’s Anti-trust account since FY14. Since January 2013, the Office has returned more than \$52 million while attempting to maintain an account balance sufficient to properly pursue its consumer protection mission.

Recent planning has positioned the Office to move forward in a stronger position, as improved technologies and operating systems contribute to more efficient workflows. The addition of administrative staff has created stronger internal controls over the State’s money. Moreover, the Office has taken extensive measures to ensure the payment of pre-existing settlement orders and the prompt payment of all new settlement orders. Through the implementation of new accounting procedures, the Office is now tracking individual consumer settlements to ensure appropriate restitution is paid.

The Office continues to work diligently to position itself under the 100% current level funding. However, the Office is mindful that further deviation below that funding level would greatly increase reliance on special revenue accounts—creating a stress on such accounts that may not be sustainable given the amount of money in the accounts that is typically encumbered by court order for specific purposes.

FUTURE FINANCIAL POSITION

The biggest financial issue facing the Office of the Attorney General remains the perennial uncertainty associated with special revenue accounts, and the Office’s required dependence on such funds.

The Office of the Attorney General must generate millions of dollars annually from its special revenue accounts in order to ensure the sufficient operation of the Consumer Protection Division. A failure to meet such special revenue requirements over a three-year period would quickly exhaust any reserves the Office now has—resulting in a forced dismantling of many of the

consumer protection services currently provided by the Office. By continuing to rely on this funding model, the State is significantly increasing its budgetary risk.

Recent planning has better positioned the Office to address the funding challenges detailed herein, while also allowing for the return of more than \$52 million to the General Revenue Fund. Sound financial management should continue to minimize the impact of future financial issues. However, significant depletion of special revenue accounts could expose the State to great risk as essential services become more difficult to fund.

Summary

In 2020, the Office of the West Virginia Attorney General continued to implement reforms that streamlined operations, increased transparency and saved West Virginia taxpayers money. The Office has worked hard to proactively seek improvements, partnerships and programs that will benefit the State of West Virginia for years to come.

As reflected in the foregoing, the Office of the Attorney General is striving to fulfill its Constitutional and statutory responsibilities. The proposed budget is intended to comply with the financial constraints of the State, as well as the needs of the Office.

I thank you for your thoughtful and deliberative consideration of this budget request and improvement package.

Respectfully Submitted,



PATRICK MORRISEY
Attorney General