

WASHINGTON STATE ATTORNEY GENERAL'S OFFICE



ANNUAL REPORT 2023



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BY THE NUMBERS

Civil Law Enforcement Recoveries* in 2023

Debt Relief & Consumer Credits	\$745,000
Direct Restitution Payments	\$40,511,018
Informal Complaint Resolution	\$26,065,613
Local Governments & Tribal Governments	\$186,150,000
State Agencies & General Fund	\$256,537,290
Revenue for AGO Investigations & Litigation	\$49,492,142

Total Recoveries ~ \$559.5 million

*Cases brought on behalf of the people rather than a client agency. For example, the Labor & Industries Division recovered more than \$500,000 in workers' stolen wages in partnership with the Department. These recoveries are also important, but are not included here.

Mission

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

Anti-Racist Commitment

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

Vision

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

Values

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

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



Attorney General Ferguson takes a selfie with members of the Wing Luke Civil Rights Division after announcing a resolution in the office's lawsuit against an eastern Washington mushroom farm. See page 10 for more information on the case.

Letter from AG Ferguson

Dear Washingtonians,

All of you benefitted in some way from the monumental work of our attorneys and professional staff in 2023. This year saw significant amounts of money returned to Washingtonians who need it most, and hundreds of millions of dollars more for the state, local and tribal governments to fight the opioid epidemic. We continued to strengthen our state's common sense gun laws during a historic legislative session. We fought to ensure access to reproductive health care while passing first-of-its-kind legislation to protect sensitive health data for all Washingtonians.

In December, we mailed checks to hundreds of thousands of Washington households as a result of our Antitrust Division's successful lawsuits against large chicken and tuna corporations that engaged in price-fixing. We provided \$40.6 million in restitution to approximately 402,200 low-income households across the state — the households that faced the greatest financial harm caused by the price-fixing schemes.

This year, we continued to add more funds for state and local governments to combat the opioid and fentanyl epidemic. Resolutions with five companies brought an additional \$430 million to the state in 2023. So far, we've garnered more than a billion dollars from opioid manufacturers, distributors and pharmacy chains to fight the epidemic they helped fuel.

This year's legislative session was historic both for the volume of successful bills our office requested and the significance of the bills themselves. Nine Attorney General Request bills became law in 2023, including such marquee policies as banning the sale of assault weapons and removing Washington's death penalty statute from state law — both seven years in the making. We also passed the My Health My Data Act, the most robust health data privacy bill in the nation. Legislation we requested also created a Missing and Murdered Indigenous Women and People Cold Case Unit within the Attorney General's Office. This unit builds on the work of our MMIWP Task Force and continues our national leadership on the MMIWP crisis.

Attacks on reproductive freedom continued in 2023, following the U.S. Supreme Court decision that overturned the constitutional right to abortion. While Washington has some of the strongest protections for reproductive freedom in the U.S., we must remain vigilant to ensure that right is not in danger. Mifepristone, one of the two drugs used in medication abortions, became a new front in that battle. After anti-abortion doctors and attorneys launched an effort in Texas federal court to challenge the federal Food & Drug Administration's decades-old approval of mifepristone, we launched our own case in federal court in Washington calling on the FDA to remove its strict rules around the drug. On the same day the Texas judge stayed the FDA's approval of mifepristone, a federal judge in Spokane issued an order barring the FDA from doing anything to reduce the availability of the drug.

In addition, we added resources for both Washingtonians and people from out of state to know their rights related to reproductive health care in Washington.

While these highlights show the monumental achievements the Attorney General's Office is capable of, they represent a fraction of the work our office's dedicated staff do every day for Washington.

Every day, the more than 800 attorneys and 1,000 professional staff at the Attorney General's Office improve public safety, protect children, protect workers, fight for civil rights, defend the environment, protect consumers and provide legal counsel to state agencies.

I am inspired by their dedication and integrity every day. It is a privilege to serve alongside this team of devoted public servants.



Bob Ferguson, Attorney General



Attorney General Ferguson speaks about the office's work to combat organized retail crime. See page 15 for more information on organized retail crime.



In the Headlines

Editorial coverage supportive of the office's work from newspapers around the state.

Promising signs of progress against the trauma of MMIP

- Yakima Herald-Republic Editorial Board – 11/17/2023

In Our View: State must continue to protect abortion rights

- The Columbian Editorial Board – 3/8/2023

A smart way for legislators to help save local news

- The Seattle Times Editorial Board – 1/17/2023

Meta lawsuit must bring changes to protect children

- The (Everett) Herald Editorial Board – 10/31/2023

Help all of WA aggressively disrupt the scourge of fentanyl

- The Seattle Times Editorial Board – 9/5/2023

In the Headlines: Editorials from newspapers around the state

AG Bob Ferguson takes careful aim in suing gun dealers

- The Seattle Times Editorial Board – 9/21/2023

State AG's lawsuit may protect medication abortion

- The (Everett) Herald Editorial Board – 3/2/2023

WA to Idaho, the fight for abortion rights has no borders

- The Seattle Times Editorial Board – 8/7/2023

In Our View: Defiance of gun laws call for accountability

- The Columbian Editorial Board – 9/27/2023

Ban at home rape kits in WA to help ensure justice for survivors

- The Seattle Times Editorial Board – 2/14/2023

Treat violent extremism as the disease it is

- The (Everett) Herald Editorial Board – 2/4/2023

States, schools take on Meta to protect children

- The Seattle Times Editorial Board – 11/6/2023

In Our View: Assault rifle ban step in right direction

- The Columbian Editorial Board – 4/24/2023



Aria Crate discusses the discrimination she experienced working for O'Reilly Auto Parts while she was pregnant.

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.



Wing Luke Civil Rights Division Chief Colleen Melody answers a reporter's question about the O'Reilly lawsuit.

Protecting farmworkers from discrimination

The Attorney General's Office announced in May that a Sunnyside mushroom farm will pay \$3.4 million for its unfair, deceptive and discriminatory actions against female farmworkers and Washington-based workers.

The office filed a lawsuit in 2022 after an investigation found that Ostrom Mushroom Farm discriminated against its workers for over a year based on their sex and immigration status. Ostrom fired its largely female and Washington-based workforce and replaced them with male foreign guest workers hired through the H-2A Temporary Agricultural Program, in violation of the Washington Law Against Discrimination.

Ostrom invented pretextual reasons to discipline, terminate and refuse employment to these workers. Ostrom also placed job advertisements that misrepresented work requirements and wages, in violation of the Washington Consumer Protection Act. When workers complained about the unlawful treatment, Ostrom retaliated against the employees who spoke up.

The office will use all of the \$3.4 million to pay farmworkers affected by the company's illegal conduct. In addition, Ostrom is prohibited from placing more stringent requirements on domestic workers than H2-A foreign workers, retaliating against employees who allege discrimination, or failing to hire, discriminating against or firing employees on the basis of sex, citizenship, immigration status or other protected categories.

Ensuring pregnant employees receive accommodations required by law

In August, the office filed a lawsuit against O'Reilly Auto Parts, accusing the national retailer of systemic discrimination and retaliation against the company's pregnant employees.

The lawsuit asserts that it is the company's practice to unlawfully refuse pregnant workers reasonable workplace accommodations, such as the ability to sit or rest, limit how much they lift or handle hazardous materials, allow flexibility for restroom breaks, and pump breastmilk for their newborn babies after returning to work postpartum.

Moreover, after unlawfully rejecting these accommodations, O'Reilly managers routinely engaged in retaliation against the women who sought them — demoting them, threatening termination and forcing them to take unpaid leave or quit altogether.

At least 22 women suffered physically, emotionally and financially as a direct result of O'Reilly's unlawful actions. The Attorney General's Office suspects the number is much greater, with hundreds of Washington workers employed by O'Reilly at 169 stores across 27 counties.

The lawsuit is pending in King County Superior Court.

Joining other states to advocate for civil rights

The office partnered with other states on several amicus briefs advocating for the civil rights of all. Those include multiple friend-of-the-court briefs related to laws in our neighboring state of Idaho. Restrictive laws in Idaho have an increased potential for impacting Washingtonians.

In August, the office joined 19 other states urging a federal court to block Idaho's restrictive law making it a crime for adults to help minors travel out of state for abortion care. The challenge to Idaho's so-called abortion "travel ban" was filed in U.S. District Court in Idaho by an attorney working with sexual assault victims, the Northwest Abortion Access Fund and the Indigenous Idaho Alliance.

Washington's brief argued that Idaho's law not only endangers minors from Idaho, it also punishes Washington's and other states' medical providers and residents for helping them access lawful abortion care outside of Idaho's borders. Idaho should not be allowed to criminalize legal conduct in other states, the brief argues.

In November, the court blocked the law from going into effect.

The same month, the office joined 21 attorneys general to file a brief with the U.S. Court of Appeals for the Ninth Circuit urging the court to block another Idaho law that categorically bars transgender students from using school facilities like bathrooms or locker rooms consistent with their gender identity.

A seventh-grade transgender girl and the Boise High School Sexuality and Gender Alliance (SAGA), whose president is a transgender high school senior, challenged the law in federal court in Idaho in July. The law also allows students to sue schools for \$5,000 or more when they encounter a transgender student in a facility barred by the law.

The court temporarily blocked the law from going into effect and scheduled oral arguments for 2024.

Taking our case against housing discrimination to the state Supreme Court

In 2020, the Attorney General's Office filed a lawsuit against the City of Sunnyside, accusing its police department of unlawfully and repeatedly using the city's Crime-Free Rental Housing Program, which is established by local ordinance, to evict tenants without due process and in a discriminatory manner.



Attorney General Ferguson and members of the Wing Luke Civil Rights Division pose for a photo with Ostrom workers. Ostrom will pay \$3.4 million to resolve the office's lawsuit asserting unfair, deceptive and discriminatory actions against female farmworkers and Washington-based workers.

The lawsuit alleges that dozens of residents were forced out of their homes by police with little or no notice, causing them to become homeless. There were at least 123 documented instances of Sunnyside police enforcing the local ordinance against renters, resulting in the unlawful evictions of at least 43 tenants — most of them Latinx, women or families with children.

The office's lawsuit asserts that the city and its officers conducted the unlawful evictions under the guise of enforcing the Crime-Free Rental Housing Program. By law, a local ordinance cannot override state and federal civil rights laws. Police officers must comply with federal and state constitutions, the federal Fair Housing Act and the Washington Law Against Discrimination. Our lawsuit claims that these evictions in Sunnyside violated all of those laws.

In response, the City of Sunnyside challenged the office's authority to bring the lawsuit, and that appeal made its way to the state Supreme Court. In June, Wing Luke Civil Rights Division Chief Colleen Melody argued the case before the state's highest court. The court had not yet issued its decision by the end of 2023.



Attorney General Ferguson speaks with United Farm Workers representative Martin Rios after announcing a lawsuit against Ostrom.



Sexual Assault Forensic Examination Best Practices Advisory Group member Leah Griffin details her experience trying to get a sexual assault kit tested after she was assaulted in 2014. As a result of the office's Sexual Assault Kit Initiative, more than 10,000 sexual assault kits have been cleared from shelves and sent to labs for testing, effectively eliminating Washington's backlog.

Crime & Public Safety

The Attorney General's Office continued its commitment to improve public safety and protect Washingtonians from crime. This effort included a series of measures from combating organized retail crime to prosecuting wage theft cases.

The office also began its enforcement of a new law that bans the sale of high-capacity magazines in Washington state.

Clearing the sexual assault kit backlog

In October, the office announced that the last of more than 10,000 sexual assault kits were cleared from shelves and sent to labs for testing. It marked a major milestone for the Attorney General's Sexual Assault Kit Initiative: Washington's backlog of rape kits was effectively eliminated.

Clearing the backlog and testing the kits helped solve at least 21 sexual assault cases by October, and that number will grow over the coming years. The crimes that have been resolved as a result of these hits were committed against adults and children — including a victim as young as 3 years old — and occurred all over the state between 2002 and 2015.

When the initiative launched, the Attorney General's Office conducted an inventory with every law enforcement agency in the state and determined the backlogged kits exceeded 10,000. At the time, more than 6,400 kits were still sitting on shelves at law enforcement agencies across the state. Some of the untested kits dated back to the 1980s.

The office's goal for the project was not only to clear the rape kit backlog, but also to prevent any future backlogs — fundamentally improving the system for survivors.

Enforcing the high-capacity magazine sales ban

In January, a King County Superior Court judge granted the office's request for a preliminary injunction and ordered a Federal Way gun shop to stop unlawfully selling high-capacity magazines. The case was the office's first enforcement of the high-capacity magazine sales ban. Attorney General Ferguson proposed, and the Legislature adopted, a ban on the sale of high-capacity magazines in 2022. The office filed a lawsuit in December 2022 against Mohammed Reza Baghai and his store, Federal Way Discount Guns, for illegally selling high-capacity magazines despite the ban.

In March, a judge found Baghai and his store in contempt of court for intentionally violating the preliminary injunction. Contrary to the court's clear directive, the store claimed that it returned all of its remaining high-capacity magazines to distributors without providing any notice or documentation. The court order required Federal Way Discount Guns to securely store their remaining high-capacity magazines and provide the Attorney General's Office with an inventory of those high-capacity magazines.

A month later, in April, the court granted the office's motion for partial summary judgment, agreeing

that Federal Way Discount Guns and Baghai each violated Washington's Consumer Protection Act. Baghai did not contest that he and his store sold at least 2,600 high-capacity magazines in the months before the office filed suit.

The judge also ordered Baghai to pay the state's costs for bringing the lawsuit.

In September, the office filed a consumer protection lawsuit against another gun store, Gator's Custom Guns and its owner, Walter Wentz, for unlawfully selling high-capacity magazines.

The lawsuit asserts the Kelso-based retailer intentionally violated the Consumer Protection Act when it unlawfully offered 11,408 high-capacity magazines for sale to the public. Gator's sold a total of five high-capacity magazines to investigators on two separate occasions. In fact, one of those sales was made by Wentz himself: two magazines with capacity four times greater than the maximum allowed under the law.

The office's investigation revealed that Gator's Custom Guns was among the state's largest and most persistent purchasers of high-capacity magazines from out-of-state distributors. Upon visiting the retailer, investigators observed numerous shop displays — barrels and boxes filled with magazines that covered a substantial portion of the store's retail space. It is the largest display investigators had encountered as part of the office's statewide sweep. The Attorney General's Office tried obtaining records from Gator's to determine how much of that inventory it distributed, but the store was uncooperative.

The lawsuit, filed in Cowlitz County Superior Court, seeks to force Gator's Custom Guns to stop unlawfully stocking, advertising and selling high-capacity magazines and to destroy or return to its distributors all of its remaining inventory. The suit also seeks civil penalties for every violation of the Consumer Protection Act.

Also in September, a federal judge in Yakima rejected an attempt to block the ban on the sales of high-capacity magazines. The judge determined the Silent Majority Foundation, which brought the challenge to the state law, could not show the Second Amendment applied to the regulation of high-capacity magazines. The ruling continued the Attorney General's Office undefeated record defending state law from attacks by the gun lobby.

The office continues to defend the ban in a second challenge pending before the U.S. District Court for the Western District of Washington. The Second Amendment Foundation and the Firearms Policy Coalition, among other parties, brought that lawsuit.

Convicting three child sex predators caught in "Net Nanny" sting

Three defendants arrested and charged during a 2019 "Net Nanny" law enforcement operation in Yakima pleaded guilty or were convicted of their crimes by a jury. The law enforcement operation targeted individuals who went online to proposition minors for sex.

In June, a Yakima County Superior Court judge sentenced Kendrick Yallup-Littlebull to 40 months in prison following his guilty plea for charges related to felony conspiracy to commit first-degree child molestation. When released from prison, Yallup-Littlebull must register as a sex offender for 10 years.

In September, a jury convicted Veniamin Gaidaichuk of felony attempted second-degree child rape and communication with a minor for immoral purposes following a trial the Attorney General's Office prosecuted. In October, a jury convicted Hayden Erlandson of felony attempted second-degree rape of a child and communicating with a minor for immoral purposes following another trial.

Both Erlandson and Gaidaichuk received sentences subject to the Washington state Indeterminate Sentence Review Board, which sets the terms and conditions of their potential release from prison. The board will consider whether Erlandson or Gaidaichuk are more likely than not to commit another sex crime if they are released from prison.

Erlandson is eligible for board review after he serves more than six years and four months in prison, with credit for time served and other earned release time. Gaidaichuk is eligible for board review after he serves more than six years and 10 months in prison, with credit for time served and other earned release time. Both would serve in community custody for the rest of their lives if released from prison.

If the review board does not believe either of the two men are eligible for release, it can hold them in prison for additional time, up to a maximum of a life sentence.

Taking on organized retail crime

In April, the Legislature fully funded the office's request to create a centralized Organized Retail Crime Unit to coordinate, investigate and prosecute multi-jurisdictional retail crime statewide.

Organized Retail Crime involves a group of individuals that steal products in order to resell them for a profit. This does not include petty theft, shoplifting or poverty-driven crimes.

The 10-person unit will include investigators, prosecutors and a data analyst. The Organized Retail Crime Unit will be able to assist with investigations — including coordinating them across multiple jurisdictions — and deploy resources where they are most needed. The unit will also be able to prosecute cases referred to the office by county prosecutors.

Ferguson's funding request brought together both businesses and workers.

The need for a centralized unit and more investigative and prosecutorial resources was identified by Ferguson's Organized Retail Crime Task Force, which convened in 2022. The Task Force includes representatives from state, local, and federal law enforcement, small and large businesses, and retail workers.

In November, the unit filed its first charges against a 33-year-old man from Bremerton for 11 thefts totaling more than \$50,000 in merchandise from Target stores in King and Kitsap counties. If convicted, the man faces a prison sentence from four years and three months to five years and eight months and a \$20,000 penalty for each count. The Attorney General's Office also sought full restitution for his thefts.

In tandem with the felony theft charges, the office also announced Assistant Attorney General Kent Liu as the leader of the Organized Retail Crime Unit. Liu is a criminal prosecutor who has worked for the Attorney General's Office for more than 15 years.

Continuing to collect DNA samples

In August, the Attorney General's lawfully owed DNA project reached a significant milestone, with more than 2,000 new profiles added to the national DNA database since the effort began in 2019.

The office is working with local law enforcement across Washington to collect DNA from sex offenders, violent offenders and individuals convicted of serious felonies who legally owe samples as part of their criminal convictions, but failed to provide them.

By August, 2,061 new profiles went into the Combined DNA Index System, or CODIS. Of those profiles, 76 resulted in a "hit," meaning the offender's profile matched DNA evidence already in the database. These new "hits" can help identify perpetrators of unsolved rapes, murders and other crimes.

Washington requires many offenders convicted of sex offenses and serious crimes to provide their DNA as a term of their conviction. The office started the project to collect DNA from violent and sex offenders in Washington who slipped



Attorney General Ferguson discusses the office's work to combat organized retail crime at an event hosted by the Wenatchee Chamber of Commerce.

through the system without complying with this requirement. The Attorney General's Office estimates thousands of violent offenders are living in Washington with an obligation to provide their DNA sample.

Returning stolen COVID unemployment funds

In September, an innovative fraud recovery initiative that the Attorney General's Office used to recover unemployment funds stolen during the COVID pandemic netted a total of \$42 million from 26 financial institutions.

These recoveries marked the end of a first phase to retrieve money from banks and other financial institutions where scammers still had remaining funds. While multiple states suffered substantial losses, Washington was the first and one of the only state attorneys general offices that exercised state asset forfeiture powers to recover these taxpayer dollars.

As a result, Washington recovered a total of more than \$420 million in stolen funds. The Attorney General's Office will continue to assist in federal investigations to recover stolen funds, as well as investigate any liability of banks and financial technology companies for Washington's losses.

Washington state's Employment Security Department estimates that during the pandemic, fraudulent claims accounted for \$647 million, or 3%, of the overall \$21.7 billion in unemployment benefits paid to workers. The state has recovered \$423.6 million so far — more than two-thirds of the stolen funds. The office's innovative use of forfeiture laws brought in 10% of that total.

Approximately \$223.4 million was lost to fraud, which amounts to 1% of the total \$21.7 billion in benefits. Consequently, 99% of the unemployment benefits went, as intended, to support workers during the pandemic.

Other states experienced much larger losses to fraud, like California at \$18.7 billion. Arizona lost \$4.4 billion and Virginia lost \$1.6 billion to fraud, and both have similar-sized populations to Washington state.

Prosecuting a county employee for stealing public funds

In January, a Spokane County Superior Court judge sentenced former Spokane County employee Rhonda Sue Ackerman to serve prison time and repay \$1,378,541 in stolen public funds, following the office's prosecution of the case.

Ackerman worked as a liability claims technician and stole the funds over the course of a decade from Spokane County by filing dozens of fake claims. She then directed the claimants, many of whom were relatives or friends of her son, to cash the checks and deliver the bulk of the funds back to Ackerman. According to the state's charging documents, Ackerman spent the money on gambling, new cars and lavish gifts.

She faced both an internal county investigation and a follow-up investigation by the Washington State Auditor. The Spokane Police Department and the Internal Revenue Service also conducted separate criminal investigations from the Attorney General's Office.

STANDING UP FOR REPRODUCTIVE RIGHTS

Attacks on reproductive freedom continued in 2023, following the U.S. Supreme Court decision that overturned the constitutional right to abortion. Washington voters codified the right to choose three decades ago, approving by initiative the state's Reproductive Privacy Act.

Washington has some of the strongest protections for reproductive freedom in the country. The Attorney General's Office remains committed to protecting the full range of reproductive health care, taking proactive steps to preserve access and inform Washingtonians of their rights.

Protecting access to mifepristone

In February, the Attorney General's Office announced it would lead a multistate federal lawsuit against the Food & Drug Administration (FDA) for unlawful and unnecessary restrictions on the abortion drug mifepristone.

The lawsuit accuses the FDA of singling out one of the two drugs used for medication abortions with excessively burdensome regulation. It asserts that there is ample evidence that mifepristone is safer than Tylenol, and the regulations never should have been implemented.

The lawsuit, filed in U.S. District Court for the Eastern District of Washington, was a proactive effort to not only protect but expand access to medication abortion. Oregon is co-leading the effort, with Nevada, Delaware, Arizona, Illinois, Connecticut, Colorado, Vermont, New Mexico, Michigan and Rhode Island also partnering.

The office also filed a preliminary injunction asking the court to halt enforcement of the FDA's restrictions on mifepristone while the case continues.

In April, the same day a federal judge in Texas stayed the FDA's approval of mifepristone to block its use nationwide, a federal judge in Spokane issued an order barring the FDA from doing anything to reduce the availability of mifepristone.

Shortly after the FDA appealed the Texas ruling, a panel of judges in the Fifth Circuit Court of Appeals issued an order imposing restrictions on access to mifepristone. A day following the Fifth Circuit order, the judge in Eastern Washington issued another order reiterating his earlier injunction in the Washington case. It clarified that access to mifepristone remained intact in the 18 states involved in the Washington case, and confirmed that the restrictions imposed by the Fifth Circuit's ruling did not apply in those states.

Launching the Abortion Defense Network

In February, the Attorney General's Office announced the Abortion Defense Network, a new resource for health care providers, patients and advocates seeking help with facilitating abortion access.

The office partnered with advocacy organizations and Washington law firms to connect abortion providers with no-cost legal information and counsel. Those services are also available to individuals traveling from states with abortion restrictions to seek care in Washington. Information about pro bono legal assistance can be found at the website abortiondefensenetwork.org.

The Lawyering Project manages the network's website. Backed by a nationwide network of trained attorneys, it is designed to ensure that attorneys are available to advise anyone who is seeking legal guidance about providing or receiving abortion care in Washington state.



Attorney General Ferguson speaks about the office's work to protect access to mifepristone.

Helping Washingtonians "Know Your Rights"

Also in February, the office published a "Know Your Rights" brochure to help Washingtonians understand their reproductive rights. It can be found at the Attorney General's Office website, atg.wa.gov, along with a form for Washingtonians to file complaints about reproductive rights violations.

The "Know Your Rights" flyer is two pages and has information about Washington's guaranteed right to choose abortion, access for pregnant people from other states, insurance coverage for abortion care, emergency contraception access and more.

Protecting health data privacy

In April, the Washington Legislature passed My Health My Data, first-in-the-nation legislation to protect Washingtonians' private data. The law, requested by the Attorney General's Office, prevents this sensitive data from being sold to third parties without patient consent. It also restricts geo-fencing around health care facilities to protect the privacy of patients seeking abortion care. It also requires entities that collect personal health data to publish a distinct privacy policy, disclosing how they use that health data, among other requirements.

Without these protections, period tracking apps could sell sensitive information about someone's late period or miscarriage to data brokers. Crisis pregnancy centers could also share a woman's sensitive data with anti-abortion groups. My Health My Data strengthens legal protections to keep these and other violations of patient privacy from occurring.

Supporting strengthened health care protections

In April, the Washington Legislature passed and the governor signed House Bill 1469, a Shield Law that strengthens protections for health care services, patients and providers. It protects people in Washington from civil and criminal actions in other states that restrict or criminalize reproductive care.

The Attorney General's Office supported the new law. The law grants the Attorney General authority to take action to enforce the law, and directs the office to maintain a list of laws in other states that restrict or criminalize reproductive care. The Attorney General is also tasked with making that list available to the Washington State Patrol.

In general, when a civil or criminal investigation or court proceeding is initiated under another state's anti-abortion law, based on reproductive care that is lawful in Washington, Washington's Shield Law:

- Prohibits Washington law enforcement from arresting people, with or without a warrant, for violating the ban state's law;
- Prohibits Washington state and local agencies and law enforcement from providing information to or cooperating with the ban state;
- Prohibits Washington-based companies and other private entities from complying with subpoenas or providing information to the ban state;
- Prohibits the governor from extraditing non-fugitives to the ban state;
- Prohibits Washington courts from ordering wiretaps and issuing arrest warrants, and requires them to quash subpoenas;
- Protects people in Washington against criminal process and subpoenas for their testimony or documents;
- Prohibits Washington courts from applying the ban state's law in civil or criminal cases in Washington; and
- Protects health care providers from threats and harassment by making them, and their family members, eligible for Washington's Address Confidentiality Program.

The Shield Law also creates a cause of action for interference with protected health care services, which protects against lawsuits filed in other states related to reproductive care that is lawful in Washington. Those harmed by such out-of-state lawsuits can file a counter-suit in Washington for damages and recover their costs and attorneys' fees.

Washington's Shield Law also applies to gender-affirming care.

"Washington is right to put time and money toward the fight to protect a woman's right to choose her reproductive health care. Idaho's desire to control a person's body shouldn't go unchallenged. And when it affects Washington's health care providers, the AG's office is right to react."

- The Seattle Times Editorial Board, 08/07/2023



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

Protecting the Environment

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



Securing a \$1 million penalty for egregious environmental crime

In February, Electron Hydro LLC and its Chief Operating Officer Thom Fischer pleaded guilty to a gross misdemeanor violation of operating an unlawful hydraulic project. The plea avoided a trial for Fischer and his company.

In May, a Pierce County Superior Court judge ordered Electron Hydro and Fischer to pay a total of \$1 million in fines and restitution. As part of the sentence, the company paid \$745,000 to Puyallup Tribal Fisheries to help restore the Puyallup River.

The Attorney General's Office believes the \$1 million is the largest fine and restitution paid for an environmental crime in the history of Washington state law.

Electron Hydro operates a hydroelectric dam on the Puyallup River. In late July 2020, Fischer allowed workers to place artificial turf and crumb rubber that contained toxic chemicals into the riverbed. Workers then diverted the river, which ripped the liner and caused toxic debris to flow into the Puyallup River for two weeks. The company then covered the field turf with a plastic liner and diverted the Puyallup River over it. The company did not receive permission to use the field turf or crumb rubber on the project.

University of Washington-Tacoma Center for Urban Waters researchers tested samples of recovered field turf and crumb rubber and discovered that it contained chemicals found in tires, including one that is "extremely toxic" to coho salmon.

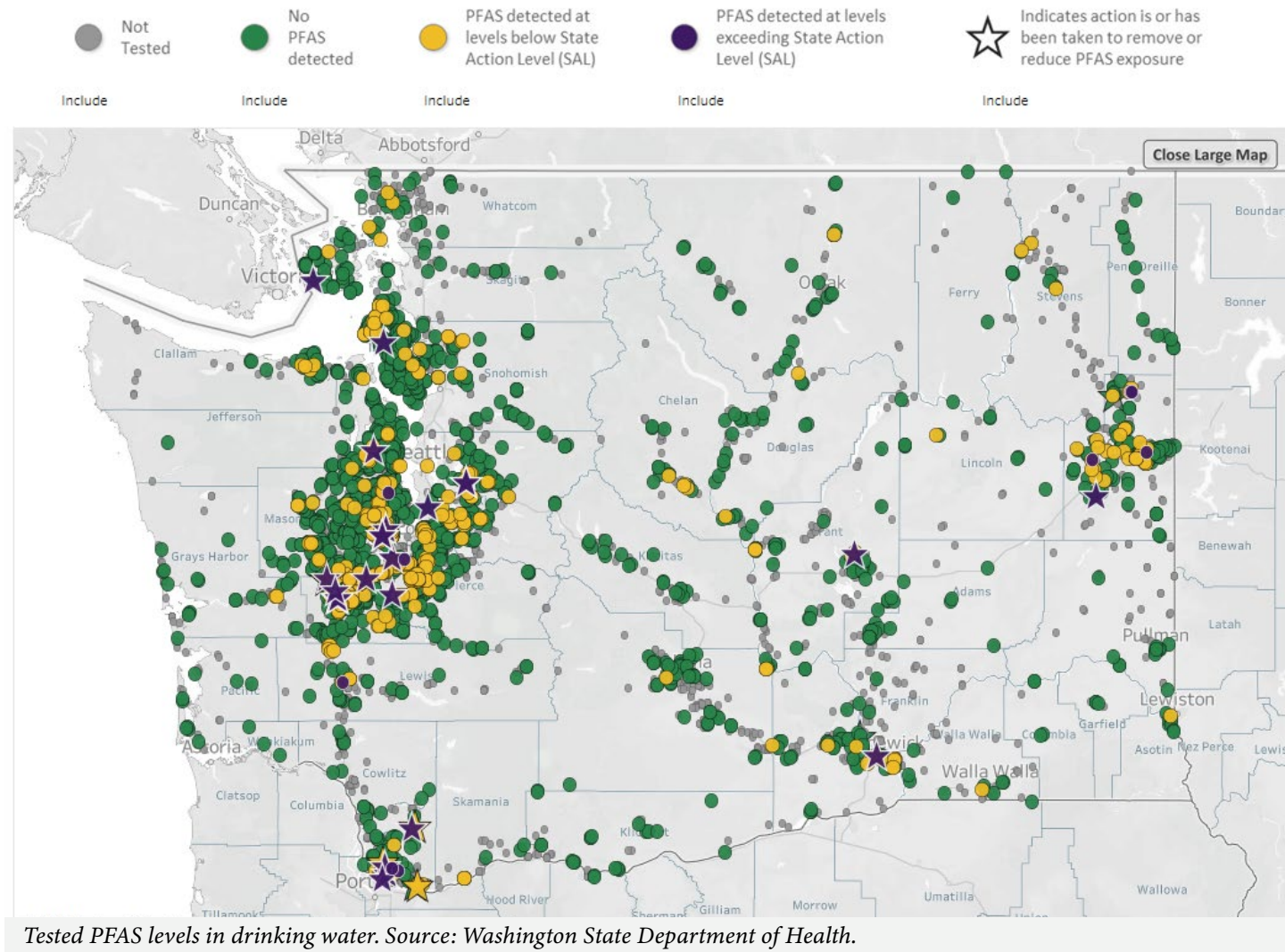
Charges against the company included violations of the state's Water Pollution Control Act, Fish and Wildlife Enforcement Code, Shoreline Management Act and Pierce County Code.

Demanding companies pay for the environmental costs of "forever chemicals"

In May, the Attorney General's Office filed an environmental lawsuit against numerous manufacturers of per- and polyfluoroalkyl substances, known as PFAS, commonly referred to as "forever chemicals." The lawsuit asserts these companies knew for decades about the serious risks PFAS posed to humans and the environment. The companies likely made many millions of dollars in profit while actively deceiving the public.

PFAS have been used for decades to create water-resistant substances. In recent years, state and federal regulators have begun to impose more stringent restrictions on PFAS and expand testing requirements. Exposure to PFAS has been linked to several types of cancer, infertility and developmental issues in children, among other health concerns.

The lawsuit, filed in King County Superior Court, relates to PFAS used in aqueous film-forming foam, a type of chemical foam used for firefighting and emergency response, particularly around airports and military sites.



PFAS from firefighting foam contaminated groundwater used for drinking in multiple Washington communities, rendering some undrinkable and requiring significant treatment measures at others.

In hiding the risks of PFAS and deceptively marketing it as safe, the lawsuit asserts the companies violated numerous state laws, including Washington's law against public nuisances, the Products Liability Act and Consumer Protection Act. Defendants include 3M, DuPont and 18 other manufacturers.

Evidence showed the companies knew about the risks. For example, a 1999 resignation letter by an environmental scientist at 3M stated: "3M waited too long to tell customers about the widespread dispersal of PFOS [a type of PFAS] in people and the environment. ... 3M continues to make and sell these chemicals, though the company knows of an ecological risk assessment I did that indicates there is a better than 100% probability that [PFOS] is biomagnifying in the food chain and harming sea mammals."

The scientist told 3M that, in the worst case scenario, "the probability of harm exceeds 100,000%."

The lawsuit asks the court to order the companies to pay past and future costs to investigate, remediate, restore, treat, monitor and otherwise respond to PFAS contamination, and pay for all damages caused to the state, including natural resource damages.

Prosecuting animal cruelty cases

In September, the Environmental Protection Division filed 32 criminal charges against Jason Smith of North Bend for illegal hunting. The charges, which include two felonies, 27 gross misdemeanors and three misdemeanors, allege that Smith unlawfully baited and killed bears and elk and unlawfully hunted deer.

The criminal charges stem from Smith's alleged illegal hunting of 13 animals over two seasons. Charging documents allege that Smith killed bears and elk in 2021 at his home, and in 2022 not far from it, by illegally baiting the animals,

and without proper tags. One of the bears was allegedly a mother with cubs. He also allegedly hunted during closed seasons, hunted over the bag limit, retrieved animals from private property without permission and wasted wildlife.

If convicted, Smith faces up to five years in prison and a \$10,000 fine for each of the two felony charges of first-degree unlawful hunting of big game. The 27 gross misdemeanor charges of second-degree unlawful hunting of big game, unlawful black bear hunting and unlawful waste of wildlife each carry a penalty of up to 364 days in jail and a \$5,000 fine. Smith faces up to 90 days in jail and a \$1,000 fine for three misdemeanor charges of unlawful hunting or retrieving wildlife from private property.

In March, the division filed eight felony charges against Blayne Perez in Snohomish County Superior Court. The charges include seven charges of first-degree animal cruelty and one charge of first-degree malicious mischief.

The criminal charges stem from a January 2022 report to Everett police that Perez shot birds and squirrels then displayed the dead animals around his property. Law enforcement officers later served a search warrant and found numerous animal carcasses on display at the property. Neighbors also reported seeing Perez shoot birds around the neighborhood.

On Sept. 25, 2022, a couple informed Everett police that a man drove by and shot their cat. A witness saw part of a license plate, which matched a car registered at Perez's address. Law enforcement previously observed Perez driving a car matching the witness' description and arrested Perez later that day. The cat suffered significant injuries and incurred thousands of dollars in veterinary bills.

If convicted, Perez faces a maximum penalty of five years in prison for each count of first-degree animal cruelty and 10 years in prison for the charge of first-degree malicious mischief. Additionally, Perez faces fines of up to \$10,000 for each count of first-degree animal cruelty and \$20,000 for the charge of first-degree malicious mischief.

In September, the division filed 48 total criminal charges of animal cruelty against two individuals and their organization, Neo's Nation Animal Foundation, which previously managed the Tri-Cities Animal Shelter.

The charges, which include six felonies and 42 gross misdemeanors, allege that former Neo's Nation director Rebecca Howard, 46, of Kennewick and office manager Justin Hernandez, 36, of Pasco committed animal cruelty while they managed the Tri-Cities Animal Shelter in 2021.

Shelter employees spoke with outside animal clinics about abuse and neglect at the shelter. One employee removed a dog a few weeks after it arrived at the shelter because the animal's health deteriorated quickly under the defendants' care. The dog later died from kidney failure, which can happen to malnourished dogs.

On Nov. 11, 2021, police served a search warrant on the shelter and a veterinarian accompanied them. Police discovered malnourished dogs and crates of cats and kittens in a laundry room. Many of the animals were severely ill and had multiple infections. A detective learned from employees that only Howard and Hernandez made all medical decisions regarding the animals at the shelter.

Police also searched an outbuilding on the grounds, which employees said only Howard or Hernandez had access to. Detectives described the outbuilding as infested with mice and in poor condition. Inside the outbuilding were crates of cats stacked on top of each other. Most of the cats had respiratory and eye infections and some could not open their eyes due to the severity of the infections.

Howard, Hernandez and Neo's Nation no longer manage the shelter.

If convicted, Howard and Hernandez face up to five years in prison and a \$10,000 fine for each of the two felony charges of first-degree animal cruelty. Howard and Hernandez also face up to 364 days in jail and a \$5,000 fine for each of the 14 gross misdemeanor charges of second-degree animal cruelty. Additionally, Neo's Nation faces a fine of up to \$500,000 for each of the two felony charges and \$250,000 for each of the 14 gross misdemeanors if convicted.

Holding drug companies accountable for fueling the opioid epidemic in Washington state



Complex Litigation Division Chief Jeff Rupert discusses an opioids lawsuit at a press conference in Seattle.

Sending more than \$430 million in opioid remediation funds to local governments

The Attorney General's Office continued to add funds to help state and local governments combat the opioid and fentanyl epidemic. Resolutions with five companies brought an additional \$430 million to the state in 2023.

In June, all 125 eligible local governments signed on to a resolution with four companies that produced or sold opioids, bringing a total of \$371.8 million to Washington state. All local governments signing on to the resolution ensured they received the full amount from the four companies.

The resolutions were a result of the Attorney General's litigation against companies that helped to fuel the opioid epidemic.

The four resolutions were with:

- CVS: \$110.7 million to Washington state over 10 years;
- Walgreens: \$120.3 million to Washington state over 15 years;
- Teva: \$90.8 million to Washington state over the next 13 years; and
- Allergan: \$50 million to Washington state over the next seven years.

Half of the money from the resolutions will be paid to eligible Washington cities and counties, with the first payment made before the end of the year. The remainder of the money will go to the state. All of this money had to be used to fund opioid remediation. The local governments divided their share of the proceeds using the same formula as the earlier opioid distributor resolution.

"Ferguson has done a commendable job focusing attention on the fentanyl crisis. His lawsuits against reckless opioid distributors, manufacturers and pharmacies have recovered \$1 billion to be used by state and by local governments to fund prevention, treatment and recovery programs.

- The Seattle Times Editorial Board, 09/05/2023

As part of the resolutions, Allergan will stop selling opioids for a decade and Teva cannot market opioids. CVS and Walgreens will tightly monitor opioid prescriptions and prevent patients from seeking multiple prescriptions.

In September, the office announced \$62.6 million in additional funds to combat the fentanyl epidemic as a result of the office's investigation into Walmart for its role fueling the opioid epidemic as a pharmacy. All eligible local governments signed onto the Attorney General's \$62.6 million resolution. The money will also be equally split between the Legislature and local governments.

As part of its resolution, Walmart will tightly monitor opioid prescriptions and prevent patients from seeking multiple prescriptions.

These resolutions added to the more than \$539 million coming to Washington from previous resolutions with McKinsey, Mallinckrodt, McKesson Corp., Cardinal Health Inc. and AmerisourceBergen Drug Corp.

Urging federal action to help cities combat the fentanyl epidemic

In August, Attorney General Ferguson urged U.S. Attorney General Merrick Garland to include three Washington cities in a federal initiative aimed at combating drug-related violence and overdoses.

In a letter to Garland, Ferguson urged the addition of Everett, Spokane and Yakima to a

Drug Enforcement Administration initiative called "Operation Overdrive." The federal agency uses national crime statistics and health data to identify hot spots of drug-related violence and overdose deaths across the country. It then devotes law enforcement resources to those communities, where criminal drug networks cause the most harm.

According to federal statistics, Washington state experienced the largest percentage increase in drug overdose deaths in the nation from February 2022 through February 2023. Snohomish, Spokane and Yakima counties experienced higher overdose death rates than the statewide average over a three-year period from 2019 through 2021. Fentanyl overdoses in Yakima County more than doubled during that period.

In the letter, Ferguson wrote that designating Everett, Spokane or Yakima as Operation Overdrive sites could have ripple effects that benefit surrounding communities and areas. For instance, Everett's position on the Interstate 5 corridor makes it a deadly hub for traffickers smuggling fentanyl from Mexico to British Columbia. Spokane's position on Interstate 90 makes it attractive to traffickers smuggling fentanyl throughout eastern Washington and into neighboring states.

The increased flow of fentanyl also caused a disproportionate number of overdose deaths in Tribal nations close to Spokane and Yakima.



Attorney General Ferguson announces that the office is providing \$40.6 million in financial restitution as a result of the Antitrust Division's successful price-fixing lawsuits against chicken and tuna corporations

Antitrust

The Antitrust Division is responsible for enforcing the antitrust provisions of Washington's Consumer Protection Act. The division investigates and litigates complaints of anticompetitive conduct and reviews potentially anticompetitive mergers. The division also brings actions in federal court under the federal antitrust laws. It receives no general fund support, funding its own actions through recoveries made in other cases.

\$40 million in restitution over tuna, chicken price-fixing

In December, the Attorney General's Office announced that it is mailing checks to hundreds of thousands of Washington households as a result of the Antitrust Division's successful price-fixing lawsuits against chicken and tuna corporations.

The office provided \$40.6 million in financial restitution to every household whose income is at or below 175% of the federal poverty level. Approximately 402,200 Washington households received checks. Single-person households received \$50, while multi-person households received \$120.

The Attorney General's Office recovered \$35.5 million as a result of resolutions with nearly all of the 19 chicken producers named in a 2021 price-fixing lawsuit. The chicken producers account for approximately 95% of the "broiler" chickens sold in the United States — a term for chicken produced for consumption.

The Attorney General's Office asserts the producers drove up the price of chicken since at least 2008, causing consumers to overpay by millions of dollars.

The funds also include more than \$5.1 million from cases against major tuna companies that the Attorney General's Office asserts engaged in a price-fixing scheme. The lawsuit alleges that executives at Bumble Bee Tuna, Chicken of the Sea and StarKist's parent company, Dongwon, called each other, texted, used private emails and in some instances had face-to-face meetings to avoid detection so they could exchange internal company policies and data.

Google Play store restitution

Washington consumers received their share of a \$700 million nationwide resolution against global technology giant Google, due to a multistate antitrust lawsuit.

The lawsuit asserted Google used anticompetitive practices to insulate its app distribution service, Google Play store, from competition — forcing Android app developers to raise app prices for users in order to pay Google's exorbitant fees. These practices targeted all levels of the smartphone ecosystem, including manufacturers, network operators and app developers.

Washingtonians will receive an estimated \$10.6 million in reimbursements for their overpayments. An estimated 2.9 million Washingtonians have Android phones. Those who paid for apps through the Play store, or paid for in-app purchases, are eligible.

Breaking up Google's online display ad monopoly

In April 2023, Washington joined the U.S. Department of Justice and a bipartisan group of attorneys general from across the country to file an antitrust lawsuit aimed at breaking up Google's monopolization of online display advertising.

Website producers rely on ad revenue to support open access to a variety of content across the web. Newspapers, for example, depend on online advertising as an important source of revenue. Google's dominance of the online display advertising market has allowed it to funnel more business through its services, resulting in websites earning less and advertisers paying more.

The lawsuit asserts Google violated the Sherman Antitrust Act's prohibitions against monopolization after it purchased a dominant company in online advertising in 2008, then only made its services available to advertisers who used Google's internal ad buying tools.

The lawsuit asserts Google's market share for publisher ad servers soared from 60% in 2008 to 90% by 2015, and that dominance continues through present day.

The lawsuit seeks a breakup of Google's advertising platforms and injunctive terms to end Google's dominance of online ad marketplaces.

Holding drug makers accountable

In June, the office announced that national drug manufacturer Indivior will pay approximately \$2.1 million to Washington state for conspiring to block generic drug competition for Suboxone. The drug maker's conduct artificially inflated prices for Suboxone across the country.

Suboxone, which Indivior manufactures, is an opioid prescription drug used to treat opioid dependence. It can be used as an induction agent to stabilize someone in withdrawal during the medical detoxification process, as well as for maintenance treatment to promote recovery from opioid use disorder.

In September 2016, Washington and a bipartisan group of 41 other states filed a lawsuit against Indivior. The states asserted that Indivior engaged in a scheme — called "product hopping" — to thwart generic competition. This prevented other companies from marketing generic versions as competition. Ultimately, Indivior's delays of generic competition resulted in artificially inflated prices for Suboxone.

The court order requires Indivior to pay a total of \$102 million to the 42 states.



Grace Go speaks about Meta's impact on youth mental health. The office filed a lawsuit against Meta for intentionally putting profits before the well-being of youth.

Protecting Consumers

The Consumer Protection Division is responsible for enforcing the Consumer Protection Act. The division investigates and litigates complaints of unfair and deceptive business practices, recovers refunds for consumers, seeks penalties against offending entities and recovers costs and fees to ensure that wrongdoers are held accountable for their actions.

Protecting low-income hospital patients

In November, the office announced that hospital chain PeaceHealth would refund up to \$13.4 million to more than 15,000 low-income patients of its five Washington hospitals.

The resolution was the result of a consumer protection investigation into PeaceHealth's financial assistance and collection practices. The investigation found that the hospital chain billed thousands of low-income patients who likely qualified for financial assistance without informing them of their eligibility.

The legally binding agreement required PeaceHealth to pay approximately \$4.2 million in direct refunds — including more than \$400,000 in interest — to more than 4,500 patients. That amounts to full restitution, plus interest, to all affected Washingtonians for an average of more than \$900 per patient. Eight Washingtonians received more than \$10,000. Nearly 50 saw refunds of more than \$5,000.

Additionally, PeaceHealth was required to pay up to an additional \$9.2 million — including more than \$900,000 in interest — through a claims process to approximately 11,000 patients who were also likely eligible for help on their medical bills. PeaceHealth also paid the Attorney General's Office \$2 million to reimburse the costs of the investigation and help fund similar consumer protection work.

The investigation into PeaceHealth, which began in 2020 as part of the office's Health Care Initiative, found that the hospitals failed to screen patients to determine their eligibility for financial assistance. It also found PeaceHealth failed to meaningfully disclose the availability of financial assistance before collecting payment from patients it knew were likely eligible. As a result, many eligible patients paid for their care without knowing they likely qualified for assistance.

At the time of the unlawful conduct, Washington households making at or below 200% of the federal poverty level were eligible for free care or discounts on out-of-pocket hospital expenses. As a result of a law proposed by the Attorney General's Office, Washington law guarantees individuals making up to 400% of the federal poverty level receive financial assistance on their out-of-pocket hospital expenses, regardless of their insurance. Millions of Washingtonians are eligible for full write-offs for necessary medical expenses received in Washington hospitals.

In addition to paying restitution and attorneys' fees, PeaceHealth was required to implement reforms such as:

- Notifying all patients of the availability of financial assistance prior to attempting to collect payment, and offer to screen the patient for eligibility;
- Providing patients with a financial assistance application if the patient appears to be eligible after screening, or if the patient requests one; and
- Refraining from billing or attempting to collect payment until the patient's financial assistance application is processed.

Winning \$40 million in Google privacy lawsuit

In May, the office announced a resolution in its lawsuit against Google for deceptive location tracking. The legally binding agreement required Google to pay \$39.9 million to Washington state and institute court-ordered reforms.

Google deceptively led consumers to believe that they had control over how the tech giant collected and used their location data. In reality, consumers could not effectively prevent Google from collecting, storing and profiting from their location data.

Location data is key to Google's advertising business. In 2020, Google made nearly \$150 billion from advertising. Google's illegal conduct included:

- Collecting location data even when consumers disabled "Location History;"
- Misleading descriptions of location settings;
- Tracking Android devices, even with location access turned off;
- Repeatedly nudging users to consent to location tracking;
- Wrongly claiming certain products would not function unless location was enabled; and
- Incomplete disclosures of Google's location data collection.

The Attorney General's Office investigated Google's conduct as part of a multistate effort, but opted to take on the tech giant alone by independently filing a lawsuit. This resulted in more than double the recoveries for Washingtonians.

In addition to paying nearly \$40 million, the legally binding agreement requires Google to be more transparent with consumers about how it tracks and uses their data.

Meta's impact on youth mental health

Meta has developed and refined a set of psychologically manipulative features designed to maximize young users' time spent on its social media platforms.

- Dopamine-manipulating recommendation algorithms
- "Likes" and social comparison features
- Audiovisual and haptic alerts that incessantly recall young users to Meta's social media platforms
- Content-presentation formats, such as "infinite scroll," designed to discourage young users' attempts to disengage



Suing Meta for harming youth mental health

In October, the office sued Meta, the parent company of Instagram and Facebook, as part of a coalition of 42 attorneys general for intentionally putting profits before the well-being of millions of its most vulnerable users.

The federal lawsuit, filed by 33 of the states, accuses Meta's top leaders of knowingly targeting youth with harmful features designed to get them hooked for life to maximize profits. Meta simultaneously downplayed the associated risks for those users, including disregarding its own research. These tactics contradicted the company's public-facing claims that it put user safety first. The lawsuit also asserts that Meta knew young users, including those under 13, were active on the social media platforms and knowingly collected data from those users without parental consent.

The lawsuit, filed in U.S. District Court for the Northern District of California, claims these unfair and deceptive practices violated state consumer protection laws, including here in Washington, and the federal Children's Online Privacy Protection Act. The attorneys general seek reforms to make Instagram and Facebook safer for millions of adolescent users, including hundreds of thousands of young Washingtonians.

The coalition of attorneys general, which started a nationwide investigation in 2021, seeks to stop Meta from engaging in unlawful practices that deceive and harm youth, including fundamentally changing the user experience for all adolescent users. A month after filing the lawsuit, Meta agreed to unseal information it had previously designated confidential, making the full complaint public and revealing specific details of Meta's unlawful conduct, which includes:

Meta CEO Mark Zuckerberg ignored internal documents on detailed consultation with "21 independent experts around the world" who found that filters with cosmetic surgery effects "can have severe impacts on both the individuals using the effects and those viewing the images." Experts told Meta that children were particularly vulnerable, as well as those with eating disorders and mental illness. Instagram's head of public

policy wrote to Zuckerberg that outside experts were "nearly unanimous on the harm here." Zuckerberg canceled a meeting to discuss these issues, then subsequently vetoed a proposal to ban the filters. He dismissed the concerns as "paternalistic."

In response to the veto, then-vice president of product design wrote in an email to Zuckerberg: "I respect your call on this and I'll support it, but want to just say for the record that I don't think it's the right call given the risks . . . I just hope that years from now we will look back and feel good about the decision we made here."

Meanwhile, internal documents and emails between top executives show that Meta has long known its frequency of notifications are problematic, but continued the practice to maximize engagement.

"The intention in the lawsuit isn't to wall kids off from social media, but to set limits that allow them to use it safely and to their benefit."

The report from the surgeon general this spring cited social media's ability to provide positive community and connection for youths with peers who share interests, abilities and identities, especially for those who are often marginalized as racial, ethnic, sexual and gender minorities.

Whether by ruling or settlement, policies and protections must be provided that allow users — especially parents — to set reasonable protections and limits for themselves and children."

- The Herald Editorial Board, 10/31/2023



Attorney General Ferguson announces the Meta lawsuit.

Suing pet store for misleading marketing

In April, the Attorney General's Office filed a lawsuit against Puppyland and its owners, Kayla and Justin Kerr, for misleading marketing, failing to honor health guarantees for puppies it sold and unfairly maneuvering buyers into predatory loans.

Puppyland faces thousands of dollars in penalties for each violation of the Consumer Protection Act. Further, the Attorney General's Office anticipates seeking restitution for Washingtonians who financed puppies through the company. The Attorney General's Office believes that more than 7,000 individuals purchased puppies from Puppyland's Washington stores.

The lawsuit asserts that Puppyland deceived consumers about the health and breeding of the puppies it sold, advertising industry-best standards for animals that later became violently sick and, in some cases, died shortly after coming home with their new owners. Puppyland also offered consumers a money-back guarantee that turned out to be largely illusory. The fine print of the multipage sales contract required buyers to meet onerous conditions before Puppyland would cover any veterinary bills. In fact, the agreement excluded many common ailments from coverage altogether. The purchase paperwork also included an illegal non-disclosure agreement provision that attempted to prevent consumers from sharing truthful information about their experience.

Despite its fine print, Puppyland deceptively assured pet owners "YOU ARE ALWAYS COVERED," a claim that the lawsuit asserts is a violation of the Consumer Protection Act.

Puppyland also did not disclose prices, which ranged from \$3,000 to \$10,000 per dog, until after a consumer committed to purchasing a puppy. Then, employees were encouraged to pressure people who could not afford those prices to finance the purchase. Puppyland's chosen loan providers charged annual percentage rates as high as 198%. If someone could not qualify for a loan for the full price on their own, Puppyland would often lock them into two or more loans to cover the costs or urge them to use a family member or friend to apply with them to qualify.

Challenging deceptive student debt adjusters

In October, the office announced it had recovered a total of more than \$2 million from nearly three dozen debt adjusters who preyed on thousands of student borrowers. Three of those cases were resolved in 2023, resulting in the out-of-state debt adjusters paying 495 borrowers a total of \$359,832 in restitution.

The restitution recovered from all the financial entities totaled \$2,004,205 for an average of \$755 per consumer. The resolutions also included payment of \$321,035 in attorneys' fees to the Attorney General's Office.

Student loan debt adjustment firms offer to help students complete and submit paperwork to the U.S. Department of Education to consolidate their federal student loans. But the department makes information about repayment and consolidation available for free. Borrowers can also receive similar information directly from the company to which they make payments. Under the Debt Adjustment Act, the maximum up-front fee a debt adjuster can legally charge is \$25.

All of the debt adjusters who paid restitution as a result of the Attorney General's Office investigation engaged in unfair and deceptive practices, including unlawfully charging anywhere from several hundred to thousands of dollars in upfront fees. Borrowers were also charged monthly "monitoring" fees in excess of the legal limit and without a clear understanding that these fees would span the life of the loan. The law limits those monitoring fees to no more than 15% of the payment amount. For example, a person paying \$300 a month may not be charged more than \$45 per month in monitoring fees.

Securing refunds for unlawful phone disconnections

In December, the office announced that telecommunications company Lumen, formerly CenturyLink, would pay \$825,000 to 1,099 customers over illegal pandemic disconnections.

The governor issued a proclamation during the pandemic that prohibited telecommunications companies from disconnecting customers from landline services, as well as prohibiting late fees or reconnection fees. It preserved communication during the pandemic for telephone customers — like rural Washingtonians or those without cell phones or consistent service. Without means of communication, residents could not call for help in emergencies or stay in contact with loved ones over the phone.

Despite the proclamation, Lumen — the state's largest local telephone company — disconnected 1,099 customers, 67 of them more than once.

As a result of the resolution, qualifying customers received \$707.55 for each unlawful disconnection from telephone service they experienced between March 23, 2020 and Sept. 30, 2021, when the proclamation was in effect. Customers who experienced multiple disconnections received \$707.55 for each disconnection.

Protecting consumers from deceptive solicitations

In May, the office filed a lawsuit against EFile Business Inc., Online Filing LLC and their owner for targeting Washington businesses and nonprofits with hundreds of thousands of deceptive texts and emails. The large-scale, lucrative scheme cost those businesses and nonprofits at least \$228,000.

The lawsuit asserts that the Wyoming companies and their owner, Cameron Groom, sent deceptive solicitations that were designed to appear as though they were sent by the Secretary of State. The messages directed businesses to a website link where they were charged \$200 to file annual reports with the Secretary of State. The websites did not disclose that businesses can file required annual reports directly with the Secretary of State's Office for \$60, or less for some nonprofits. Other text solicitations demanded between \$150 and \$175 to file annual meeting minutes. Washington state does not require either to file annual meeting minutes.

In just over a year beginning in January 2022, EFile Business Inc. and Online Filing LLC sent more than 147,000 deceptive text messages. More than 1,100 Washington companies paid to submit annual reports at more than three times what it would have cost them to file the reports themselves. The number of affected businesses is believed to be even greater.

The Attorney General's Office started the investigation after receiving more than 70 complaints about the businesses. The office won a temporary restraining order and preliminary injunction barring Groom and his businesses from continuing to send deceptive messages. After Groom did not respond to the lawsuit and continued to message Washington businesses despite the court's orders, the Attorney General's Office sought a court order to shut down his websites and internet domains, which a judge granted in October.

Suing scammer who preyed on immigrants

In September, as a result of a lawsuit filed by the office, a King County judge ordered a Seattle business to pay restitution, interest and civil penalties for financially preying on immigrants. The office estimated that total to be up to approximately \$230,000.

Ana Caroline Pinto do Nascimento, who owned ACN & Associates, LLC, made deceptive promises to help Portuguese-speaking immigrants from Brazil with legal assistance then charged them

thousands of dollars before abandoning them in courtrooms.

The Attorney General's Office estimates approximately two dozen Washingtonians sought her assistance and most agreed to pay her between a few hundred to a few thousand dollars. The office received nearly a dozen complaints about Nascimento's conduct.

Nascimento is not a licensed attorney in Washington state and does not have an educational background in the law. Despite this, Nascimento told families she would represent them in immigration courts. She never appeared in any courts and refused or delayed refunds when the families asked for their money back. Prior to the September order, a judge ruled that Nascimento and her business violated the Immigration Services Fraud Prevention Act for plainly advertising immigration law services she was not licensed to provide. The court also ruled Nascimento and her business violated the Consumer Protection Act by unlawfully marketing and selling legal services in a deceptive manner.

Protecting mobile home residents in Ilwaco

In December, a Grays Harbor County judge ordered the owners of an Ilwaco mobile home park to pay \$926,500 in penalties for unlawfully issuing eviction and utility shut-off notices.

The office filed a motion for partial summary judgment as part of a consumer protection lawsuit filed in 2022. That lawsuit asserts Michael and Denise Werner and their companies, including Deer Point Meadows Investments, violated the Consumer Protection Act and Manufactured/Mobile Home Landlord-Tenant Act during their purchase and operation of Beacon Charters and RV Park.

The Werners are based in Vancouver and own and operate dozens of mobile home and RV parks across the state. More than 4,000 people live in those parks.

In 2022, the Werners purchased Beacon, intending to convert the park to short-term rentals. Prior to completing the sale, they began issuing eviction notices signed by "Management" to Beacon's 45 long-term residents. They also issued a utility shut-off notice, again signed by "Management." The Werners attempted to shut-off the power but the local utility provider refused. These notices caused a majority of the Beacon residents to leave the property.

In December 2023, a judge ruled that the notices were unfair and deceptive in violation of the Consumer Protection Act.



Attorney General's Office Tribal Liaison Asa Washines and Attorney General's Office Policy Analyst for the MMIWP Task Force Annie Forsman-Adams give a presentation about the office's tribal policy work at the 2023 Professional Staff Conference.

Tribal Policy

In 2023, the Attorney General's Office built on its nation-leading work addressing the missing and murdered Indigenous women and people (MMIWP) crisis with the creation of a cold case unit to address unsolved MMIWP cases. The office's tribal policy work also expanded with the creation of the Truth and Reconciliation Tribal Advisory Committee to address the painful history of Indian boarding schools in Washington. Our office also continued its advocacy for tribal sovereignty in the justice system, participating in significant victories in federal court.

MMIWP Cold Case Unit Hires Director

After the Legislature approved Attorney General Request legislation to create an MMIWP Cold Case Unit within the Attorney General's Office, we got to work to staff it. In November, the office hired Brian George, a 27-year law enforcement veteran and enrolled member of the Port Gamble S'Klallam Tribe, to lead the investigations work for the first-in-the-nation unit. George has more than 25 years of service with the Washington State Patrol, and started his career as an officer with the Suquamish Tribal Police Department.

You can find more on the legislation creating the unit on page 38.

Largest-Ever Emmett Till Grant

To support its work with MMIWP cold cases, the Attorney General's Office received the largest-ever grant from the Emmett Till Cold Case Investigations and Prosecution Program. The grant will fund the office's work, in partnership with tribes across Washington, to research, identify and create an inventory of cold cases involving missing and murdered Indigenous people that date back more than 40 years.

The Attorney General's Office originally applied for a \$750,000 grant from the national program that supports law enforcement investigations and prosecutions for racially motivated crimes and civil rights violations. The office received double the amount requested — \$1.5 million. Five tribes — Colville, Cowlitz, Puyallup, Spokane and Suquamish — submitted letters of support for the project.

The grant will fund two full-time staff, who will travel across the state and work closely with tribes to identify pre-1980 cold cases. Each tribe will receive compensation to assist in the research.

Truth and Reconciliation Tribal Advisory Committee Formed

In 2023, the Attorney General's Office also convened its new Truth and Reconciliation Tribal Advisory Committee to study how Washington state can address the harms caused by the government's historical role in the shameful legacy of Indian boarding schools.

The National Native American Boarding School Healing Coalition identified at least 17 boarding

schools in Washington, among more than 400 across 37 states, which were used to attempt to "assimilate" American Indian, Alaska Native and Native Hawaiian children. The schools deployed tactics including corporal punishment and manual labor, renaming Indigenous children with English names, cutting their hair, discouraging Native languages and more.

The committee will hold public listening sessions across the state to begin a two-year journey toward uncovering the full history of Indian boarding schools in Washington.

It will ultimately provide recommendations on how the state can address the harm done by Indian boarding schools and other cultural and linguistic termination practices through a truth and reconciliation model.

Significant Legal Victories for Tribes

In January, the U.S. Circuit Court of Appeals for the Ninth Circuit reversed a Trump Administration decision that denied Medicaid funding for Dental Health Aide Therapists in Washington tribal communities. Dental Health Aide Therapists, or DHATs, help fill a void in tribal communities, many rural, which have a significant shortage of dentists and dental services.

In 2015, Swinomish became the first tribe in the country to establish its own dental health provider licensing law and regulatory system. A state law sponsored by the late Tulalip Tribes member and then-Senator John McCoy in 2017 authorized the use of DHATs on Washington reservations.

The Attorney General's Office joined with the Swinomish Indian Tribal Community and the state Health Care Authority to challenge the decision, which came on the last day of the Trump Administration and nearly a year after an independent federal hearings officer recommended the funding be approved.

Also this year, the U.S. Supreme Court ended a yearslong court battle when it ruled that the Indian Child Welfare Act is constitutional. The landmark law prioritizes keeping Native kids in tribal communities. The Attorney General's Office has been a strong advocate of the law, known as ICWA, throughout its journey through the courts, working with tribes to defend the law with multiple amicus briefs at every stage of the litigation.



2023 Legislative Affairs Team: Tribal Liaison Asa Washines, Legislative Fellow Jennifer Wood, Legislative & Policy Analyst Rory Paine-Donovan, Legislative Director Joyce Bruce, Legislative Analyst Cody Reiter, and Deputy Legislative Director Haylee Anderson.

Legislative Priorities

In the most productive year since Attorney General Ferguson took office in 2013, nine Attorney General Request bills became law in 2023, including such marquee policies as banning the sale of assault weapons and removing Washington's death penalty statute from state law. The Attorney General's Office also continued its national leadership in combating the missing and murdered Indigenous women and people crisis. And the office passed the most robust health data privacy bill in the nation.

Legislation Passed:



Lawmakers and advocates join Attorney General Ferguson and Governor Inslee to celebrate the signing of legislation that bans the sale of assault weapons in Washington state.

"No, gun violence cannot be prevented or eliminated. But it can be reduced through sensible measures that preserve the right to bear arms without cowering to the whims of the firearms industry."

- The Columbian Editorial Board, 04/24/2023



Ban on the sale of assault weapons

After seven years of proposing the legislation, the Legislature passed this historic bill, which bans the sale, manufacture, import and distribution of military-style assault weapons. The office first proposed a ban on the sale of assault weapons in 2017 in the wake of the 2016 mass shooting at a Mukilteo house party. The shooter used a military-style assault rifle and a high-capacity magazine.

The bill's passage punctuated a decade of common-sense firearms safety laws, both as statewide voter initiatives with overwhelming support and bills in the Legislature. The bill joined the office's successful passage of a ban on the sale of high-capacity magazines in 2022.

The law was immediately challenged in both state and federal court. The office has successfully



Attorney General Ferguson speaks with Paul Kramer at the bill signing event. Kramer, a strong supporter of firearm-related legislation, became involved in advocating for stricter gun laws after his son, Will, was seriously injured during a mass shooting in Mukilteo.

defended the ban on the sale of assault weapons, defeating three attempts to block the law from going into effect.



Attorney General Ferguson, joined by advocates and lawmakers, announces the My Health My Data Act.

My Health My Data

The My Health My Data Act provides Washingtonians more control of their health data and protects those who come from out of state to access reproductive and gender-affirming care.

The bill creates two ways to enforce the law: either the Attorney General's Office can investigate violations and pursue litigation, or Washingtonians can bring their own civil lawsuits, using a private right of action. This legislation is one of the only data privacy bills in the nation that includes a private right of action.

The law's protections include:

- Requiring entities that collect Washingtonians' personal health data to publish a distinct privacy policy to disclose how they use that health data;
- Prohibiting entities from collecting and sharing Washingtonians' health data without their consent;
- Protecting Washingtonians' sensitive health data from being sold to third parties without valid authorization;
- Guaranteeing Washingtonians the right to withdraw consent and request their data be deleted; and

- Restricting geo-fencing around health care facilities to send Washingtonians messages.

Repealing the death penalty

This bill repealed a number of invalid and unconstitutional statutes that remained on the books, based on an analysis done by the Washington Supreme Court, including Washington's invalid death penalty statute. The office had proposed legislation to remove Washington's death penalty from state law every session since 2017.

In 2018, the Washington Supreme Court unanimously found the state's method of applying the death penalty unconstitutional as a result of its arbitrary and racially biased application. As a result, the sentences of everyone on death row at the time in Washington state were converted to life without the possibility of parole.

The court's ruling paved the way for the current bill.

In addition to the death penalty statute, others removed from the books included laws allowing judges to order people sterilized and requirements that public employees sign anti-communist pledges.

"But good news runs through the task force and the new cold case unit: At last, someone is listening — and taking action. Authorities are pledging to take reports of missing people more seriously than they once did, and state officials are mobilizing to address the problem. Those are distinct and welcome changes."

- Yakima Herald-Republic Editorial Board, 11/17/2023

Establishing the MMIWP Cold Case Unit

The establishment of the Missing and Murdered Indigenous Women and People (MMIWP) Cold Case Unit within the Attorney General's Office continues the office's nation-leading work in addressing the MMIWP crisis. The unit's creation was a unanimous recommendation of the Washington State Missing and Murdered Indigenous Women and People Task Force, which is facilitated by the Attorney General's Office.

The MMIWP Cold Case Unit's primary purpose is assisting local and tribal law enforcement agencies to solve cold cases involving missing and murdered Indigenous women and people.

The unit includes investigators and a case navigator. The case navigator works with and maintains regular, consistent communication with families of missing and murdered Indigenous women and people. They convey information between investigators and families using culturally appropriate and trauma-informed practices.

Firearms Industry Responsibility

This bill requires the gun industry to put in place reasonable controls to keep firearms out of the hands of dangerous and prohibited individuals. If manufacturers and dealers don't put those controls in place, they could face liability under the legislation.

Utility Shutoffs During Extreme Heat

This bill protects Washingtonians from having their water, electricity and other utilities shut off during extreme heat due to late payment.

Newspaper Publishers B&O Tax Exemption

This bill provides newspaper printers and publishers with tax-relief in the form of an exemption from the business and occupation, or B&O, tax.

Robocalls and Telephone Scams

This bill protects Washingtonians from scam robocalls by creating a Consumer Protection Act violation for robocalling Washingtonians on the "do not call" registry, among other protections.

Medicaid Fraud False Claims Act

This bill eliminates the sunset on the whistleblower provisions of the Medicaid Fraud False Claims Act, a key tool used to combat health care fraud.

To be reintroduced:

Used Car Warranty

This legislation would create a used vehicle warranty that applies to cars that cost at least \$700 and have fewer than 125,000 miles. Under this warranty, which cannot be waived, the consumer is entitled to repairs if the vehicle breaks down shortly after purchase.

ATTORNEY GENERAL'S OFFICE CORE LEADERSHIP TEAM

