

# Office of the Attorney General

## Budget Presentation

To the Joint Standing Finance Committee of the  
WV Senate and House of Delegates  
February 24, 2021

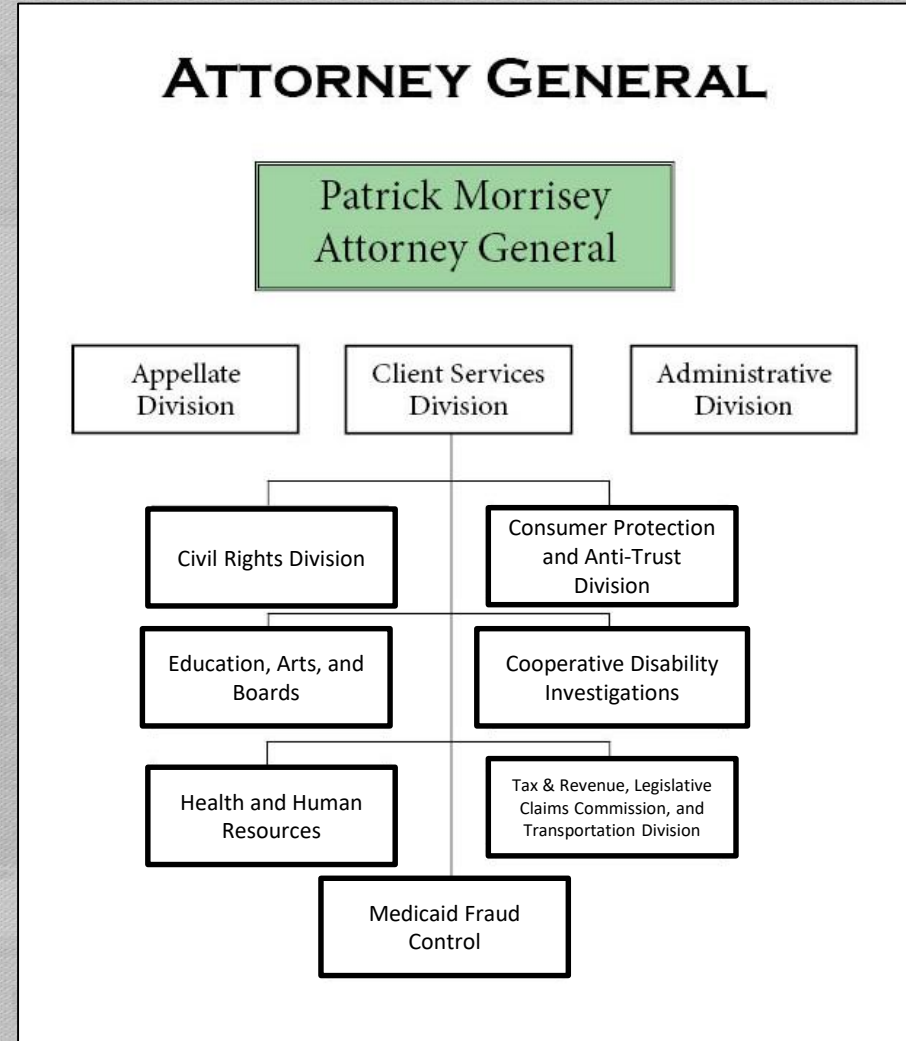
Attorney General Patrick Morrissey

# Office of Attorney General Overview

- Chief legal officer for the State of West Virginia
- Responsible for providing legal counsel to the State, its officers, agencies and boards
- Enforces the laws of West Virginia as they relate to Consumer Protection, Civil Rights & other important areas
- Represents the State in all state criminal appeals & habeas corpus proceedings

# Office Structure

- Administrative Division
- Appellate Division
- Client Services Division



# Cooperative Disability Investigations

- Partnership with the Social Security Administration
- Investigates suspicious or questionable disability claims, beneficiaries, claimants, and any third party who facilitates fraud
- Partnership established in December 2015, making it a first-of-its-kind unit for the State of West Virginia
- Finished 2020 on pace to exceed \$25 million in disability fraud savings since inception of the office's Social Security disability fraud partnership

# Budget Savings from the Office of the Attorney General

- Substantial revenue provided to the State:
  - Facilitated the return of approximately \$52.6 million in unencumbered monies over the last six years
  - Worked with the Governor & Legislature to ensure the return of consumer protection funds to the General Revenue Fund moving forward
  - Return of over \$1.87 million from the anti-trust account since FY14

# Budget Savings – Outside Counsel Policy

- Savings through reduced Attorney Costs
  - \$37.574 million in savings as a result of the Office's outside counsel policy
  - Any reduction in our staff will add to cost through greater reliance on outside counsel
  - Outside counsel rates are 3x greater than hourly rate to handle a matter in-house

# Fighting Medicaid Fraud

- The unit was able to fill 8 vacancies including positions that had been vacant over a year
- Handled 190 open fraud cases under the Attorney General's Office compared to averaging 120 open fraud cases over the last three years within the OIG
- Opened 31 abuse and neglect cases under the Attorney General's Office compared to averaging only 10 abuse and neglect cases within the OIG
- Opened 152 new cases under Attorney General's Office purview; closed 85 of those to date

# Fighting Medicaid Fraud

- Had 16 cases referred to local prosecutors since the transition and 8 civil settlements
- Obtained 9 convictions compared to averaging 5 annually within the OIG
- Recovered over \$15 million in the first year of the transition compared to an \$8.271 million average in recoveries to the Federal and State Programs



# Opioids – DEA Report

- Released a 46-page report detailing the findings of a multi-year investigation into the U.S. Drug Enforcement Administration’s mismanagement of the national drug quota system
  - Sued the DEA in 2017 over its failure to control the supply of opioids that were being manufactured and imported
  - Following DEA’s reforms, we agreed to drop our suit if DEA agreed to turn over records showing how it had managed—or mismanaged—the quotas
  - On June 4, 2020, we released our findings: ***DEA followed industry demands for more pills, and ignored the mounting evidence that quotas were too high***

# Opioids – Litigation

- Continued fighting to hold corporations accountable
- Filed suit against:
  - CVS
  - Rite-Aid
  - Walgreens
  - Walmart
- Alleged that each national chain knowingly distributed more opioid pills to its pharmacies than was medically necessary

# Consumer Protection Litigation

- **Asphalt Paving**
  - Historic victory of \$101.35 million settlement
  - Recoups state road funding and restores competition in the state-approved asphalt and paving market
  - Largest, single-state antitrust settlement in state history

# State Matters

## ■ Right to Work

- Successfully defended the state's right-to-work law at the state Supreme Court of Appeals, arguing the measure is constitutionally sound

## ■ Tourism

- Representing the State regarding the constitutionality of a tourism law important to completing the Hill Top Hotel project in Harpers Ferry
- \$138 million project with potential to boost the state's economy

# State Matters

## ■ Elections

- Prevailed in two cases before the U.S. Court of Appeals for the 4<sup>th</sup> Circuit in defending the Secretary of State in a suit seeking to require reprinting of every ballot in the State
- Investigated alleged tampering of absentee ballot requests, leading to the conviction of a Pendleton County mail carrier in the run-up to the primary election

# State Matters

- **Fairmont Regional Medical Center**
  - Investigated the closure of Fairmont Regional Medical Center
  - Pressure from investigation helped in leading its owner to promise approximately \$1.24 million in paid time off and more than \$125,000 in retirement benefits to workers of the now shuttered hospital
- **Broadband**
  - Worked to expand broadband access and competition, including support for an initiative with Tractor Supply Co. to provide free Wi-Fi in store parking lots

# Federal Matters

## ■ Pipeline Construction

- Secured two major victories for pipeline construction at the U.S. Supreme Court
- Protected pipeline jobs in WV and nationwide by winning a stay from the U.S. Supreme Court of a federal judge's order that would have halted thousands of energy infrastructure projects nationwide, all because of a challenge to one pipeline in Montana

# Federal Matters

## ■ Coal Miners

- Fought for coal miners by leading oral arguments and briefs supporting the Trump administration's Affordable Clean Energy rule
- Continued the Office's longstanding fight against the Clean Power Plan—we defended the Trump Administration's repeal of that rule and its sensible, practical, and legal, replacement
- Our Solicitor General participated in the “marathon” oral argument before the D.C. Circuit lasting over nine hours



# Budget Comparison

Expenditure	WVOASIS Approp	FY 2017 Base Budget	FY 2018 Base Budget	FY 2019 Base Budget	FY 2020 Base Budget	FY 2021 Base Budget	FY 2022 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
<b>Total</b>		<b>\$4,389,153.00</b>	<b>\$4,353,262.00</b>	<b>\$4,645,739.00</b>	<b>\$4,953,457.00</b>	<b>\$4,953,457.00</b>	<b>\$4,953,457.00</b>

Open Positions: 5 < \$32K, 5 at \$32K–64K, 6 at \$64K–100K, 1 > \$100K

# Current Level Impact Statement

The Office of the Attorney General will not be adversely impacted in FY 2022 by the 100% current-level funding. However, another significant variance from this level could adversely impact the Office's constitutional mission. In light of general revenue reductions in previous years, we cannot sustain any additional general revenue reductions. Indeed, we believe instituting cuts will ultimately cost the State more because we will be forced to rely more heavily on outside counsel to perform functions that previously could be handled in house.

The Office of the Attorney General's special revenue funding continues to supplement our general revenue funding. Nevertheless, the Office has returned over \$52 million since January 2013 while attempting to maintain an account balance sufficient to properly pursue our consumer protection and anti-trust mission. Moreover, the Office has seen reductions to its general appropriation budget in excess of \$725,000 in FY 2016, almost \$700,000 in FY 2017, and approximately \$125,000 in FY 2018.

# Current Level Impact Statement

The addition of administrative staff has created stronger internal controls over the State's money. The Office also has taken extensive measures to ensure the payment of pre-existing settlement orders. Through the implementation of new accounting procedures, the Office is now capable of tracking individual consumer settlements to ensure appropriate restitution is paid.

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

# Future Financial Issues

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 of the Attorney General. 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.



OFFICE OF THE ATTORNEY GENERAL