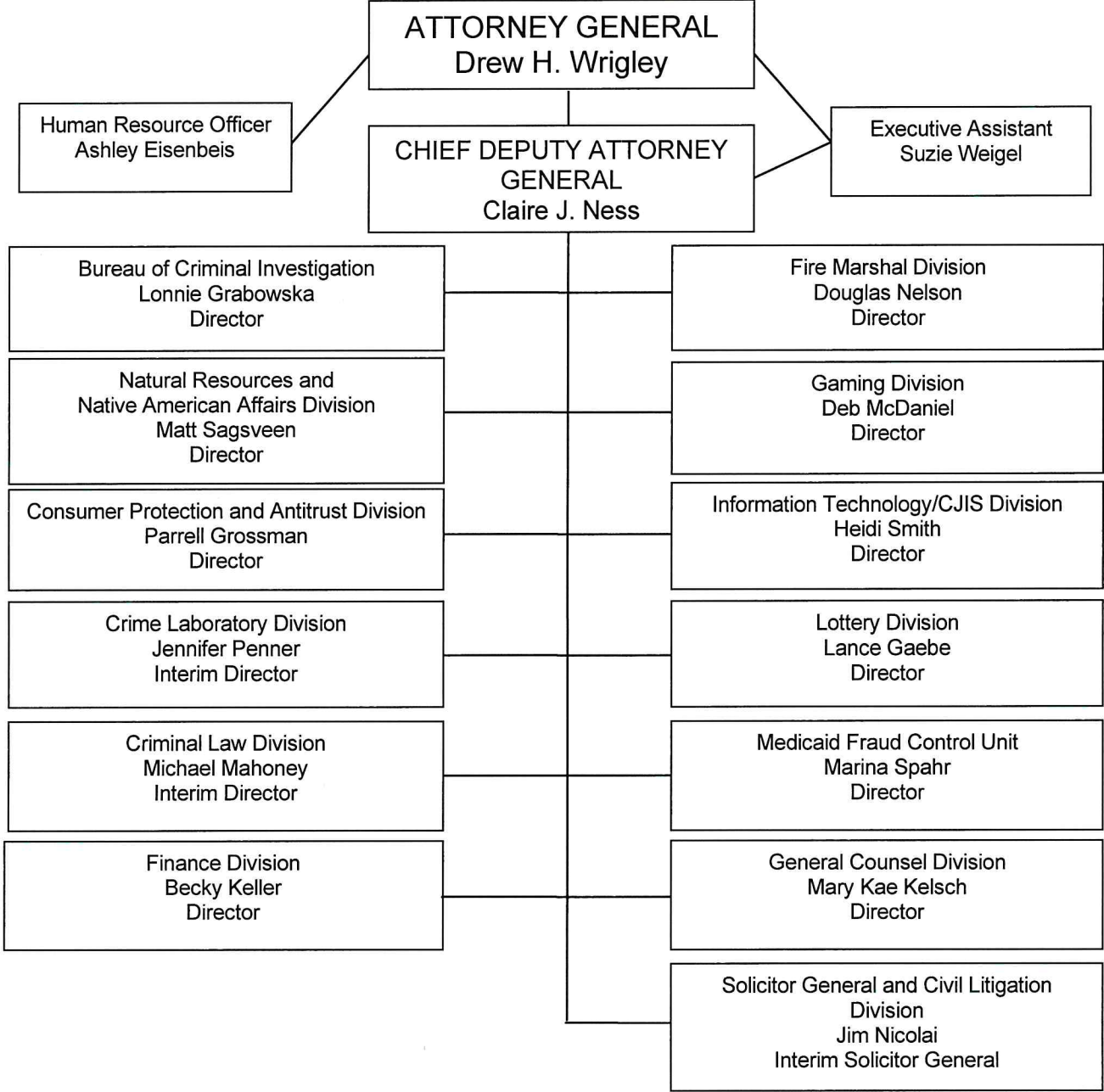


Office of the Attorney General

Supplemental Information for the
Presentation to the House Appropriations
Committee

March 6, 2023

NORTH DAKOTA
OFFICE OF ATTORNEY GENERAL
 February 2023



BCI Statistics

Number of Cases for BCI Agents 2017-2022: **4,758 Total Cases**
2,512 Criminal Cases
2,117 Narcotics Cases
129 Other Cases

During 2017-2022, each agent had up to 48 cases per year. Numbers of cases per agent vary by complexity and other factors.

Cyber Crime Agent FTEs and Modular Walls for Lab Space
Requests No. 4a and 21

Cyber crime agents investigate child pornography, child sexual abuse, narcotics trafficking, and other crimes involving digital devices and data.

Current number of cyber crime agents: **5 agents + 1 supervisory special agent**

Number of forensic examinations conducted by cyber crime agents in 2021: **899 forensic examinations**
(approximately 180 per agent)

Amount of data reviewed in those examinations: **217,554 gigabytes**
(equivalent to approximately 3,352 cell phones)

Number of cases cyber crime agents assisted in 2021: **429 cases**
(approximately 86 per agent)

The number of cyber crime tips just from the National Center for Missing and Exploited Children (NCMEC) **increased more than 545% in the past 6 years.**

Number of NCMEC tips to NDBCI in 2016: **166**

Number of NCMEC tips to NDBCI in 2022: **1,071**

Cybercrime agents in Fargo currently have work stations for 2.0 FTEs. With the addition of new FTEs, BCI is requesting **\$75,000 to acquire modular walls** to reorganize the current space into a sufficient number of workstations.

MAFIN, GrayKey, and Cellebrite
Request No. 12

BCI agents require these tools to identify fingerprints (for background checks or otherwise) and to access digital evidence of child pornography, child sexual abuse, narcotics trafficking, and other crimes.

Annual MAFIN maintenance costs:	\$92,000
Annual GrayKey costs:	\$102,000
Annual Cellebrite costs:	+ <u>\$72,000</u>
Total annual costs	<u>\$266,000</u>

Civil Litigation and General Counsel Assistant Attorneys General FTEs
Request No. 3

Based on data accessible to our office¹:

Amount spent by some state entities ² on private attorneys (July 2015-July 2022):	at least \$74,418,184
Average amount spent by those entities on private attorneys per biennium :	at least \$21,262,338 per biennium
Amount spent by all other state agencies, boards, and commissions on private attorneys:	Unknown

To reduce those expenditures, this office is requesting:

2.0 Civil Litigation attorneys:	\$644,356
2.0 General Counsel attorneys:	+ \$558,014
	\$1,202,370 per biennium for 4.0 attorneys

¹ The data obtained by the Office of Attorney General may not represent the total costs of private attorneys contracted by the subset of state entities for which we have data.

² The state agencies included in the analysis include: Office of Management and Budget, Governor’s Office, Department of Transportation, Information Technology Department, Secretary of State’s Office, Auditor’s Office, Tax Department, Office of Administrative Hearings, Legal Counsel for Indigents, Attorney General’s Office, Retirement Investment Office, Public Employees Retirement System, Department of Public Instruction, Trust Lands Department, School for the Deaf, School for the Blind, Department of Health, Department of Environmental Quality, Department of Human Services, Veterans’ Home, Job Service, Insurance Commissioner’s Office, Industrial Commission, Department of Labor, Public Service Commission, Aeronautics Commission, Department of Financial Institutions, Workforce Safety Insurance, Highway Patrol, Department of Corrections and Rehabilitation, Adjutant General, Department of Commerce, Agriculture Department, Ethanol Council, State Water Commission, and others.

Civil Litigation and General Counsel Assistant Attorneys General FTEs
Request No. 3

OAG attorneys are paid less than other government attorneys and are unable to use their annual leave and comp time.

- Legal experience required to earn \$85,000 as an Assistant State’s Attorney: **2 years**¹
 - Legal experience required to earn \$90,699 as a McKenzie County Assistant State’s Attorney: **0 years**²
- Legal experience required to earn \$87,648.00 as a staff attorney for the ND court system: **2 years**³
- Legal experience required to earn \$85,000 as an Assistant Attorney General: **11 years**⁴

- A junior Assistant Attorney General accepted a position at another state agency that pays him \$30,000 more per year.
 - Instead of providing legal services to several state entities, he now provides legal services to 1 state entity.

- 7 current OAG Civil Litigation attorneys: **1530.20 hours of unused leave**
 - 1324.13 hours of Annual Leave
 - 206.07 hours of Comp Time

- 12 current OAG General Counsel attorneys: **2158.73 hours of unused leave**
 - 2013.40 hours of Annual Leave
 - 145.33 hours of Comp Time

¹ Recent State’s Attorneys’ job postings advertise salaries of \$85,000-100,000 for new Assistant State’s Attorneys with as little as 2 years’ legal experience.

² This is based on a current job posting advertising a salary between \$90,699 and \$105,729.

³ This is based on a January 2023 job posting.

⁴ This is based on the pre-existing pay scale for our base budget which factors in only the number of years an AAG has had a license to practice law.

Cost Office of the Attorney General Legal Services
Request No. 3

The Office of the Attorney General charges:

- Typically, \$0/hour for state entities funded by the general fund; or
- \$141/hour for 2021-23 and \$118/hour for 2023-25.¹

We do not charge:

Commerce Department (with exceptions)	Highway Patrol	Office of Management and Budget (except Risk Management and Surplus Property)	University of North Dakota	North Dakota State University
Council on the Arts	Department of Mineral Resources	Parks and Recreation	Lake Region State College	Minot State University
Career and Technical Education	Historical Society	Protection and Advocacy	Bismarck State College	Williston State College
Department of Corrections and Rehabilitation (except Prison Industries and Rough Rider)	Indian Affairs Commission	Securities Dept	Dickinson State University	Valley City State University
Department of Public Instructions (except Special Education)	Labor Department	Supreme Court	North Dakota State College of Sciences	Forest Service
Governor's office	Legal Counsel for Indigents	Tax Commissioner	Dakota College at Bottineau	State Library
State Fair Association	Legislators and the Legislative Assembly	Treasurer	Mayville State University	State Board of Higher Education
School for the Deaf	School for the Blind	Northern Crop Institute	Secretary of State (except General Services)	Department of Veterans Affairs
Ethics Commission	Racing Commission	Research Stations		

¹ The hourly rate is based on a formula required by law. The formula for the 2023-25 rate is based on 2019-21 data, so factors related to COVID-19 reduced the rate.

Information Technology FTEs or Maintenance Contract Increases
Request No. 11 or 25

Increase in the state's investment in law enforcement software maintained by IT/CJIS since 2013:	\$5,000,000
Increase in FTEs in IT/CJIS since 2013:	0

Cost to hire 2 programmer FTEs to maintain IT/CJIS software:	\$475,626 per biennium
Cost of contracts for programmers if FTEs are not provided: (\$115 per hour)	\$883,200 per biennium

Cost to hire 1 business analyst FTE to manage large IT/CJIS projects:	\$237,412 per biennium
Cost of contract for business analyst if FTE is not provided: (\$120-130 per hour)	\$460,800 - 499,200 per biennium

If the 3.0 FTEs are not approved, IT/CJIS is requesting \$700,000 for contract services to help maintain and develop required systems. However, this amount is still significantly less than the \$1,344,000 - \$1,382,400 it would cost to contract with 2 programmers and 1 business analyst.

IT/CJIS Responsibilities and Workload
Request No. 8, 11, 25

Criminal Justice Information System (CJIS) 5 FTEs	IT Operations 5 FTEs	Software Development 6 FTEs + 2 Contractors	
Supports 68 Law Enforcement Agencies that use our records management system	Supports all 250+ OAG employees	Supports all divisions of OAG by developing and providing business and desktop applications	
Supports 20 State’s Attorneys offices that use our case management system	Maintains 8 physical servers	Provides business analysis to oversee IT projects	
Supports 3,317 criminal justice users of the CJIS portal	Maintains 72 virtual servers	<u>Supports and maintains the following systems:</u> <ul style="list-style-type: none"> • Sex Offender and Offenders Against Children Registry • Sex Offender website • Sex Offender assessment • Concealed Weapon License issuance • Lottery website • Consumer complaints • BCI Case Management • BCI and State and Local Intelligence Center (SLIC) intelligence systems • Fingerprint submissions and processing • Fingerprint Rapid Identification • Crime Lab information management system • Crime Lab online training • Crime Lab DNA kit tracking system • Protection Order Repository • Record checks/payments processing • 24/7 Sobriety Program • Warrants – Wanted Person Repository • Crime statistics reporting • Criminal History Repository • Criminal History Automated Disposition application 	<u>Current development projects:</u> <ul style="list-style-type: none"> • Concealed weapons online payment project • Sexual assault kit tracking system Legal case management system • Midwest Automated Fingerprint Identification Network (MAFIN) • Warrant Management Information System (WMIS) • Consumer protection records management system rewrite

IT/CJIS Responsibilities and Workload
Request No. 8, 11, 25

In addition to other duties, the IT/CJIS employees address “tickets” that identify issues or problems they need to address.

2021

	Opened Tickets	Closed/Completed Tickets
CJIS	1,503	1,423
IT Operations	3,189	3,183
Software Development	1,821	1,621
Total	6,513	6,227

2022

	Opened Tickets	Closed/Completed Tickets
CJIS	1,488	1,438
IT Operations	2,877	2,877
Software Development	1,670	1,719 ¹
Total	6,035	6,034

¹ The number of 2022 closed tickets is higher than the number of 2022 opened tickets because some tickets opened in 2021 were closed in 2022.

Software Maintenance Increases
Request No. 11

The cost to continue licensing and maintaining necessary software and systems for 2023-25:

Adobe, Nessus, Windows Server Enterprise, VMWare, Atlassian JIRA, Visual Studio, SQL Server Standard:	\$36,000
ND IT fee increases (other than for Active Directories):	\$12,000
JustWare	\$34,000
Atlassian Software	\$22,000
Premiere One (for law enforcement agencies and jails)	\$23,282
Statewide Automated Victim Information and Notification (SAVIN)	\$38,314
Polycom systems	\$12,000
Crime Lab – LIMS	\$11,700
Active Directory accounts for law enforcement agencies ¹ (due to ND IT fee increase)	<u>\$300,000</u>
Total	\$489,296

¹ These accounts are necessary for law enforcement agencies to use CJIS systems maintained by IT/CJIS. IT/CJIS obtains the Active Directory accounts for the law enforcement agencies. ND IT informed us the fee for one account will increase from \$1.35 to \$7.10 per month. We provide 1,620 accounts for CJIS system users across the state.

Crime Lab Overtime Hours and Reductions in Backlogs
Request No. 5

The Crime Lab backlogs are large, but employees are working hard to reduce them. Additional FTEs are necessary to eliminate the backlogs and prevent new backlogs from developing.

For example, **three** DNA Unit Employees put in **446.5 OVERTIME hours** in just **12 weeks** (12/1/22 – 2/18/23).

Type of Evidence with Backlog	Backlog 2020	Backlog 2021	Backlog 2022	% CHANGE from 2021
DNA	472	713	585	↓17.95%
Controlled Substances	1556	2520	2181	↓13.45%
Fire Debris	3	11	4	↓63.64%
Toxicology (Biological Section)			254	

Sexual Assault Kits in Process at Crime Lab							
	OCTOBER 7, 2022			FEBRUARY 23, 2023			% Change
	Active	SAFE-ITR	Total	Active	SAFE-ITR	Total	
Waiting for extraction:	96	43	139	27	0	27	↓80.58%
Writing up:	15	20	35	68	0	68	↑94.29%
In review:	57	40	97	29	3	32	↓67.01%

Crime Lab Workload Increase
Request No. 5

Exams completed	2018	2019	2020	2021	2022	% CHANGE from 2021
DNA	792	766	791	780	893	↑14.49%
Controlled Substances	3610	3125	2116	1057	1071	↑1.32%
Fire Debris	26	55	51	50	43	↓14.00%

Specimen Count	2018	2019	2020	2021	2022	% CHANGE from 2021
Biological Screening	5980	5616	5754	8146	3904	↓52.07%
DNA	2396	2329	2563	1776	2799	↑57.60%
Controlled Substances	11,627	8789	5040	2446	3749	↑53.27%
Fire Debris	127	181	166	88	126	↑43.18%
Toxicology (Biological Section)	3884	8550	10,932	8649	10,766	↑24.48%
Toxicology (Breath Alcohol)	4357	4007	3080	2332	3164	↑35.68%

Toxicology (Biological Section)	2019	2020	2021	2022	% CHANGE from 2021	Backlog 2022
Cases	1016	1211	1238	1320	↑6.62%	254
Case Records	2098	2530	2579	2779	↑7.75%	
Alcohol Case Records	780	927	977	1058	↑8.29%	
CO Case Records	463	603	584	628	↑7.53%	
Drug Case Records	855	1000	1018	1093	↑7.37%	

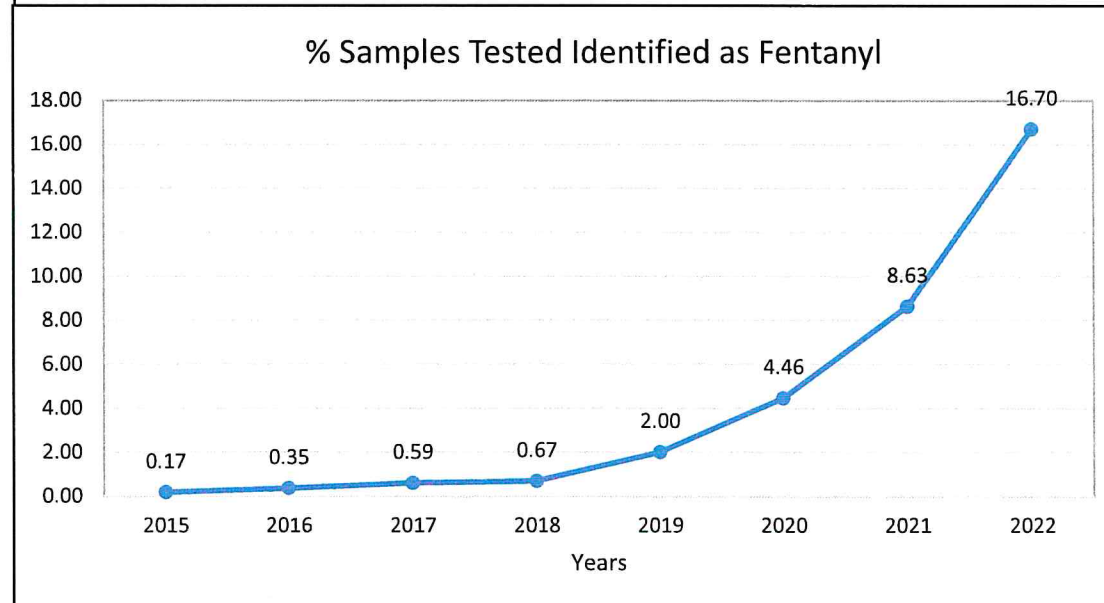
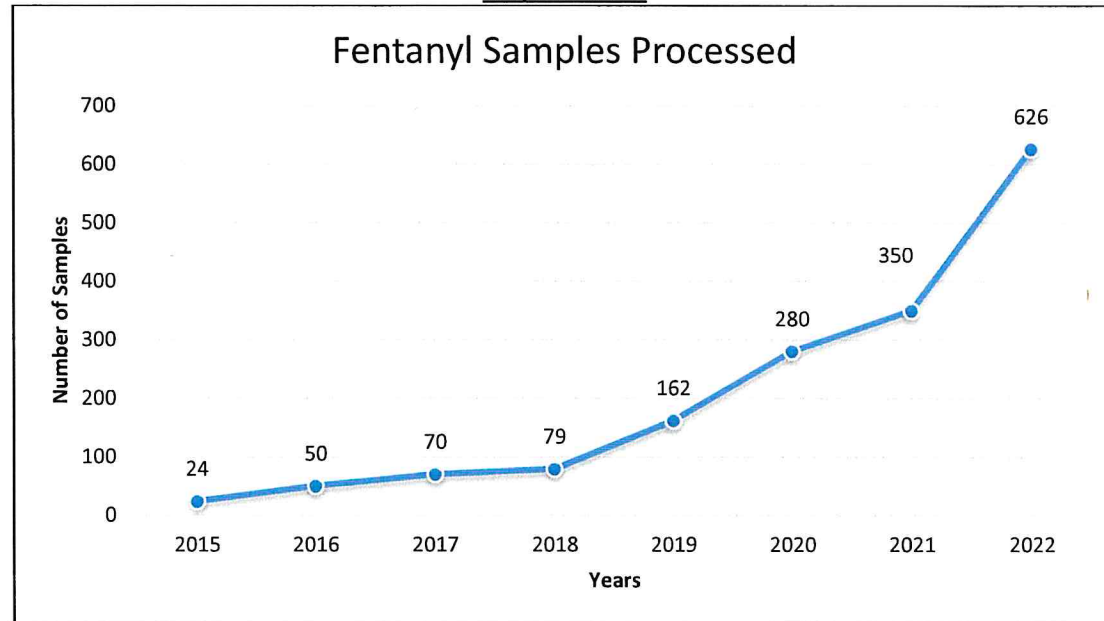
Crime Lab Workload Increase, continued
Request No. 5

CODIS	2018	2019	2020	2021	2022	% CHANGE from 2021
Offender	257	228	278	234	305	↑30.34%
Arrestee	2149	1699	2712	1762	1867	↑5.96%
Forensic	271	263	249	143	316	↑120.98%
	2,677	2,190	3,239	2,139	2,488	↑16.32%
CODIS HITS	2018	2019	2020	2021	2022	% CHANGE from 2021
National Forensic	4	12	17	18	1	↓94.45%
National Offender	16	20	21	14	27	↑92.86%
National Arrestee	13	30	21	31	42	↑35.48%
State Forensic	28	35	17	19	7	↓63.16%
State Offender	21	16	17	18	20	↑11.11%
State Arrestee	108	109	68	62	124	↓100.00%
	190	222	161	162	221	↑36.42%

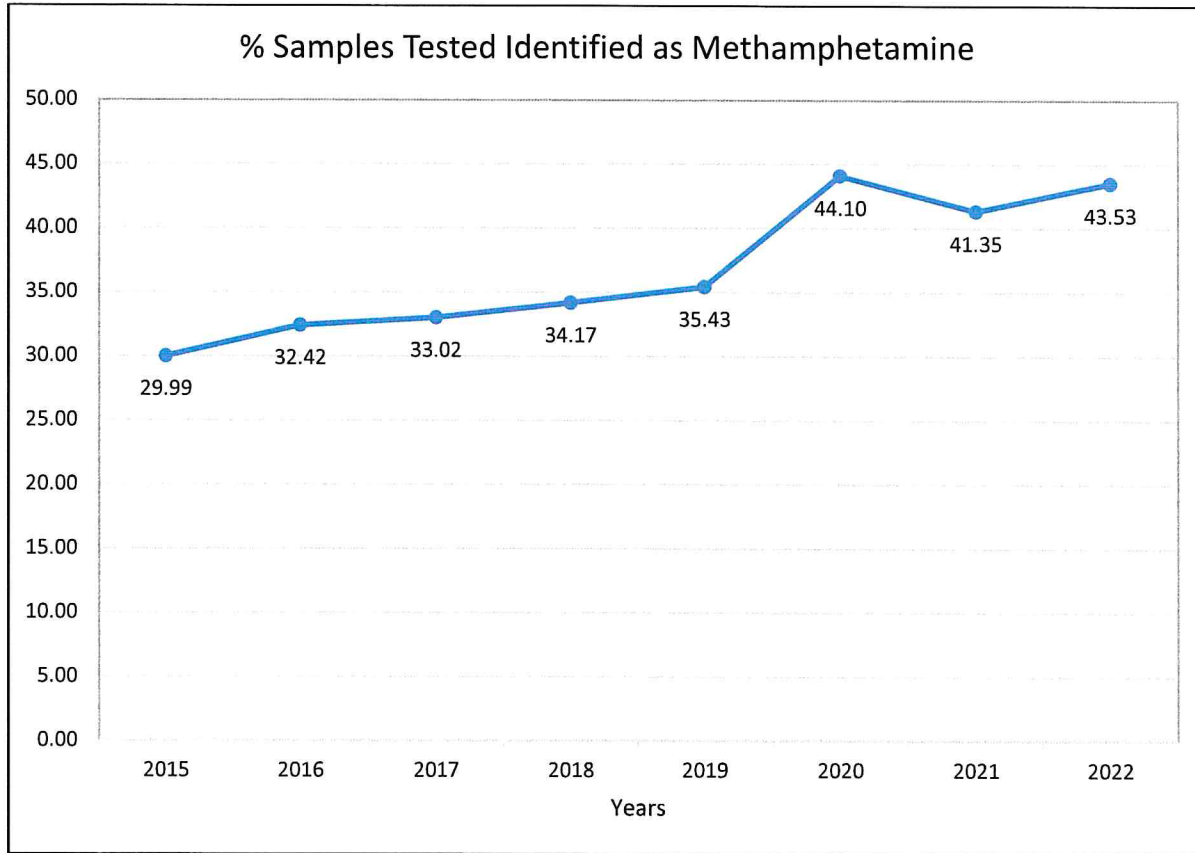
	2018	2019	2020	2021	2022
Sexual assault kits not tested within 30 days of lab submission	33	3	22	222*	169
Total sexual assault kits submitted to the crime lab	234	234	256	469*	245

* The increase from 2020 to 2021 was due to a request made by the Crime Lab to all law enforcement agencies across the state to submit all their untested sexual assault kits to the lab. This request was made as part of the Crime Lab's receipt of the SAFE-ITR federal grant.

Crime Lab Workload Increase, continued
Request No. 5



Crime Lab Workload Increase, continued
Request No. 5



Medicaid Fraud Control Unit (MFCU) FTEs
Request No. 6

The North Dakota MFCU recoups state money from Medicaid contractors who submit fraudulent claims or who abuse, neglect, or misappropriate money from their patients.

75% of the costs for each state's MFCU are paid by a federal grant.

Costs:

State costs for the MFCU for the 2019-21 biennium:	\$118,101
<u>State costs for the MFCU for the 2021-23 biennium:</u>	+ <u>\$225,888</u>
Total state costs for the MFCU since operations began:	\$343,991

Recoveries for the state:

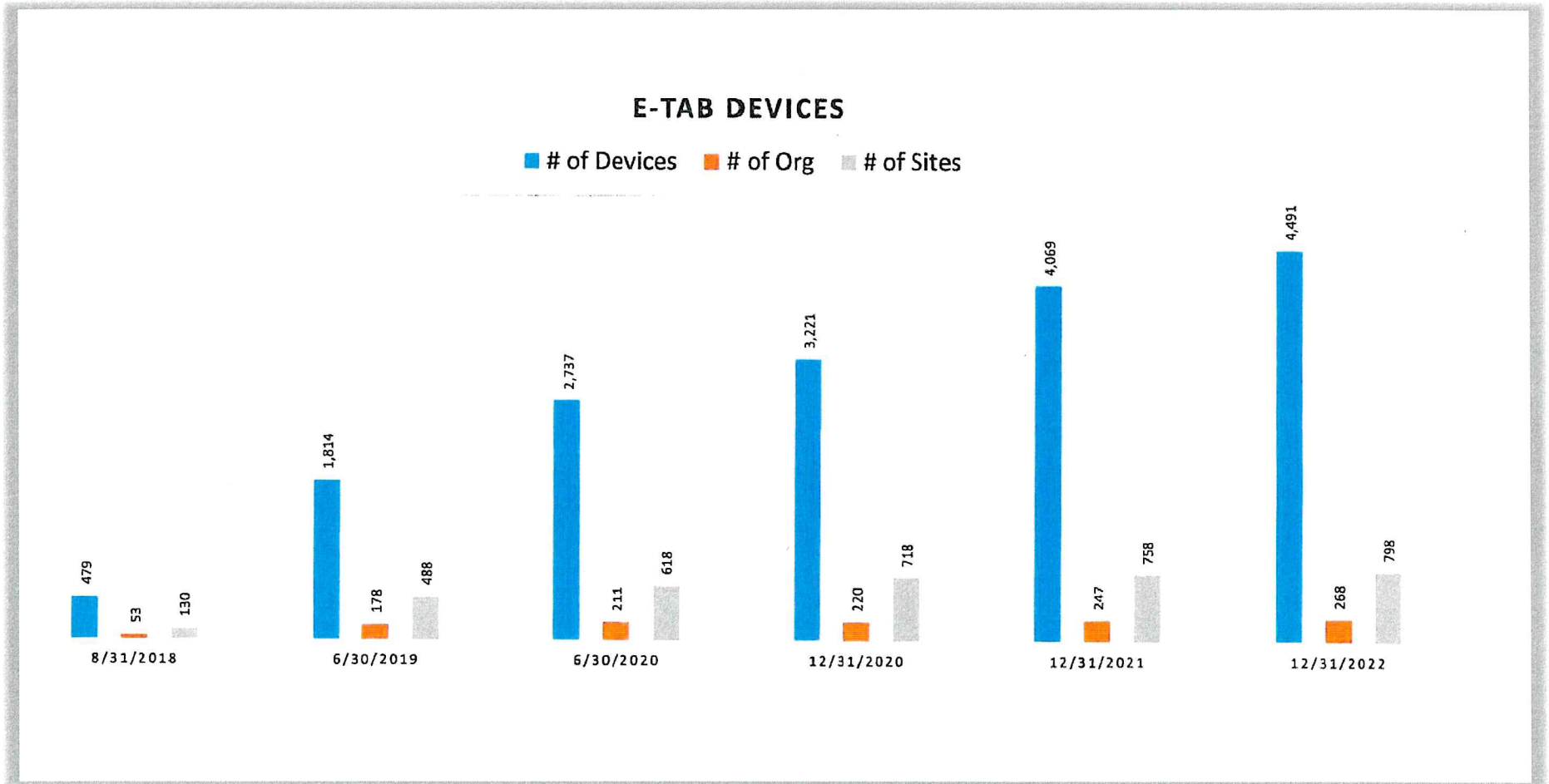
MFCU recoveries ordered for the state:	\$888,815
MFCU recoveries received for the state to date:	\$515,878

The MFCU has **recouped for the state more than 149% of its state costs to date**, even though it began operations less than 3 ½ years ago.

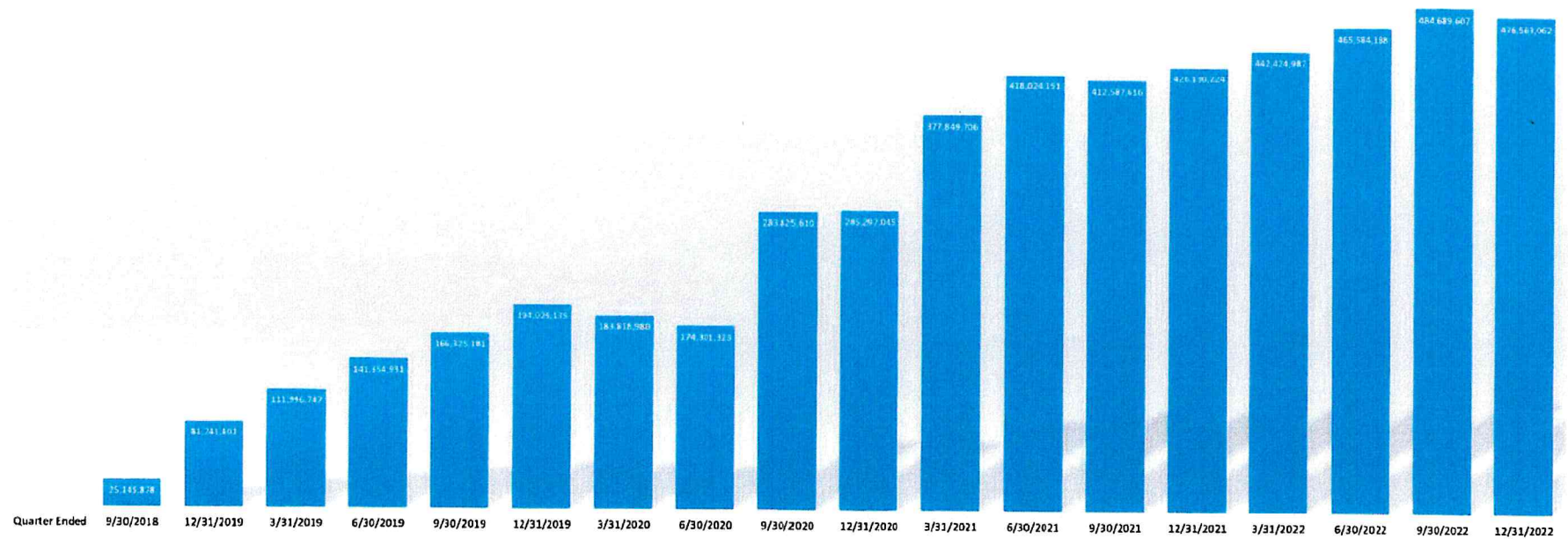
The MFCU receives many more cases than it can investigate and litigate due to staffing shortages.

Total number of tips/potential cases reported to the MFCU:	139
Number of cases completed:	6
Number of additional investigations completed with cases not yet resolved:	3
Average number of major cases per MFCU investigator:	8-10
Number of major cases being investigated:	20

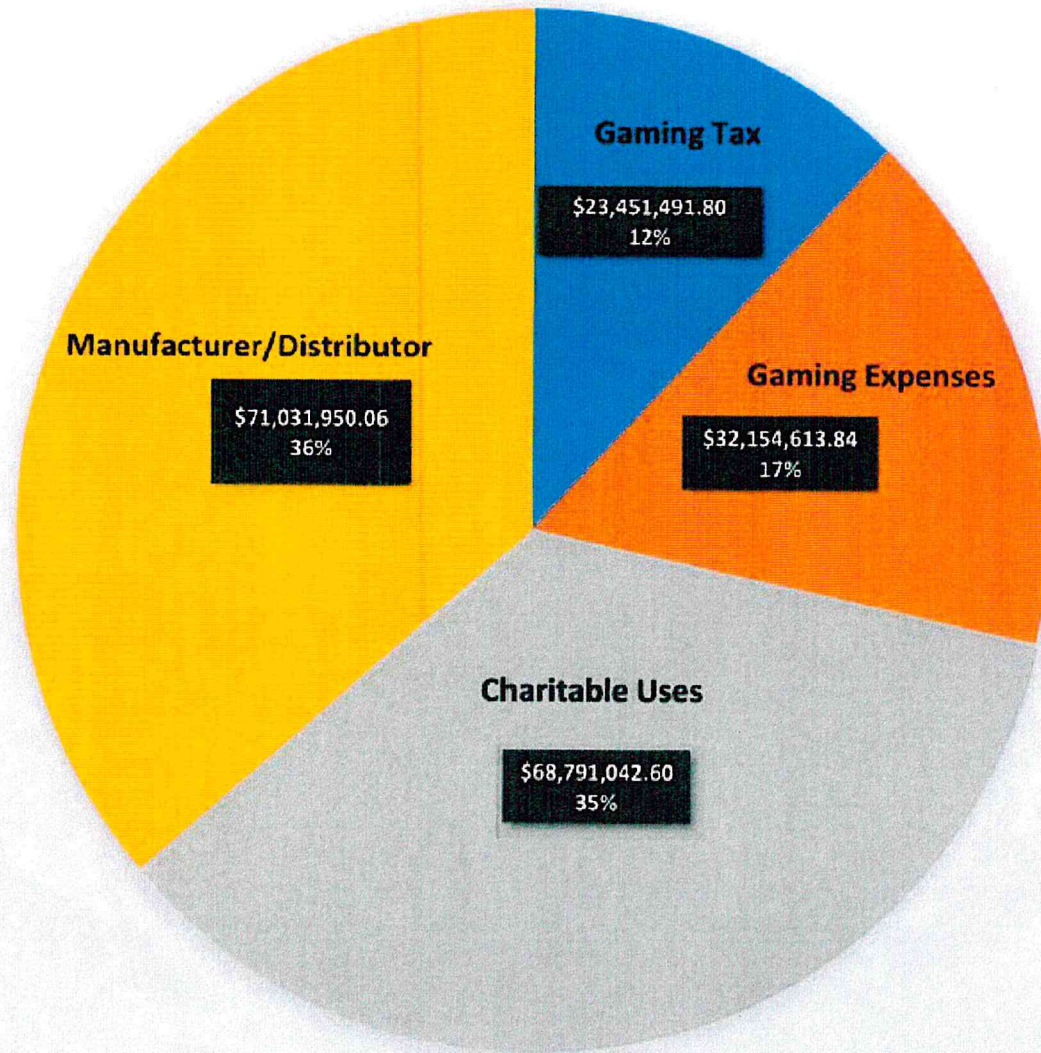
Gaming Division Statistics



E-tab Gross Proceeds per Quarter Reported by Manufacturers

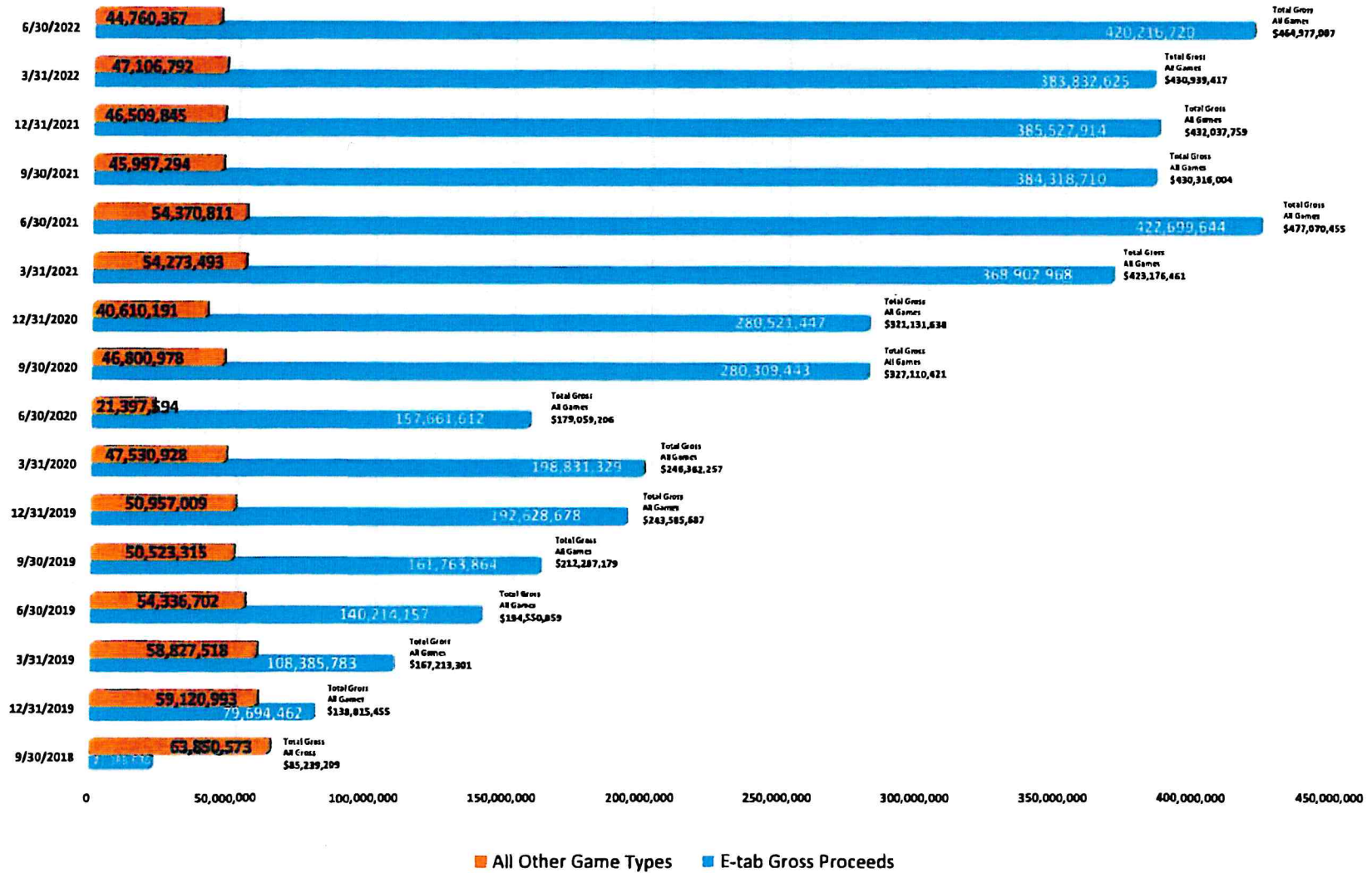


E-tab Adjusted Gross Proceeds Distribution For Fiscal Year 2022



Total E-Tab Adjusted Gross For Fiscal Year 2022
\$195,429,098.30

E-Tab Gross Proceeds vs All Other Game Type Gross Proceeds



Staff Reclassifications
Request No. 18

Pursuant to the state's HRMS criteria, the Office of Attorney General identified a need to reclassify 22 employees into the classifications that match their job descriptions and duties.

Consumer Protection and Antitrust Division

2 consumer fraud investigators from class I to class II: \$14,430

Bureau of Criminal Investigations

18 agents and analysts: \$57,327

Finance Division

1 account budget specialist from class II to class III + 1 administrative assistant from class I to class II: \$21,181