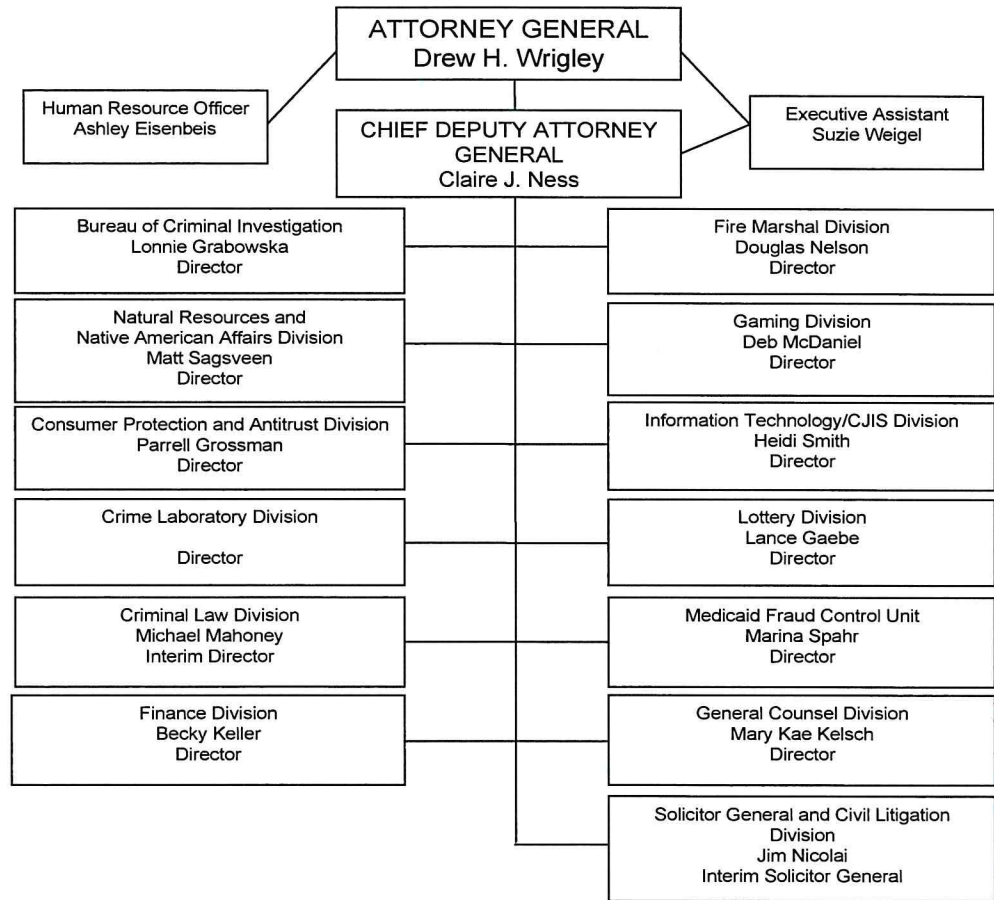

NORTH DAKOTA OFFICE OF THE ATTORNEY GENERAL

2023-25 BIENNIUM
68TH LEGISLATIVE SESSION

BUDGET PRESENTATION
SUPPLEMENTARY MATERIALS

NORTH DAKOTA OFFICE OF ATTORNEY GENERAL
December 2022



BUDGET DEVELOPMENT

Process for developing the 2023-25 budget request:

- ❖ Review of current budget
- ❖ Analysis of special funds
- ❖ Division director input
- ❖ Prioritization of needs

OPTIONAL REQUESTS

1. Attorney Equity and Merit-Based Pay and Promotion Package

- Assistant Attorneys General (AAGs) earn less than attorneys assigned to many other state agencies and local government entities.
 - A new Assistant States Attorney can earn up to \$20,000 per year more than a new AAG.
 - A junior AAG recently accepted a position at another state agency that will pay \$30,000 more per year.
- AAGs are currently paid on a schedule based on their years of service.
- Our proposed package would:
 - Allow us to implement a plan to pay AAGs on merit and achievement of specified criteria;
 - Provide AAGs the possibility of promotions;
 - Improve recruitment and retention; and
 - Reduce turnover costs and loss of legal expertise for the state.
- \$1,078,781 (\$974,392 General Fund)

OPTIONAL REQUESTS (con't)

2. Staff Equity Package

- Office leaderships evaluated the pay of non-attorney staff based on objective HRMS criteria.
- Division Directors provided input regarding underpaid staff.
- Our proposed package would allow the office to remedy salaries that diverge the most from where they should be based on objective analysis.
- \$307,613 (\$295,377 General Fund)

OPTIONAL REQUESTS (con't)

3. Attorneys – Civil Litigation (2.00 FTE) and General Counsel (2.00 FTE)

- Our office has hundreds of clients.
- Civil Litigation Division has just 7 attorneys.
 - 4.5 litigators have specified portfolios (State employment; DHHS economic benefits, child protective services, daycare licensing, foster parenting; tobacco settlement; Job Service; DOT implied consent; and other matters).
 - Only 2.5 litigators are available for other litigation on behalf of the state.
- General Counsel Division has just 14 attorneys responsible for:
 - Legal services to state agencies, the university system, boards, and commissions;
 - Open records/open meetings guidance to state and local government entities;
 - All open records/open meetings opinions; and
 - All Attorney General opinions.

OPTIONAL REQUESTS (con't)

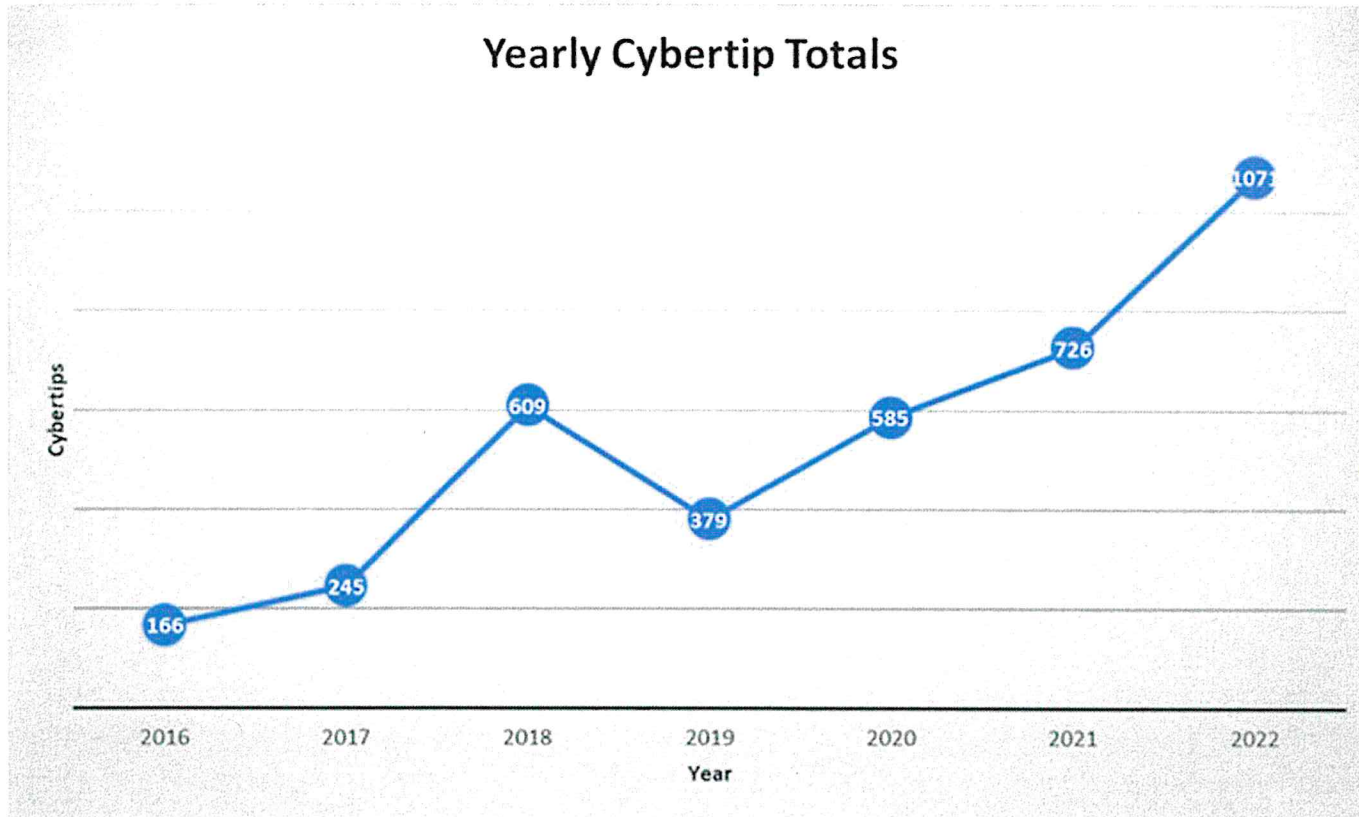
- North Dakota has relied on very costly Special Assistant Attorneys General (SAAGs), who are private attorneys hired to represent state entities.
 - Cost of private attorneys is generally \$250-\$600 per hour;
 - The state litigation pool does not cover a significant proportion of SAAGs; and
 - Some state entities pay for SAAGS from their own budget.
- AAGs are provided at no cost or minimal cost to clients (\$141 per hour).
- \$1,202,370 – General Fund

OPTIONAL REQUESTS (con't)

4. BCI Agents

- 3.00 FTE to lead taskforces to provide law enforcement on tribal lands.
 - BCI executed an MOU with the Spirit Lake Nation to operate a task force for law enforcement on the Spirit Lake Nation's 405 square miles of tribal lands.
 - BCI is working on similar agreements with the leaders of other tribal nations, totaling:
 - More than 5,388 square miles; and
 - At least 19,963 Native American residents living on reservations.
- 4.00 FTE for Cyber Crime
 - Cyber crime agents are needed to investigate many categories of crime, including drug trafficking, fraud, child pornography, child sexual abuse, and others.
- \$2,610,967 – General Fund

Increase in Cybertips from NCMEC to ND



OPTIONAL REQUESTS (con't)

5. Crime Lab

- Restores firearms testing – 2.00 FTE
- Restores fingerprint testing – 2.00 FTE
- Evidence Vaults
 - Currently, there is one vault of insufficient capacity.
 - Additional space is needed for security and separation of evidence.
- Building addition - \$4.25 million
 - Additional lab space for current and additional forensic scientists is needed.
 - Additional workspace for writing and processing reports is needed.
- \$8,375,168 (\$7,620,491 General Fund)

OPTIONAL REQUESTS (con't)

6. North Dakota Medicaid Fraud Control Unit (MFCU)

- 3.00 FTE – 1 Attorney, 1 Investigator, and 1 Paralegal.
- Current staff includes only 1 attorney/division director, 2 investigators, 1 auditor, 1 nurse auditor, and 1 administrative assistant.
- Federal government pays 75% of MFCU costs. (25 percent general fund)
- MFCU recovered more money than the state budgeted for the Unit since inception in October 2019.
 - State general fund expenditures for the 2019-21 and 2021-23 bienniums = \$343,991.
 - State received \$512,433 in MFCU recoveries to date.
 - Judges ordered an additional \$185,144 in MFCU recoveries to date.
- MFCU received 132 referrals for cases over which the Unit has jurisdiction.
 - At least 20 cases provided potential recoveries but could not yet be started due to lack of staff.
- MFCU cases typically involve complex financial and medical issues and thousands of pages of documents.
- \$932,915 (\$233,229 General Fund)

OPTIONAL REQUESTS (con't)

7. Funding Source Changes for BCI, Crime Lab, and IT/CJIS

- This is a truth-in-budgeting measure to increase transparency and sustainability.
 - Recurring costs of salary increases, and operating expenses should be moved to the general fund and out of special funds that fluctuate.
- \$3,260,551 – General Fund

OPTIONAL REQUESTS (con't)

8. Information Technology

- Programmer Analysts – 2.00 FTE
 - Will reduce intractable backlog and delays for high priority projects for BCI and other divisions.
- Business Analyst – 1.00 FTE
 - Will reduce the need for expensive contract IT support.
- Two contractors at a cost of \$970,826 for the biennium will be needed if these FTEs are not authorized, resulting in \$253,120 excess expense and inefficiency.
- \$717,706 – General Fund

OPTIONAL REQUESTS (con't)

9. Public Services FTE

- This position would assist with intake and responses to mandates and communications from legislators, the public, executive branch officials, and other state employees to ensure the office's responses are timely and accurate.
 - Legislators' and Legislative Council's requests for information;
 - Open records requests;
 - Requests for open records/open meetings opinions;
 - Requests for Attorney General Opinions;
 - Other executive branch agencies' requests for data or statistics;
 - Comments and inquires from the public; and
 - Other communications.
- \$186,108 – General Fund

OPTIONAL REQUESTS (con't)

10. Funding Source Changes for Criminal Law Division and MFCU

- Criminal Law Division – replace \$114, 250 in unavailable federal grant.
- MFCU – replace \$227,497 in federal funds due to the general fund cost share increasing from 10% to 25%.
 - This is the only reduction in federal cost share for MFCU.
- \$341,747 – General Fund

OPTIONAL REQUESTS (con't)

11. IT/CJIS Software and Maintenance

- IT/CJIS provides essential support for 75 law enforcement agencies as well as the Office of Attorney General.
- IT/CJIS maintains over 70 systems necessary for its mission, many of which require software licenses and maintenance.
- NDIT is increasing the cost of state accounts by 1300 percent.
 - These accounts are provided to law enforcement agencies so they can access the CJIS system.
- \$489,297 – General Fund
 - \$300,000 of this request is to cover the increased cost for law enforcement agencies.

OPTIONAL REQUESTS (con't)

12. BCI Forensic Equipment

- MAFIN, GrayKey, and Cellebrite software is needed to forensically analyze mobile phones seized from suspects believed to be storing child pornography, information about drug trafficking, associated violent crimes, and other offenses.
- \$528,000 (\$486,000 General Fund)

OPTIONAL REQUESTS (con't)

13. Inflationary Increases

- This request is to cover inflationary increases in the cost of ammunition, supplies, services, buy fund, rent at remote locations, and utilities.
- \$376,463 (\$356,463 General Fund)

OPTIONAL REQUESTS (con't)

14. Civil Litigation Discovery Software

- Civil Litigation division uses software to manage complex discovery documents.
- Currently, the division has a license for a minimal number of cases. The software has proven essential for support of state litigation.
- Additional licenses are needed to save countless hours of staff time and avoid even further division expansion.
- \$100,000 – General Fund

OPTIONAL REQUESTS (con't)

15. Gaming and CPAT Investigator Equipment

- The Gaming and CPAT Divisions have BCI agents assigned to them to assist their investigations.
- This request is to equip the agents with the standard BCI vehicles and radios.
- \$102,000 – Special Funds

OPTIONAL REQUESTS (con't)

16. Gaming IT Solutions

- ND Gaming Distributor solution is an external application for distributors of gaming equipment to facilitate licensing, data submissions, online payments, deposits, and other activities.
- Enhancements to the external applications for charitable gaming organizations and an internal application for the Gaming Division to manage licensing, open records requests, oversee gaming machines, and other improvements are needed.
- The general fund portion will provide enhancements for the office's licensing division for licensing applications and deposits.
- \$950,000 (\$214,000 General Fund, \$736,000 from gaming tax fund)

OPTIONAL REQUESTS (con't)

17. IT Servers

- 8 servers are necessary to run the office's IT systems.
 - 2 of the 8 servers must be replaced each year to ensure operations continue.
- This request is to replace 4 servers in the 2023-25 biennium, per the replacement cycle.
- \$54,000 - General Fund

OPTIONAL REQUESTS (con't)

18. Employee Reclassifications

- This request is to cover the cost of employee reclassifications for employees who met state HRMS requirements to advance in their career with the office.
- \$92,995 (\$78,508 General Fund)

OPTIONAL REQUESTS (con't)

19. BCI Agent Multiplier

- BCI have a dangerous and extremely physically demanding job.
- The average age of hire for a BCI agent is 34 due to BCI's enhanced qualification criteria, including a four year degree and five years of experience.
 - A BCI agent hired at 34 (before 1/1/20) would have to work until 64 to achieve 60% retirement pay.
 - A BCI agent hired at 34 (after 1/1/20) would have to work until 68 or 69 to achieve 60% retirement pay.
- The request is to raise the BCI agent multiplier so agents can retire after 20 years of service with 60% retirement pay.
 - The multiplier would increase from 2.0 (if in PERS already) or 1.75 (if a new employee with no PERS history) to 3.0 for an agent's first 20 years of service.
 - The multiplier would then fall to 1.75 after 20 years of service to promote retirement and safety for the agent and the public.
- Current estimate - \$543,580 (\$407,685 General Fund)

OPTIONAL REQUESTS (con't)

20. BCI Agent Training

- Each year, up to 2 BCI agents may be admitted to the National Forensic Academy, an intensive, 400-hour training program on crime scene processing and forensic investigation.
 - Unique field experience and classroom instruction by national experts.
 - Improves agents' abilities to collect, identify, preserve, and analyze evidence.
 - Improves public safety by elevating agents' skillsets and exposure to emerging best practices.
- \$50,000 - General Fund

OPTIONAL REQUESTS (con't)

21. Renovation to Internet Crimes Against Children (ICAC) Lab in Fargo

- The renovation would remove walls and use modular work surface to provide for up to six digital forensic labs in the BCI's Fargo location.
 - Currently, an area in the Fargo location is separated into two digital forensic labs.
 - Increases in case numbers and possible increases in FTEs require additional lab space.
- \$75,000 - General Fund

OPTIONAL REQUESTS (con't)

22. Sex Assault Kit Tracking Software

- The legislatively mandated sexual assault kit tracking system will go live in 2023.
- A yearly maintenance fee of \$85,000 is required for hosting the software, backups, user support, and updates. A federal grant will cover the cost for the 2023-25 biennium.
- \$180,000 - Federal Funds

OPTIONAL REQUESTS (con't)

23. Undercover Vehicle Replacement For BCI Agents

- BCI has a 6-year replacement cycle for undercover vehicles, per actuarial assessments.
 - 15 vehicles should be replaced each biennium.
 - The net price of each vehicle after trade-in and with a six-year warranty is \$20,000.
- \$300,000 - General Fund

LEGISLATIVELY REQUESTED SUPPLEMENTS

Several legislators requested we supplement our request for BCI.

- 4.00 additional FTE for task forces for tribal lands, background checks, cold cases, and other duties;
- 1.00 additional FTE for criminal intelligence analyst for the Internet Crimes Against Children (ICAC) task force;
- 1.00 additional FTE for an administrative assistant to support additional agents.
- \$2,116,420 – General Fund