



STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL

FACSIMILE NO.

WRITER'S DIRECT DIAL NO.

Fiscal Year 2019 Budget Testimony

Brian E. Frosh, Attorney General

Thank you for the opportunity to respond to the Department of Legislative Services' Fiscal Year 2019 Budget Analysis and your recognition that last year was an extraordinary year for our Consumer Protection Division. OAG brought in over \$31 million in consumer protection recoveries to the State and recovered another \$23.6 million in restitution for Maryland consumers.

Our greatest concern is that the Governor's FY19 proposed budget fails to fund our work in three critical areas: (1) the illegal and discriminatory actions of the Trump Administration; (2) sexual assault; and (3) the opioid epidemic. We seek your help in fully funding these efforts.

Maryland Defense Act

The Maryland General Assembly passed the Maryland Defense Act to protect Marylanders from the arbitrary, unlawful and unconstitutional actions of the federal government. It provides that "[t]he Governor's proposed budget for fiscal year 2019, and for each fiscal year thereafter, shall appropriate at least \$1,000,000 to the Attorney General to be used only for: (1) carrying out this section; and (2) employing five attorneys in the Office of the Attorney General."

The Governor's proposal is to "allow" the Office to hire contractual employees with money that is already committed to the Office of the Attorney General's Consumer Protection Division. This is not what the General Assembly intended, nor is it an adequate or sound approach to funding Maryland Defense Act work. First, diverting funds from the Consumer Protection Division is bad public policy. Consumer protection recoveries have historically been safeguarded in the Consumer Protection Fund for use by the Division to support the protection of seniors, veterans, and our most vulnerable citizens. These settlement recoveries have become even more critical in recent years because the Attorney General's Office receives no general funds to support the Division's critical functions, and it has been required to fund the Division exclusively through these recoveries. Every raid on these funds further limits the Division's ongoing, important work and threatens its long-term sustainability. The Division cannot meet the increasing needs of consumers when you are continuously raiding its only source of funding for other purposes.



Second, the failure to provide pins for attorneys hurts our ability to recruit and retain employees with the necessary skills to perform this work. We are already forced too often to hire attorneys who do not receive the full benefits of State employment. Contractual employees accrue only a maximum of one week of leave per year—not enough to handle, for example, a pregnancy, long-term illness, or the need to care for a family member. We are already disadvantaged in trying to compete with higher salaries offered by the federal government and neighboring jurisdictions for skilled lawyers, and the proposed “solution” would only compound these recruiting challenges.

Finally, as your legislative analysis notes, this funding source is not sustainable going forward, and likely represents only one year of funding.

Sexual Assault Evidence Kits

The Sexual Assault Victim Resources Act of 2017 established the Maryland Sexual Assault Evidence Kit Policy and Funding Committee. The Committee’s purpose is to “increase access to justice for sexual assault victims, hold the perpetrators of sexual assault accountable, increase availability of sexual assault evidence collection exams and create effective statewide policies regarding the collection, testing, and retention of medical forensic evidence in sexual assault cases.” The law provided further: “In fiscal year 2018 and in each fiscal year thereafter, the Governor shall include funds in the State budget to implement this Section, including funds to: (1) employ a full-time Assistant Attorney General . . . to staff the Committee and assist with the implementation of regulations adopted under this section; and (2) operate and maintain an office.”

The Governor’s proposed budget disregards this statutory mandate entirely.

Battling the Opioid Epidemic

The opioid crisis continues to be one of the most serious public health emergencies of our time. We requested four additional pins to battle the epidemic—two in our Consumer Protection Division and two in our Criminal Division. The Governor’s budget fails to provide OAG any additional pins or funding for this work.

The Consumer Protection Division is involved in ongoing investigations and actions against manufacturers and distributors of opioids. We have multiple attorneys working tirelessly to advance these efforts. We simply do not have sufficient resources, however, given the enormity and urgency of this effort.

Our Criminal Division also has prioritized combatting the heroin epidemic by focusing on dismantling the most dangerous drug organizations across the State. Since its inception in 2015, the Organized Crime Unit has indicted over ___ drug traffickers – from the traffickers who knowingly distribute fatal doses of heroin, usually cut or mixed with fentanyl – to the violent trafficking organizations who profit from addicted individuals. The Unit, in coordination with local, State, and federal prosecutors and law enforcement agencies, is currently investigating dozens more cases. Our Criminal Division is also partnering with other law enforcement agencies

to investigate and indict pill mill operators who abuse their positions, steal from the State, exploit their patients, and spread addiction.

This is critical work that must be adequately funded.

Finally, we would like to comment briefly on Medicaid Fraud recoveries, which decreased by \$6.2 million from FY2016. In FY 2016, Maryland received over \$6 million in settlement proceeds from one national qui tam settlement against a pharmaceutical manufacturer, accounting for the spike in recoveries that year. In general, there continues to be a decrease nationally in the amount of recoveries for qui tam cases, and MFCU continues to devote substantial time to other cases. Almost half of the \$3.9 million recovered in FY 2017 was not from qui tam cases but cases from referrals received from other sources. MFCU did pursue more criminal cases in FY17 than in FY16.