



**Pennsylvania Attorney General Josh Shapiro**

Testimony before the Pennsylvania House of Representatives  
Appropriations Committee

February 13, 2019

## **Introduction**

Chairman Saylor, Democratic Chair Bradford, and members of the Pennsylvania House of Representatives Appropriations Committee, I am Josh Shapiro, Attorney General for the Commonwealth of Pennsylvania. Thank you for inviting me to speak with you today about my agency's budget request for Fiscal Year 2019-20.

I am grateful for the support that the Legislature and the Governor have given my office as we rebuilt OAG following a challenging period in its history. We put our agency back on the right track and restored integrity, and strength to the office, which has paid dividends in our capacity, reputation, and effectiveness. This budget—and your continued support—will allow us to continue the vital work with which you entrust our agency, and I appreciate your thoughtful consideration of this request.

## **Summary of budget ask**

I am requesting an appropriation of \$114.586 million for fiscal year 2019-20. This reflects a \$9.97 million increase over fiscal year 2018-19. Nearly 70 percent of this increase is due to increases in salaries and benefits, many of which are mandatory. An additional \$1.096 million is needed, above last year's half-year funding to cover a full year of the Safe2Say Something program, which was established by the Legislature and the Governor and placed under OAG. The net effects of savings and adjustments to our restricted revenue spending result in a further increase of \$1.485 million. The remaining \$1.589 million represents our proposed spending on new positions with associated operations costs.

It is worth noting that in addition to the benefits OAG provides to citizens and the Commonwealth in terms of public safety, defending the Commonwealth and consumer protection, our agency also contributes significantly to the Commonwealth's bottom line. During the 2017-2018 fiscal year, OAG returned a total of \$538 million to the Commonwealth, and we are working to improve these numbers for the current fiscal year.

## **Investing in OAG's priorities and meeting our mission**

### *Addressing the heroin and opioid crisis*

The day I took office, I made the heroin and opioid crisis my top priority, for both myself and our entire agency. That commitment continues to this day, and this budget request reflects that.

OAG has adopted a multi-disciplinary approach to this crisis. We have significantly increased our enforcement efforts across the board. Since I took office, arrests by the Bureau of Narcotics Investigations (BNI) have increased 10 percent, averaging 4.5 arrests per day in that time. OCDETF arrests are up 21 percent through the same period last year. And our state-local task forces combined for over 6,000 arrests in 2017.

To further support these efforts, I am requesting an increase of \$4.593 million (16.1 percent) to support our Drug Law Enforcement work and to give our agents the tools they need—like critical drug testing equipment—to enhance their effectiveness and help keep them safe from these dangerous and often toxic substances. I am also requesting one additional Drug Strike Force DAG, one Director of Agent Training, four Narcotics Agents, and one Investigative Analyst to further support BNI operations.

Illegal drug diversion by doctors, nurses, pharmacists, and other professionals with access to prescription drugs remains a key focus. OAG has significantly increased its resources dedicated to diversion within BNI, and I have directed our Medicaid Fraud Control and Insurance Fraud sections to use their resources to root out diversion within their spheres of enforcement. As a result, our diversion arrests have increased by 57 percent since I took office. To further aid these efforts, this budget contains a request for two additional Medicaid Fraud Analysts in our General Government Operations funding.

OAG is also targeting the root cause of this crisis as one of the six states directing the multi-state investigation into the practices of opioid manufacturers and distributors. This investigation—which involves 41 states—is a resource-intensive undertaking, particularly in terms of handling discovery. In order to both manage our complement efficiently and move cases expeditiously, we continue to utilize temporary attorneys to assist in the review of millions of documents of discovery in this case.

In addition to these enforcement efforts, OAG continues to educate the public about the dangers of opioids, encourage the public to safely dispose of unused medications through drug take back boxes and disposal pouches, and advocate for policy changes that will expand access to drug treatment. In 2018, OAG helped collect and destroy a record number of prescription drugs through the statewide drug takeback program, removing 50 tons of unwanted prescription drugs out of our communities. And, last fiscal year, our Office of Public Engagement conducted 106 presentations which emphasized drug education, drug awareness, and drug prevention to 18,624 attendees. These sessions were held in schools, clubs, senior centers, and various community centers.

This crisis continues to evolve. This is evident in the shift over the last year from heroin being the dominant drug involved in fatal overdoses to fentanyl—an opioid 50 times stronger than heroin—and carfentanil—which is up to 1,000 times stronger than heroin. As the crisis evolves, OAG needs not just adequate resources, but also the flexibility to deploy those resources effectively in a rapidly-changing environment. Therefore, OAG proposes combining our existing Drug Law Enforcement, Local Drug & Drug Strike Task Force, and Strategic Response Team budget line items into one line item. Doing so will allow OAG to be nimble to adapt our practices as conditions on the ground demand, and will simplify our back office operations.

Our work in this area dovetails with the Legislature's commitment to stemming the tide of fatal overdoses in Pennsylvania. It remains Pennsylvania's number one public health and public safety crisis. While others, both inside and outside government, do admirable work addressing the public health side of the crisis, this budget continues my commitment to prioritizing the public safety approach.

### *Effective use of the Grand Jury process*

As an agency, OAG is uniquely positioned to engage in complex, wide-ranging investigations thanks to our ability to leverage the Grand Jury process. While ongoing investigations must remain confidential, the recently-published results of the Grand Jury's investigation into child sexual abuse—and the attendant cover-up—over the course of decades in six Pennsylvania Catholic Dioceses is the most prominent example of the importance and value of the Grand Jury process. When OAG released the Grand Jury's Report in August 2018, it reflected the work not just of the 23 dedicated grand jurors, but also of 129 OAG attorneys, agents, and support staff in our Criminal Division, and countless hours of overtime across the entire agency. To illustrate the cost to the agency of this work, the overtime alone totaled \$297,000.

This massive undertaking uncovered the abuse of “thousands” of child victims at the hands of 301 predator priests. Without the hard work, professionalism, and caring of scores of OAG staff, these victims would not have been able to tell their stories, nor would their abusers have been brought into the light; and the rest of the Commonwealth and the members of the Church would have remained in the dark about these terrible yet important truths. As importantly, since the release of the report, nearly 1,500 more victims have come forward to our Clergy Abuse Hotline to tell their stories and identify even more perpetrators of these heinous acts. Adequate funding from the Legislature is critical to allow us to continue to conduct these types of in-depth, intensive investigations into institutional wrongdoing.

### *Increased caseload from our partners in law enforcement*

One of my highest priorities since taking office has been to restore OAG's relationships with federal, Commonwealth, and local partners in law enforcement. Over the past two years, we have done just that. As a result, we are once again taking on complex, impactful cases. These stronger relationships have resulted in renewed activity and an increased caseload, requiring continued resources to effectively investigate and prosecute these cases.

In addition to increases in our collaborative workload, our agency has seen a dramatic increase in the number of cases referred to us by local district attorneys. The 2017 municipal elections in Pennsylvania saw a number of former public defenders elected as county District Attorneys. When they took office in January of 2018, many of the cases that their new offices were handling involved former clients of theirs. Per standard protocol, these cases were referred to OAG due to clear conflicts of interest. There have already been a large number of these cases referred to OAG, and more continue to come in as new cases present additional conflicts of interest. These cases range from simple misdemeanors to complex homicides, spanning every point of the judicial process from initial prosecution to final appeals.

In fiscal year 2017-2018, OAG saw a 57 percent increase in criminal prosecutions cases due to these referrals and enhanced law enforcement collaboration. Our costs have increased accordingly; for example, the amount of overtime billed by the agents in our

Bureau of Criminal Investigations increased by 138 percent from fiscal year 2016-17 (\$80,000) to fiscal year 2017-18 (\$191,000).

While some of these cases are relatively straightforward, others are extremely resource-intensive. The most significant example is the case surrounding the death of Timothy Piazza, who died as a result of hazing at a Penn State fraternity. This case alone has taken an enormous amount of OAG resources, including the time of several attorneys, general litigation costs, and other associated expenses. To date, 23 of the 26 cases that OAG proceeded against have been disposed of with either a guilty plea or diversionary disposition, with the remaining three cases still in progress.

With more referrals sure to come in as former clients continue to come across these District Attorneys' desks, OAG will continue to need increased resources in our Criminal Law Division, which was increased last year by three attorneys. This year, we are asking for three additional Special Agents to assist with these cases.

#### *Generating revenue for the Commonwealth*

Thanks to the investments that you allowed us to make last fiscal year, including additional positions in our Financial Enforcement Section and Bureau of Consumer Protection, OAG was able to recover significant amounts both for the Commonwealth and for Pennsylvania consumers through our Public Protection and Civil Divisions. In the 2017-18 fiscal year, OAG returned \$6.958 million in cash and non-monetary relief directly to consumers. We also collected and saved \$189 million for the Commonwealth, including \$98 million through tax litigation settlements and verdicts, \$78 million in collections and financial enforcement, and \$12.5 million from actions to root out Medicaid fraud.

On top of that, the Commonwealth receives more than \$300 million each year in payments pursuant to the Tobacco Master Settlement Agreement. The Commonwealth's share of these payments could be reduced dramatically, or even eliminated completely, if it were determined that these statutes are not being enforced. Through vigorous enforcement, OAG's Tobacco Enforcement Section has ensured that the Commonwealth remains entitled to these funds.

To that end, in June 2018, Pennsylvania reached a historic settlement that resolved disputes with the tobacco companies over Pennsylvania's enforcement during the years 2004 – 2024. These long-standing disputes had plagued prior administrations and threatened the fiscal health of the Commonwealth. Ultimately, our agreement netted the Commonwealth \$636 million—\$358 million for fiscal year 2018-19 and another \$287 million spread out over the following 12 fiscal years. Thanks to the hard work of OAG's Tobacco Enforcement Section in achieving this settlement, we can reduce our tobacco enforcement budget by \$508,000 in fiscal year 2019-20 as we will no longer have the costs associated with litigation of this matter.

### *Fully funding “Safe2Say Something PA”*

In 2018, the Legislature passed Act 44, creating the Safe2Say Something program, a 24-hour hotline and referral service for all types of school safety issues. You entrusted OAG with the creation and ongoing operation of this program, which our office fully implemented and launched on schedule on January 14, 2019. The Legislature provided \$600,000 in initial funding for the first half year of the program’s operation – from January through June 2019. Moving forward, OAG requires an ongoing funding stream to cover continued operations and funding for the positions and costs that a 24/7 program demands. Therefore, OAG is requesting an increase of \$1.096 million for Safe2Say, for a total of \$1.696 million for the full fiscal year.

### **Cost savings**

Nearly 80 percent of our budget is related to personnel—our agency’s most important strategic resource. Investment in increased staffing levels pay dividends to the Commonwealth through increasing public safety, effectively defending state agencies, protecting consumers and returning money to the Treasury. Regardless, I am ever mindful of the need to do more with less and to seek savings wherever possible. To that end, OAG continues the process of reducing our footprint across the Commonwealth. Building on our successful consolidation in Erie, OAG has consolidated our BNI and BCP offices in State College, and fully moved our Philadelphia and Pittsburgh offices into locations that better meet our agency’s needs.

We are also in the process of reducing our footprint in Lemoyne, where our rent is \$652,560 annually under a contract negotiated by a prior administration. We are moving some operations from Lemoyne into our Headquarters in Strawberry Square, while identifying cheaper, smaller space to house our remaining operations and reduce our rent cost.

We are also working to consolidate OAG’s offices in Butler and North Huntington when those leases expire. In Northeast Pennsylvania, we are exploring the feasibility of merging the Scranton and Wilkes-Barre offices—though we remain tied to a lengthy lease with no escape clause signed by the previous administration for our Scranton office, which has made this challenging. The overall result is a net decrease in our real estate costs of \$656,000 from fiscal year 2018-19.

Another strategy we are employing to improve our efficiency and save money is through technology upgrades. We have fully implemented a new E-Discovery platform, making our discovery process significantly more efficient. We are also in the midst of procuring our new case management system that will streamline our operations and increase our efficiency.

OAG is also rewriting its complaints database to automate more of the process of receiving, processing, and responding to consumer complaints, which will save both staff time and attendant costs. We have reduced our legal services costs and fees by over a million dollars, a savings of 44 percent. This fiscal year, we created a new process for creating an office-wide budget for events and specialty items, reducing costs by

purchasing in bulk and limiting last-minute purchases. We have moved many trainings in-house, such as our Commonwealth Investigators Training Program; paying for those trainings out of restricted revenue funds has further reduced our reliance on appropriations. Finally, we are actively looking at our fleet to identify ways to reduce transportation costs.

### **Conclusion**

Thank you Chairman Saylor, Democratic Chair Bradford, and all the members of the Pennsylvania House of Representatives Appropriations Committee for holding this hearing and giving me the opportunity to present my budget priorities for Fiscal Year 2019-20. Our budget is critical for my office and I appreciate your focus on it. I look forward to answering any questions you may have.