

OFFICE OF
STATE OF
NORTH DAKOTA
ATTORNEY GENERAL

Biennial Report

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OFFICE OF ATTORNEY GENERAL

THE ELECTED OFFICE

The Office of Attorney General was established in the 1889 state constitution. The agency is headed by the Attorney General, an independently elected constitutional officer. The Attorney General is one of 12 statewide elected officials.

To be eligible for election to the office of Attorney General, an individual must be a licensed attorney, at least 25 years old, and qualified to vote in the state.

The Attorney General serves on numerous boards and commissions, including the Board of University and School Lands, Industrial Commission (which oversees all state-owned industries), PERS Board of Trustees, Judicial Council, Domestic Violence & Fatality Review Commission, and the Pardon Advisory Board.

Duties and Functions

The duties of the Attorney General are set out in several chapters of the North Dakota Century Code, but primarily in chapter 54-12.

The Attorney General represents the state in all legal matters, civil and criminal, where the state is named as a party or the state may have an interest in the outcome of the litigation.

The Attorney General issues opinions on questions of law related to matters involving state statutes, the state constitution, and matters having statewide significance. The office provides legal services to state and constitutional officers, state agencies, boards, and commissions.

The office enforces the open meetings and open records laws, and issues opinions in response to complaints that a public entity has violated those laws.

In addition to its legal duties, the Office of Attorney General has several divisions with regulatory or investigative functions:

- The **Bureau of Criminal Investigation** assists local law enforcement agencies with criminal and drug enforcement investigations, maintains the criminal history and sex offender registration

systems, and provides training for law enforcement officials.

- The **Consumer Protection and Antitrust division** (CPAT) enforces the state's consumer fraud and Do Not Call laws, investigates and prosecutes consumer fraud cases and enforces the state's anti-trust statutes.
- The **Fire Marshal's division** conducts fire safety training and inspections, regulates the sale, use and storage of explosives (including fireworks), inspects public buildings, day care facilities, and schools to ensure compliance with fire codes, and conducts arson investigations.
- The **Gaming division** regulates charitable gaming, and ensures compliance with tribal-state casino gaming compacts.
- The **Licensing** section regulates and issues certain wholesale, retail, and distributor licenses.
- The **North Dakota Lottery** division is responsible for the day-to-day operation of the lottery and its games.

Defects in the Law

North Dakota Century Code Section 54-12-05 requires the Attorney General to "direct attention to any defect in the practical operations of the law relating to revenue and criminal offenses and shall suggest amendments and changes as in the attorney general's judgment are necessary to subserve the public interest." No such defects were identified.

Finance

- The agency's budget was **\$85,126,745**.
- **The 2013-15 revenues collected totaled \$89,168,856.**
- The costs associated with defending and prosecuting actions on behalf of the state by attorneys **within** the Office of Attorney General totaled **\$2.98 million**.
 - This is only **\$380,000 (14%)** more than the litigation costs for the 2011-13 biennium.

ATTORNEYS GENERAL

Wayne Stenehjem	2001-
M. K. "Heidi" Heitkamp	1993-2000
Nicholas Spaeth	1985-1992
Robert Wefald	1981-1984
Allen I. Olson	1973-1980
Helgi Johanneson	1963-1972
Leslie R. Burgum	1955-1962
Paul Benson	1954-1954
Elmo T. Christianson	1951-1954
Wallace E. Warner	1949-1950
P.O. Sathre	1948-1948
Nels G. Johnson	1945-1948
Alvin C. Strutz	1937-1944
P.O. Sathre	1933-1937
Arthur J. Gronna	1933-1933
James Morris	1929-1932
George F. Shafer	1923-1928
Sveinbjorn Johnson	1921-1922
William Lembke	1921-1921
William Langer	1917-1920
Henry Linde	1915-1916
Andrew Miller	1909-1914
Thomas F. McCue	1907-1908
Carl N. Frich	1903-1906
Oliver D. Comstock	1901-1902
John F. Cowan	1895-1900
William H. Standish	1893-1894
Clarence A.M. Spencer	1891-1892
George F. Goodwin	1889-1890

Special Assistant Attorneys General

Several state agencies either have their own legal departments or choose to retain private attorneys on contract. In accordance with state law (N.D.C.C. Section 54-12-08), these attorneys are appointed as Special Assistant Attorneys General (SAAG) by the Attorney General, but are not employees of the Office of Attorney General. They are paid by the state agency that hired them.

During the biennium, state agencies paid a total of **\$16.83 Million** to these attorneys, including:

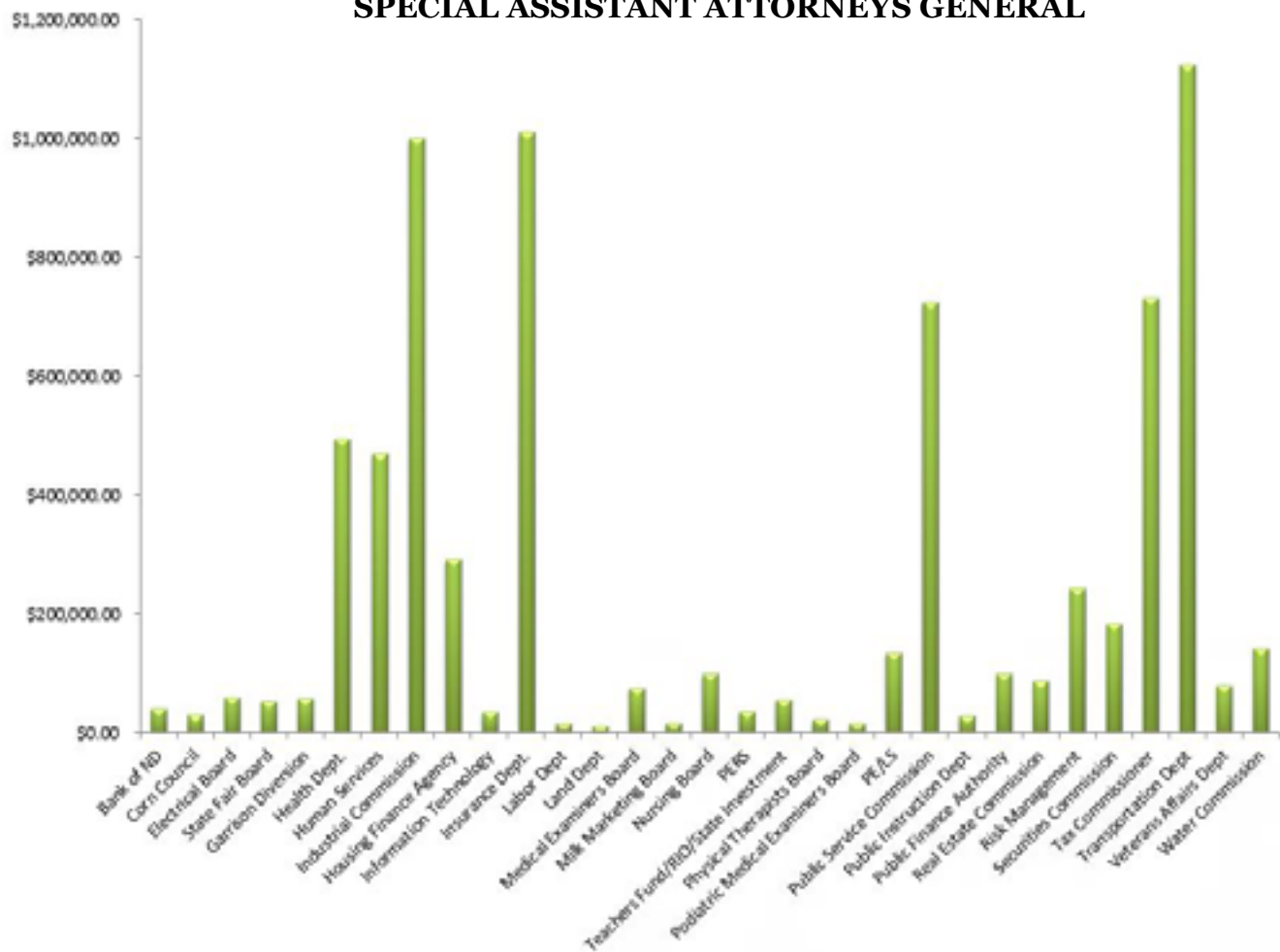
- Workforce Safety & Insurance —**\$3.34 million** (up **25%** from \$2.68 million last biennium); and

- University Systems—**\$3.91 million** (up **38%** from the \$2.83 million last biennium).

The 64th Legislative Assembly raised concerns about the increased costs incurred by the University System for legal services, both from attorneys employed within the University Systems and from the private attorneys under contract.

As a cost-saving measure, the Legislature transferred seven attorney positions from the North Dakota University Systems to the Office of Attorney General and required the positions to be filled competitively within the salary ranges authorized for the Office of Attorney General. The Legislature also directed the Attorney General to review the use of outside counsel by other state agencies. These legislative changes took effect after the reporting period. ▣

**COSTS OF LEGAL SERVICES PROVIDED BY
SPECIAL ASSISTANT ATTORNEYS GENERAL**



This chart does not show ND University Systems or ND Workforce Safety & Insurance. Agencies expending less than \$10,000 in the biennium are also excluded.



REPRESENTING THE STATE

GENERAL COUNSEL

The **State & Local Government** division provides general counsel legal services to almost **70** state agencies, boards and commissions, drafts Attorney General opinions, reviews all administrative rules adopted by state agencies and boards, and assists agencies and members of the Legislative Assembly by drafting bills and amendments, and explaining the ramifications of proposed legislation.

Open Records and Meetings

The division handled a large number of telephone calls from public entities and citizens regarding open records and meetings requirements. Responding by telephone eliminated many potential violations or opinion requests. The agency issued **44** opinions addressing alleged violations of the open records or open meetings, including:

- **NDSU RESEARCH PARK VENTURES LLC IS A PUBLIC ENTITY (2013-O-19)** – The North Dakota State University Research Park Ventures, LLC, is a public entity because it performs governmental functions for the city of Fargo and is created by statute. The Research Park violated the law when it denied a request for its records.
- **DEVELOPMENT FOUNDATIONS SUBJECT TO OPEN RECORDS AND MEETINGS LAW (2014-O-08)** – The NDSU Development Foundation is a public entity subject to the open records law because it performs functions governmental functions on behalf of NDSU. The Foundation broke the law when it denied a request for records on incorrect legal grounds and when it delayed its response for months even after acknowledging that it had responsive records.
- **CITY COMMISSION MEETINGS (2015-O-04)** – Members of a city commission violated the law when they engaged in a series of small gatherings to discuss the termination of the then-Chief of Police and negotiate a severance package, again when they held a special meeting without providing proper notice, and when they held an improper executive session.

Legal Opinions

The State & Local Government division drafted **24** legal opinions on questions of law related to matters involving state statutes, the state Constitution, and issues having statewide significance, including:

- **UNEMPLOYMENT BENEFITS FOR LOCKED-OUT WORKERS** (2013-L-07) An individual cannot receive unemployment benefits if the unemployment is due to a lockout, unless the individual meets both of the exceptions listed in statute.
- **DUTIES OF THE COUNTY STATE'S ATTORNEY** (2014-L-08) The county state's attorney is required to represent a county social services board concerning foster care case management and concerning the general duties of a county social service board.
- **HEALTH PLAN REQUIREMENTS UNDER FEDERAL AND STATE LAWS** (2014-L-12) The Sanford Health and Blue Cross Blue Shield "metallic" health plans' age-based restrictions may not satisfy federal and state law and may render the plans ineligible for "grandfathered" status under the Affordable Care Act.
- **AUTHORITY OF INDUSTRIAL COMMISSION OVER ABANDONED OIL AND GAS WELLS** (2015-L-03) The Industrial Commission has authority to enter into a contract to plug, replug, or reclaim a well site and may use its discretion to assert its authority. The Commission also has administrative rules that address plugging, reclamation and recourse of the landowner in the event the surface owner is not satisfied with the plug or reclamation. ■



PROTECTING OUR NATURAL RESOURCES

North Dakota's natural resources are vital to the state's economy and to its citizens' lifestyle and well-being. The Attorney General, as a member of boards and commissions that oversee natural resources, plays an important role in the wise use of these resources. In addition, the Attorney General and the **Natural Resources division** provide legal advice to the state's agencies that oversee these natural resources.

As a member of the Board of University and School Lands, the Attorney General helps manage approximately 706,819 acres of school trust land, 1.8 million acres of trust minerals and \$3.6 billion of financial assets. Income generated from these permanent resources supports the state's schools.

The **Natural Resources division** assists the State Engineer in regulating dams, dikes, drains, and the appropriation of water; the Industrial Commission in regulating the exploration and development

of mineral resources; the Health Department in protecting our environment; the Game & Fish Department in managing wildlife and wildlife habitat; the Water Commission in developing water resources; and the Parks & Recreation Department in managing public recreation areas.

The division also administers the state's anti-corporate farming law and advises state and local officials on Indian law issues.

ENVIRONMENTAL LITIGATION

The **Natural Resources division** attorneys are involved in numerous lawsuits challenging federal overreach on environmental regulation, including:

Sulfur Dioxide (SO₂) Emissions

In recent years, the Environmental Protection Agency (EPA) and environmental groups have engaged in a process known as “sue and settle,” in which an environmental group sues the EPA on an issue affecting the states and within a very short time (days or weeks) a consent decree is finalized - without any input from the affected states.

In September 2013, the Natural Resources division took the lead on behalf of six states to challenge a consent decree entered into between the EPA and two environmental groups, setting SO₂ emission standards for the states. Fourteen additional states filed an amicus brief supporting the North Dakota led group. In March, 2015, the US District Court approved the consent decree over the states’ objections. The states appealed the decision to the 9th Circuit Court of Appeals. The appeal is pending.

Air Quality Standards

Last biennium, the division’s attorneys joined more than 20 states to challenge the EPA’s rule-making process relating to hazardous air pollutant standards for power plants.

The EPA’s new rule would have forced power plants to make cost-prohibitive changes even if the plants were already in compliance with existing EPA standards. The states petitioned to the DC Circuit court of appeals but in April 2014, the petition was denied.

The US Supreme Court granted the state’s petition for cert in November 2014. On June 29, 2015, the US Supreme Court issued a decision in favor of North Dakota and the other states, deciding that the EPA unreasonably interpreted the statute when it deemed cost irrelevant.

Water

During the biennium, the Natural Resources division assisted the State Engineer in mediating two construction-related claims on the Southwest Pipeline project, issuing an administrative order regarding dam safety and obtaining **14 administrative consent agreements** for water permit violations, amounting to **\$665,028.05 in civil penalties**.

Waters of the United States

In April 2014, the EPA & the Army Corps of Engineers proposed a rule redefining “waters of the United States” for purposes of the Clean Water Act, expanding federal jurisdiction over which water bodies in the state require federal permits. Of specific concern to North Dakota is the inclusion of Prairie Potholes.

Under the proposed rule, a landowner wishing to conduct any work in the newly defined federal waters, including draining such water, must apply for a federal permit - a process that is both time consuming and expensive. Division attorneys assisted several state agencies in filing comments on the rule and Attorney General Stenehjem joined comments submitted by a group of attorneys general.

Despite the objections of numerous states and agricultural groups, the agencies finalized the rule and published it in Federal Register on June 29, 2015. On the same day, North Dakota and eleven other states filed a lawsuit in the US District Court to have the rule vacated and prevent the EPA and Corps from enforcing it. The case is pending.



Oil & Gas Development and Enforcement

As a member of the Industrial Commission, the Attorney General plays a key role in ensuring that the oil and gas industry complies with the law governing oil and gas exploration and recovery.



The division's assigned attorney presided over almost **4,400 oil and gas administrative hearings** and assisted the Industrial Commission's Department of Minerals Resources pursue **26 civil administrative** cases for violations of the Commission's rules, order, and regulations.

Through those complaints, **\$438,604.36** has been collected in penalties. As of the end of the biennium, six cases are still pending and in another four cases, the division is obtaining judgments for unpaid penalties.

Hydraulic Fracturing (Fracking)

In April 2015, North Dakota and numerous other states filed complaints against the federal Bureau of Land Management in Wyoming Federal District Court, seeking to prevent the BLM's new "fracking" rule from coming into effect.

The states are challenging the BLM's authority to impose federal regulations on hydraulic fracturing

practices not only because those regulations interfere with the state's existing comprehensive oil and gas development rules and environmental protection standards, but also because the EPA has already delegated authority to the states to monitor and protect underground water sources. The case is pending.

Environmental Protection

The division assisted the Health Department with its regulatory work involving air pollution control, asbestos removal, water pollution control, and solid waste and hazardous waste management, including:

- Enforcement action against the owner of a private wastewater treatment facility after a Health Department inspection uncovered an unauthorized discharge of wastewater into a tributary of the Missouri River from a broken pipe that been left unrepaired for several weeks, as well as several construction deficiencies.

The division negotiated an agreement requiring the owner to pay a penalty of **\$195,000**, of which \$58,000 was suspended pending correction of the deficiencies and compliance with increased reporting requirements.

- Enforcement action against the owners of a natural gas plant for non-compliance with the state's air quality standards for sulfur dioxide. It was determined that the facility's pollution control equipment had malfunctioned. The owners immediately took action to correct the problem, installing upgrades to its pollution control equipment.

The division negotiated a **\$137,000 penalty** of which \$47,000 was suspended pending completion of facility upgrades. The facility completed the corrective action and is in compliance with the state's SO₂ air quality standards.

These efforts, and many others, resulted in the collection of over **\$2.25 million in penalties.**

Next Generation Energy Act Lawsuit



In November 2011, Attorney General Stenehjem and others sued the state of Minnesota over its Next Generation Energy Act (NGEA), which imposes restrictions on carbon dioxide emissions from the generation of electricity imported from outside Minnesota and consumed in Minnesota. The lawsuit alleged that the NGEA violates the Commerce Clause and the Supremacy Clause of the United States Constitution

In April 2014, a Minnesota federal district court **agreed with North Dakota** and ruled the Minnesota law unconstitutional, faulting the law as “overreaching” because it “requires out-of-state entities to seek regulatory approval in Minnesota before undertaking transactions in other states” and wrote that if the statute were allowed to stand, it could lead to “just the kind of competing and interlocking local economic regulation that the Commerce Clause was meant to preclude.”

The State of Minnesota appealed the ruling. The hearing was scheduled for October 2015, before a three judge panel of the US 8th Circuit Court of Appeals. ■

NEWS RELEASE

June 10, 2015

HEARING SCHEDULED ON STATE’S REQUEST TO BLOCK BLM RULE FROM TAKING EFFECT

BISMARCK, ND – Earlier this week, the state of North Dakota filed a request in federal District Court for a preliminary injunction against the Bureau of Land Management (BLM) to block the BLM Hydraulic Fracturing Rule from going into effect on June 24.

The United States District Court for the District of Wyoming has scheduled a hearing on June 23, 2015, to hear North Dakota’s request and separate requests filed by Wyoming and Colorado. Attorney General Wayne Stenehjem will be attending the hearing.

“If the BLM rule is allowed to go into effect, the state of North Dakota could lose hundreds of millions of dollars in mineral royalties, and oil and gas development in the state will be disrupted and delayed,” said Stenehjem.

North Dakota is asking the Court to temporarily prevent the BLM Rule from taking effect until the Court has an opportunity to review the challenge to the Rule filed by North Dakota, Wyoming and Colorado in April 2015. The states previously sent a letter to the Assistant Secretary of Interior asking the agency to delay implementation of the BLM Rule until the validity of the Rule could be adjudicated by the Court. The Department of Interior denied the States’ request.

In the challenge filed in April, the states asked the federal district court to invalidate the BLM’s regulations not only because those regulations interfere with the existing comprehensive state oil and gas development rules and environmental protection standards, but also because the federal government, through the Environmental Protection Agency, has already delegated authority to the states to monitor and protect underground water sources.

DEFENDING THE STATE'S RIGHTS

The **Civil Litigation division** represents state agencies, officials, and employees in legal actions, including administrative hearings, state court lawsuits, federal court lawsuits, and appeals. The attorneys handle cases ranging from challenges to the constitutionality of state laws to collection actions for various state agencies.

Division services

Division attorneys represent the Bank of North Dakota, the ND Department of Labor, the Department of Human Services, Department of Transportation, Job Service North Dakota, the state's Risk Management fund and the Department of Corrections & Rehabilitation and State Penitentiary.

The division recovered **\$4.62 million** for the Bank of North Dakota from delinquent property and student loans and **\$2.7 million** in unpaid employer tax contributions and benefit overpayments for Job Service North Dakota.

Wage Claims

On behalf of the Department of Labor, the division pursued wage claims against **238 employers** involving 423 employees, and collected over **\$513,000** of unpaid wages from employers, including:

- The ND Supreme Court affirmed the June 2013 district court's judgment in favor of the Labor Commissioner for **\$149,551** in unpaid wages, statutory penalties, and interest from a Wahpeton employer. The employer had paid \$43,454 prior to the appeal and has since satisfied the judgment in full.
- In May, 2015, the division obtained a default judgment of **\$86,716** on behalf of 20 former employees of a business in Harvey, ND.

The civil litigation division recovered **\$7.82 Million** for ND state entities during the biennium.

LITIGATION

Same Sex Marriage

Two federal lawsuits challenged North Dakota's definition of marriage as a legal union between one man and one woman. The division had briefed the legal issues and the case was pending before the federal district court when the United States Supreme Court issued a decision holding couples of the same-sex may not be deprived the right to marry, making the federal lawsuits moot.



Commitment of Sexually Dangerous Individuals

The division is defending a federal lawsuit challenging the constitutionality of the state law providing for continued civil commitment of individuals found to be **sexually dangerous individuals**.

The plaintiffs allege that their continued commitments are unconstitutional on various grounds, including that they are being unconstitutionally confined because they are not receiving effective treatment or treatment in the least restrictive manner available. The case will not go to trial until after the end of the biennium.

Abortion Control Act

Civil litigation attorneys continued the defense of a lawsuit challenging the constitutionality of 2011 House Bill 1297 (Abortion-Regulation, Reports & Drugs), which made several changes to the North Dakota Abortion Control Act relating to medicinal abortion techniques. Although the district court found the act unconstitutional, the ND Supreme Court issued a divided decision, which resulted in the Act being held **constitutional**.

Tobacco Master Settlement Agreement - Enforcement

The 1998 Master Settlement Agreement (MSA) required each settling state to pass a qualifying statute allowing the state to collect escrow payments from the Non Participating Manufacturers (NPMs).



Under the MSA, a settling state's annual settlement payment cannot be reduced by the NPM Adjustment so long as that settling state diligently enforced its qualifying statute. North Dakota's qualifying statute is N.D.C.C. ch. 51-25, Tobacco Sales Act.

In April 2006, several participating manufacturers withheld approximately \$775 million from the Settling States (those participating in the MSA), claiming an offset for the 2003 NPM Adjustment. North Dakota's arbitration trial was held in October 2012 but it was not until September 2013 that the arbitration panel issued its decision.

The panel unanimously determined that during 2003 North Dakota diligently enforced its qualifying statute and thus was not subject to the 2003 NPM Adjustment (**saving the state up to \$23 million**).

The State is currently defending tobacco companies' allegations that North Dakota did not diligently enforce its qualifying statute during 2004. A hearing date has not yet been scheduled.

Through the end of the biennium, the state of North Dakota had received a total of **\$463,976,235.90** in tobacco settlement payments. Of that amount **\$64,618,710.75** was received during the 2013-2015 biennium.

Inmate Lawsuits

During the biennium the **Civil Litigation division** defended the state in a number of lawsuits filed by inmates against the ND Department of Corrections & Rehabilitation (DOCR) State Penitentiary.

These allegations ranged from accusations that DOCR employees were "deliberately indifferent" to prisoners' serious medical needs in violation of the Eighth Amendment (for refusing to prescribe medication for a pain relief, or not providing appropriate dental treatment, etc.), to complaints that DOCR employees fabricated contraband changes in retaliation for an inmate threatening to bring a lawsuit and that an inmate was transferred to another state in retaliation for his repeated grievances.

- Although some cases are still pending, in **every** case decided during the biennium, the **state prevailed**.



CRIMINAL PROSECUTIONS

The six attorneys within the Criminal & Regulatory division provide prosecutorial assistance to the 53 county state's attorneys upon request. In addition, the division handles prosecutions of child sexual abuse offenses.

Section 2254 Habeas Petitions

The **Criminal & Regulatory division** defended **22** habeas cases filed in the United States District Court by prisoners attempting to overturn their state court convictions and either get a new trial or be released from custody.

The prisoner's claims ranged from allegations of search and seizure violations and prosecutorial misconduct to discovery violations, discriminatory jury selection and jury bias.

In the cases decided during the biennium the federal court **denied all the prisoners' claims**. The Court of Appeals for the Eighth Circuit also issued decisions in three federal habeas cases, again upholding the judgment of the United States District Court.

Criminal Cases

During the biennium, the attorneys prosecuted numerous criminal cases, including:

- Allen Charles Thomas, who was convicted in August 2013 of arson and endangering by fire for setting fire to the Lone Steer Motel in Steele. The building was a total loss, but has since been replaced by a new motel. Thomas was sentenced to serve **46 years** for his crimes.
- Ryan Anderson, who was convicted of murder in August 2014 for stabbing his best friend four times at a man camp near Tioga in Williams County. Anderson was sentenced to **20 years** in prison.
- In September 2014, a Dunseith man was convicted by a jury in Rolette County District Court for the forcible rape of an adult woman. Lorry Van Chase was sentenced to serve **40 years** with 10 suspended. Trials

in other charged cases against Van Chase were postponed pending the outcome of this case.



Drug Prosecutions

Two assistant attorneys general within the Criminal & Regulatory division are assigned to prosecute drug cases, and work closely with the state's Narcotics Task Forces and the United States Attorney's Office.

During the biennium, the attorneys, located in Bismarck and Minot, prosecuted **116** individuals for state and federal drug offenses.



SERVING CRIMINAL JUSTICE

CRIMINAL INVESTIGATIONS

The Bureau of Criminal Investigation (BCI) has 43 agents located in Bismarck and 12 field offices across the state. These agents provided assistance to federal, state and local law enforcement agencies on **773** drug investigations and **897** other criminal investigations during the biennium.



DRUG TRENDS

As the state's population increased in response to the oil boom the demand for drugs increased, and international drug trafficking organizations established operations in the state. The price of black market prescription narcotics has escalated in response to demand, and drug addicts have increasingly turned to heroin.

Once almost unseen in North Dakota, the narcotics task forces report that heroin seizures happen almost daily in eastern ND, and related overdoses are more frequent as well.

In 2012 there were 2,906 arrests for drug offenses. In 2014, there were 4,000 arrests - a **38% increase**.

- There were **90 arrests** for offenses involving **heroin** (possession, distribution) in 2014, up from 26 in 2013 and just 17 in 2012.

The task force investigations are becoming increasingly more dangerous and complex as the agents must track large groups of individuals and conspiracies that include local, regional, and international drug trafficking organizations (DTOs). The DTOs utilize money transfer businesses to move cash, exchange it for untraceable bitcoins, or barter drugs in exchange for vehicles or guns.

There also has been an increase in outlaw motorcycle gang activity and street gang activity relating to the distribution of controlled substances. These gangs take advantage of established drug routes to transport and distribute large quantities of product.

Because these investigations cross county and state jurisdictions, the task forces work with federal investigators and the cases are prosecuted by the US Attorney's office.

Bakken Strike Force

In June, 2015, Attorney General Stenehjem and acting US Attorney Chris Myers, announced the formation of the Bakken Strike Force. Working together, federal, state and local authorities have mobilized approximately fifty agents and four prosecutors in a concerted effort to attack organized crime.

The strike force is comprised of four task forces, each having allocated federal, state and local agents along with a coordinated state-federal prosecutor. The task forces are set up in Bismarck, Dickinson, Minot and Williston, and will coordinate their investigative efforts.

“ This effort will assure citizens that we will always protect our residents, and tells criminals that they do not want to do business in North Dakota.

Attorney General Wayne Stenehjem

Law Enforcement Grants

The 2013 session of the North Dakota Legislature devoted additional resources to the Office of Attorney General, as well as appropriating **\$16.6 million** in grants to local law enforcement to combat increase in crime related to the increase in oil activity, with priority given to address critical needs.

Among other things, these grants helped to provide nearly \$5 million in equipment and supplies, \$2.5 million in personnel (including 14 new officers), \$164,000 in overtime, and \$146,000 in housing.

NEWS RELEASE

March 14, 2014

TWENTY ARRESTED IN LAW ENFORCEMENT OPERATION IN NORTHWEST ND

BISMARCK, ND – A two-day operation in the McKenzie county area involving agents with the North Dakota Bureau of Criminal Investigation, together with federal and local law enforcement agencies resulted in the arrest of 20 individuals, announced Attorney General Wayne Stenehjem.

The operation was the result of a long-term undercover investigation by state, local and federal agencies, targeting organized drug rings and other illegal activity in northwest North Dakota.

Approximately 50 traffic stops were made during the two-day operation. Agents seized quantities of drugs, drug paraphernalia, firearms and cash. Additionally, fourteen illegal aliens were detained and turned over to border patrol. Criminal charges against several of the arrested individuals are pending.

The operation, which ended Thursday night, involved the Watford City and Williston Police departments, McKenzie county and Williams county sheriffs' offices, BCI and the Metro Area and Northwest Narcotics Task Forces, ND Highway Patrol, the FBI, US Border Patrol and US Immigration and Customs Enforcement. This operation was conducted in addition to the search warrant served in the New Town area headed up by Federal authorities as announced by US Attorney Tim Purdon.

“Criminals need to know that law enforcement is dedicated to ridding the area of illegal activity and that these operations will continue on an on-going basis,” Stenehjem said. “Citizens should be assured that our efforts will continue, focusing in particular on the illegal drug trade, human trafficking and the sex trade.”

Prescription Drug Take Back Program

Since its launch in December 2009, the Attorney General's Take Back program has collected and destroyed more than **9,497 pounds – 4.7 TONS** – of unused and dangerous controlled drugs and other prescription medications. The Take Back program is available at 42 sites across 36 counties, providing services to more than 90% of the state's population.



“

If you are a trafficker in the sex trade or a customer, we're **coming after you**. If you are a victim, caught in the grips of this horrible life, we will work with you to **help you** find a better life.

Attorney General Wayne Stenehjem

Legislation

Recognizing that the state lacked services to assist victims of human trafficking, in 2015, Attorney General Stenehjem proposed a comprehensive package of bills that took a victim-centered approach.

HUMAN TRAFFICKING

In 2013, the Legislature authorized a dedicated Organized Crime Investigator for BCI, assigned to northwestern ND to address criminal activity relating to the oil boom. The BCI conducted several operations targeting individuals (Johns) who attempted to obtain children as young as 12 via the internet for sexual exploitation.

These operations resulted in dozens of arrests and convictions. These operations, and others, aided the BCI in identifying underage victims and adult women who were being trafficked, and identifying and prosecuting the traffickers (pimps), including a successful sting operation in March 2015:

- In that operation, two individuals were arrested for human trafficking and multiple “Johns” were arrested for solicitation of prostitution. Three women from the Milwaukee, WI area were connected to an ongoing federal human trafficking case and were associated with a large scale pimp/trafficker. Two of the women were also involved in a prostitution-related extortion of a male in Williston, involving approximately \$65,000. The case is on-going.
- Arrests for promoting prostitution (pimping) **doubled** from 2011 to 2013.

The Legislature supported the Attorney General's proposals, providing many millions of dollars for victim protection and services, enhanced prosecution tools, and funding for training for law enforcement and state's attorneys.



The Legislature also authorized the creation of a state Human Trafficking Commission within the Office of Attorney General, tasked with developing a coordinated and comprehensive plan to provide victims with services, as well as collecting and evaluating data on human trafficking in North Dakota.

The legislation took effect after the end of the reporting period. ■

CRIME STATISTICS

Each year, the Office of Attorney General issues a comprehensive crime report, analyzing crime and arrest statistics reported by the local law enforcement agencies throughout the state.

In 2014, 105 police departments and sheriff's departments and the ND Highway Patrol reported incident data. North Dakota law enforcement agencies reported 30,406 arrests in 2014. A total of 31,107 arrests was reported in 2013.

The state's crime rate of **5.5%** is one of the **lowest in the nation.**

Promoting prostitution is one of the crimes within the category "**Crimes against Society**," along with drug offenses, weapons violations and pornography. **Crimes Against Persons** (murder, rape, aggravated assault, simple assault) and **Crimes Against Property** (robbery, burglary, motor vehicle theft, shoplifting and stolen property offenses) are the two remaining categories for which detailed offense information is collected and reported (Group A offenses).

In 2014:

- Total Group A crime offenses increased by 6.8% from 2013. However, it is important to note that Crimes Against Property accounts for more than **55%** percent of the total Group A crime offenses.
- Motor vehicle thefts increased by more than 11%, from 1,309 in 2013, to **1,462 in 2014.**
- Violent crimes comprised just **9.8%** of the total index crimes reported.
- Aggravated assaults **decreased** by 1.4%, the first decrease for at least the past 10 calendar years.
- Although drug arrests have increased, the percentage of juveniles arrested for drug offenses has decreased from 16% in 2010 to 9.9% in 2014.

Crime Scene Vans

The BCI now has two Crime Scene Vans (CSV) which are deployed across the state to provide on-site assistance in processing crime scenes and for major case investigations.



The vans are adapted for use in North Dakota's extreme weather conditions and diverse terrain and are fully equipped with forensic supplies and specialized investigative equipment.

The CSVs were deployed to numerous crime scenes across the state, including:

- A suspected homicide scene near Killdeer. The investigation was during the middle of the night in the dead of winter, with very frigid and windy conditions. Conditions were so bad that agents' pens would not work unless they were inside the vehicle. The CSV's floodlights were also helpful in illuminating the outdoor scene. Investigators were able to determine that the death was an unfortunate accident.
- A double homicide investigation at a pig farm in Bottineau County in March 2015. The suspect was identified and charged with two counts of murder. The criminal cases are pending.

In addition, the crime scene vans were used during the investigations of five officer-involved shooting cases, in Fargo (2), Jamestown, Grand Forks, and Fort Totten.

Officer Involved Shooting Investigations

As organized crime and gangs have moved into the state, the local law enforcement agencies are facing increased dangers. Almost unheard of in North Dakota until just a few years, there have been several incidents in recent years where officers have had to discharge a firearm during a response.

The BCI assists the local law enforcement agencies by conducting an independent investigation of the officer's use of force. Once the BCI's investigation is complete, it is referred to the county state's attorney who determines whether the officer's actions were justified.

- During the biennium, the BCI conducted 12 officer involved shooting investigations.

BLUE ALERTS

On March 25, 2015, the state launched a **Blue Alert** system, similar to the Amber Alerts, to disseminate information to the public when there is a suspect at large who has threatened an officer with a deadly weapon, or caused an officer serious bodily injury or the officer's death, or if an officer has been abducted or is missing.

Criminal History Record Checks

Forty state agencies and professional licensing boards require or request an applicant to complete a criminal history record check prior to licensure. The BCI also conducts a criminal history record check on all applicants for a **Concealed Weapon license**, and for certain employees of the state's public schools, colleges and universities.

- During the biennium, the BCI conducted **84,789** state and federal record checks, a **12%** increase from the previous biennium.

Concealed Weapon Licenses

Changes made by the 2013 Legislature simplified the application process and also removed some disqualifying factors, making previously ineligible individuals able to apply for a concealed weapon license.

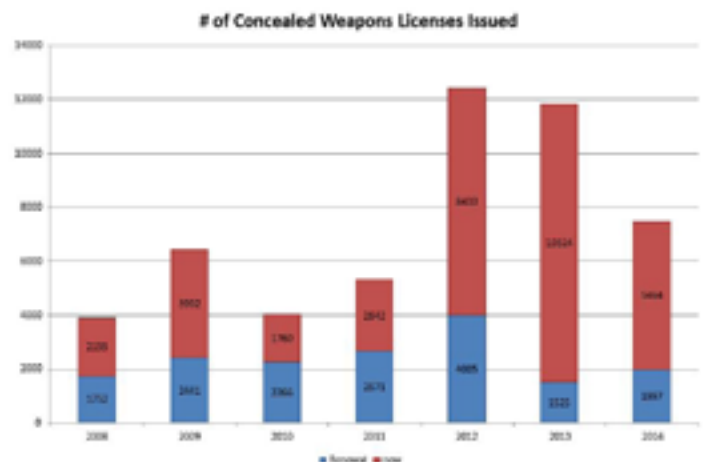
- The number of active concealed weapon licenses has increased from **25,857** in the 2011-2013 biennium to **38,341** this biennium.

Within a month of the changes taking effect in August 2013, applications were being submitted at a record-breaking pace, up to 350 a day. The sheer volume of applications gradually overwhelmed the concealed weapon license staff, even with the additional employees authorized by the Legislature. By the end of the calendar year, more than 14,700 applications had been received, and there was a significant delay in issuing licenses.



Pending applications

In response, Attorney General Stenehjem temporarily reassigned staff from other sections at BCI and authorized staff overtime. It took almost four months and many hundreds of hours of employee overtime, but by March 2014, the concealed weapon license section was back on track and the turnaround time for licenses was down to 35 days, well under the statutory time limit of 60 days.



IMPAIRED DRIVING



Drunk drivers killed 71 people in 2013.

DUI and “Refusal”

In an effort to reduce the number of alcohol-related driving offenses and fatalities, in 2013 the Legislature enacted House Bill 1302.

The bill increased the penalties for DUI, including increasing mandatory minimum fines and mandatory minimum jail sentences, and also made **refusal** to submit to a chemical test a separate offense with the same penalties as for DUI violations. The new laws took effect on July 1, 2013.

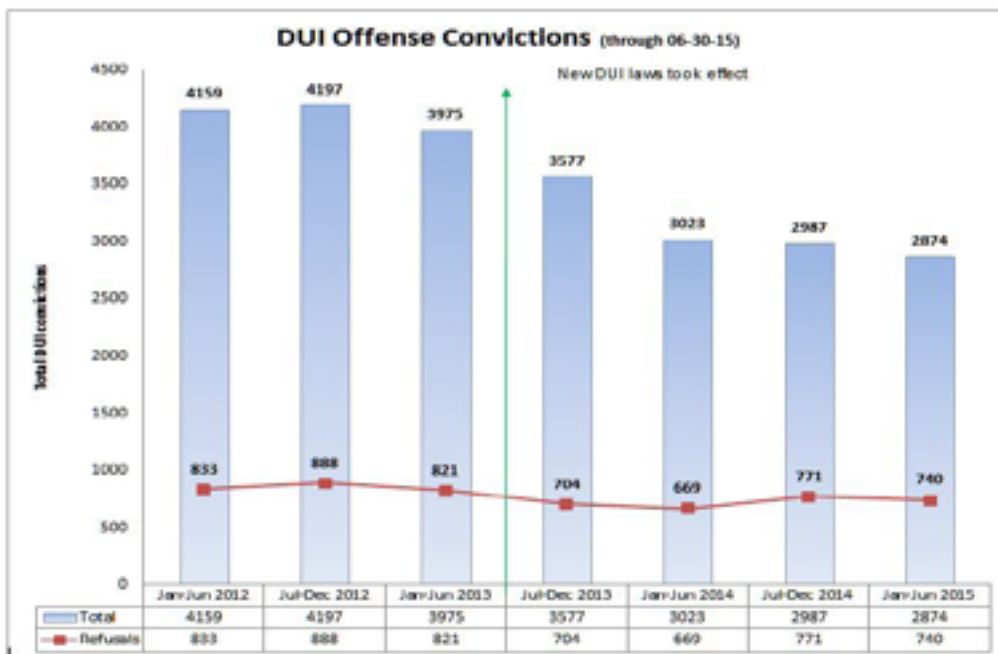
Many drivers arrested after the law took effect brought constitutional challenges to the refusal, claiming it violated their Fourth Amendment and Due Process rights.

The North Dakota Supreme Court has **unanimously upheld the constitutionality** of the criminal refusal provisions in every case that has been taken up to the court on appeal.

- In 2012, there were 7,382 arrests for DUI. In 2014, that had dropped to **6,705**.
- In 2012, 77 out of 147 crashes (**52%**) were alcohol-related; in **2014**, there were 121 crashes, of which 53 (**44%**) were alcohol-related.

Administrative hearings

During the biennium, attorneys from the Civil Litigation division represented the ND Department of Transportation in **382** district court cases and **38** ND Supreme Court appeals relating to implied consent and driver’s licenses (DUI cases).



24/7 Sobriety Program

The 24/7 Sobriety Program has been operating statewide since 2010. Because it has proven effective, the Legislature has expanded the program every legislative session.

In addition to requiring repeat DUI offenders to participate as a pre-trial condition of bond, the courts can order participation in the 24/7 program for domestic violence offenders, drug



offenders, juvenile offenders with alcohol-related offenses, and as a condition of sentence or probation. A participant who tests positive for alcohol (or drug) use faces immediate arrest pending a court hearing.

Of the **6,785** individuals who participated in the 24/7 Sobriety Program during the biennium, only **353** were terminated from the program – a **94% success rate**.

NORTH DAKOTA'S “CSI” – THE STATE CRIME LABORATORY

The state's **Crime Laboratory division** “provides scientific support to the state's criminal justice agencies through the analysis, identification and comparison of physical evidence used in the investigation and prosecution of criminal offenses.”



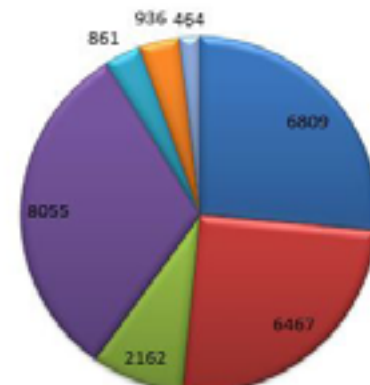
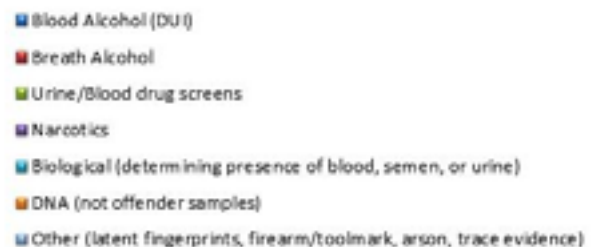
The Lab's 21 forensic scientists processed over **26,239** cases during the biennium, a **29%** increase from the previous biennium (20,219 cases).

- **More than half the cases (15,438)** were routine blood alcohol or blood/urine drug screenings, obtained as a result of suspected **impaired driving** related offenses.

Breath Alcohol Tests

The Toxicology Section at the **North Dakota Crime Laboratory** provided classroom training to 241 law enforcement officers in the use of evidentiary breath alcohol instruments (Intoxilyzer 8000) and 23 Field Inspectors were trained the Crime Laboratory. An additional 1,476 officers received online training.

Crime Lab Caseload



Synthetic Drug Submissions

In 2012, the crime lab received **1,470** evidentiary submissions of synthetic drugs. As a result of proactive regulatory and legislative changes and aggressive enforcement and prosecution practices, arrests for possession and distribution of synthetic drugs have fallen dramatically.

- In 2014, the Crime Laboratory received **only 212 submissions** of synthetic drugs - **an 85% reduction**.

Forensic Analysis

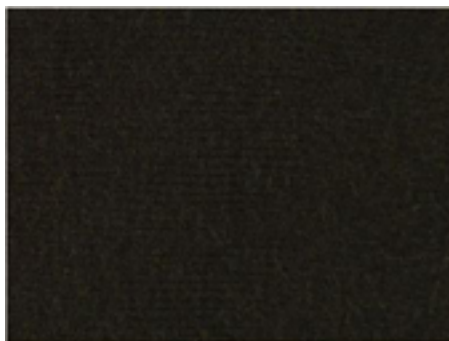
For many people, what they know about forensic analysis comes from popular television shows where every case has a piece of evidence with a perfectly preserved fingerprint or DNA belonging to an offender who is known to law enforcement, and the case can be wrapped up in an hour.

That is Hollywood fiction. The reality is much more complicated but the results are just as remarkable. For example:

Looking Inside a Case File

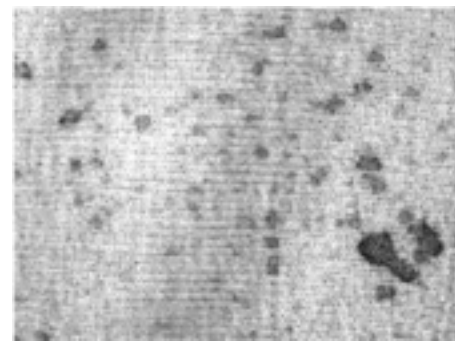
The Crime Laboratory received evidence from an aggravated assault (a felony) that occurred at the ND State Fair. The victim was attacked by a man wielding a knife. The suspect was found in the bathroom and was arrested. A knife was found in the bathroom's garbage can. The suspect denied having a knife but he had a cut on his hand. The victim received over 100 stitches.

The suspect's clothing and the knife were submitted to the crime lab along with the black shirt the victim had been wearing when he was attacked. The blood stains on the victim's black shirt were difficult to see with the naked eye, so forensic scientists used an alternate light source and infrared imaging to visualize the area to be tested. One of the red-brown stains tested positive for blood, so a swab was collected and analyzed for DNA.



Sample of black sweatshirt
examined with naked eye

**THE DNA MATCHED THE
SUSPECT, WHO PLEAD
GUILTY. CASE CLOSED.**



The same sample when
examined with an alternate
light source and infrared
imaging

NEWS RELEASE

OCTOBER 16, 2014

BCI AGENT AND FORENSIC SCIENTIST RECEIVE NATIONAL RECOGNITION

BISMARCK, ND – A BCI drug agent and a forensic scientist with the Attorney General's Crime Laboratory have received further national recognition for their roles in the multi-jurisdictional investigation "Operation Stolen Youth."

BCI Special Agent Steve Gilpin and Crime Laboratory Forensic Scientist Charlene Keller received notification of the honor earlier this week.

The US Department of Justice Organized Crime Drug Enforcement Task Forces (OCDETF) award recognizes the efforts of the state and federal investigation that shut down a nationwide synthetic drug trafficking ring and resulted in the successful prosecution of 15 individuals. It is the first time a North Dakota investigation has received this national award.

Scrap Metal Theft

As the price of copper and other metals soared, so did thefts of those metals from businesses. A string of high-value thefts occurred in late 2012, prompting legislative charges requiring dealers to keep written records of transactions involving scrap metals and a copy of the seller's photo identification.

Since the new regulations took effect on May 1, 2013, scrap metal theft has been almost eliminated.

- The BCI assisted on only **three** cases of scrap metal theft during the biennium. In one of those cases, the **Crime Laboratory** developed a **DNA profile** from a ski mask left behind at the scene of a theft of \$100,000 worth of copper, and **the suspect was identified.**



Offender DNA Samples

Convicted sex offenders and individuals arrested for a felony offense are required to provide a DNA sample. The **Crime Laboratory** processed over 8,000 offender DNA samples for upload to the National DNA Index System (NDIS), which matched to 115 crime scene samples and produced investigative leads for law enforcement agencies to pursue, including:

- A 2005 sexual assault case involving an unknown suspect was **solved** almost a decade later, when the DNA from an individual arrested for a felony DUI matched DNA from evidence in the sexual assault case.

- A 2007 ND convicted offender was identified as the perpetrator of a 2014 **sexual assault** after a DNA profile was developed from swabs taken from the victim of that assault.
- Cigarette butts found in a stolen vehicle in Dickinson contained DNA that matched to a Washington state offender.
- An individual who forced a woman to perform oral sex at gunpoint was identified after semen from the crime scene matched the DNA of a prior felony arrestee;

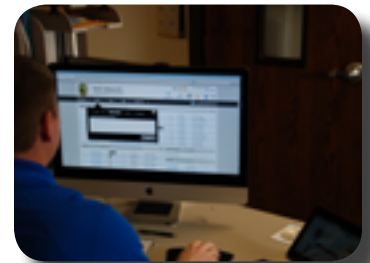
Thanks to the efforts of the Crime Lab staff, repeat offenders are being identified and brought to justice.

The Crime Lab staff are not the only ones at work identifying sexual offenders. **Cybercrime agents with the BCI** use digital fingerprints to track and identify suspects.

INTERNET CRIMES AGAINST CHILDREN (ICAC)

The BCI has four trained computer forensic agents who provide forensic support to state and federal law enforcement agencies on a variety of criminal investigations, from homicides and financial crimes to child sexual abuse and internet child pornography.

The North Dakota **Internet Crimes Against Children (ICAC)** Task Force has 48 cooperating state and local law enforcement agencies and three federal and tribal partners. The ICAC cybercrime agents provide training for law enforcement on identifying and investigating internet crimes.



During the biennium, the BCI's cybercrime agents examined over **1,390 items** (from computers and cell phones to cameras and gaming consoles) containing a total of **205 Terabytes of data.**

1 terabyte of data is equivalent to approximately **85,900 pages** of word documents, 17,000 hours of music, or **500 hours of video**.

The state's ICAC task forces assisted with hundreds of child sexual abuse investigations, including:

- The investigation of a Wahpeton man after his roommate contacted local law enforcement to report having seen child pornography on the suspect's electronic media. On Nov 5, 2014, 22 year old Dustin Coleman pleaded guilty to **eight felony counts**, including extortion, in the state's first federal case of "sextortion." Coleman will serve **30 years in federal prison**. Coleman used intimidation or fear to gain sexual favors and coerce victims into making and sending him explicit images, allegedly telling one victim that he would rape her younger sister if she didn't send him nude photographs of herself.
- In June 2015, a Kenmare man was sentenced to serve **45 years in prison**, after he attempted sexual exploitation of a minor and was in possession of child pornography. Federal agents learned about the abuse after an **undercover detective** was in contact with the subject on a site known for incest and sexual exploitation of minors. A warrant search of his residence later turned up a laptop computer, personal computer, thumb drives and other devices that contained 793 pictures and 16 videos depicting child porn.

Upon release from incarceration, these individuals will be required to register as sex offenders.

SEX OFFENDER WEBSITE

Hundreds of times each day, parents, daycare providers, community organizations and concerned citizens visit the state's sex offender website (sexoffender.nd.gov) to find current address and other information about registered sex offenders who live and work in North Dakota.

- Increasingly, registered offenders are coming to North Dakota from other states, seeking work. During the biennium **83%** (437) of the 527 offenders registering for the first time in North Dakota were newly arrived here with convictions for a registered offense in another state.

Under the interstate compact, offenders who are under probation supervision must have permission to leave their current state before moving to North Dakota. That state's authorities notify the ND BCI. The offender must register with the local law enforcement agency within three days of arriving in North Dakota. The local law enforcement agency completes the registration documents and notifies BCI, and the offender's information is uploaded to the state's sex offender website.

North Dakota's Sex Offender Registry

Sex offender information on the website sexoffender.nd.gov is updated in real time, all day every work day, as changes are reported by the courts, Parole & Probation, the correctional facilities, the offenders, and the public.

Offenders with a lifetime requirement for registration and those who have been deemed a high risk are shown with full details and photographs on the High Risk page, while a printable list shows all offenders (including low and moderate risk) within a particular city or county, or for the entire state.



Tribal Sex Offender Registries

During the 2013-2015 biennium, each of the state's Native American tribes completed the federal process to establish a separate tribal registry independent of the state's registry. Registered offenders who live, work or attend school within the reservation's boundaries now register with the tribal registering agency.

As they are sovereign nations, each tribe defines the type and extent of information available on its offender website. The state's website includes links to these tribal websites. Prior to the tribes establishing their own registries, Native American offenders were listed on the state's registry.

Although the number of registered offenders in the state increased during the 2013-2015 biennium, as tribal registries went online and the tribe's registered offenders were removed from the state's registry, the number of registered offenders on the state's sex offender registry decreased to 1,858.

As of June 30, 2015, only **29** offenders were delinquent in their registration requirements or had absconded, which equates to a **98.5%** compliance rate.

Thirteen of the delinquent offenders are Native Americans who would otherwise appear on the tribe's registry but they cannot be removed from the state's registry until their current whereabouts are known.

Sex Offender Risk Assessments

The "risk" factor is assigned by a team of professionals consisting of representatives from the Office of Attorney General, Department of Corrections, and juvenile services.

The **Sex Offender Risk Assessment Committee (SORAC)** reviews each offender's criminal history, evaluations, and other pertinent documents in order to assign the individual either a low, moderate or high risk rating (for reoffending).

When offenders have convictions in other states, the SORAC obtains the offense and prior registration information. Risk assessments are conducted regularly and the website is updated continually to add new offenders.

Until the offender's information is reviewed and a risk level assigned, the offender is listed as "undetermined." However, as the scope and type of community notification is up to the registering local law enforcement agency, that department may decide to issue a community notification at any time after the offender registers, even before the SORAC assessment is completed.

- During the biennium, the SORAC conducted **730 assessments**, a **20% increase** from the previous biennium.

TECHNOLOGY SUPPORT

The **Information Technology (IT) division** provides technical installation and support for all the divisions of the office in 18 different locations across the state. The IT division also supports communications with law enforcement through the State Radio teletype system and the ND Criminal Justice Information Sharing (CJIS). The division staff are on call 24 hours a day, 7 days a week.

- The division responded to more than **7,000** service calls during the biennium.



FIRE MARSHAL

The Fire Marshal division is responsible for fire safety inspections and regulations, arson investigations, hazardous materials training, and fire prevention education. There are six deputy fire marshals, stationed in Bismarck and four field offices across the state.



Arson investigations

Deputy state fire marshals conducted **166** “fire origin & cause” investigations. **Forty fires (24%)** were determined to be **arson**.

FIRE SAFETY INSPECTIONS

To enhance the level of fire safety throughout the state, the Fire Marshal’s office inspects public schools, childcare facilities, state buildings, fuel tanks storage sites, and licensed liquor establishments.

Division staff inspected **223** public schools, **168** fuel tank storage sites, **321** state buildings, **99** licensed day care facilities and **36** bars & restaurants.



Bar & Restaurant Inspections

The State Fire Marshal’s office assumes the responsibility of conducting fire safety inspections at bars and restaurants in communities that are not able to provide a full-time fire inspector.

The deputy fire marshal determines the building’s maximum occupancy rate, then follows a comprehensive checklist to ensure that the facilities are maintained to the highest level of safety.

Among other things, the inspector makes sure there are sufficient exits to allow safe evacuation, that the kitchen areas are properly vented outside, all fire and smoke alarm systems are working properly, the fire extinguishers are serviced on an annual basis and all emergency lights are fully operational.

- There were **18** fire-related deaths during the biennium. **Two** of the deaths were a result of arson.



Safety Tips

State Fire Marshal Ray Lambert recommends that homeowners install smoke alarms on every level of the home, inside every bedroom, and outside each sleeping area.

He offered the following fire safety tips to help homeowners:

- Test smoke alarms once a month, replace the batteries at least once a year, and replace the whole unit every 8-10 years. If an alarm with a non-replaceable battery begins to chirp, replace the entire alarm right away.
- Smoke alarms installed in the basement should be installed on the ceiling at the bottom of the stairs leading to the next level.
- Have a safety plan and review it with family members. Stay low to the ground and get out of the house as quickly as possible. Once you are out, **STAY OUT**. Do not go back inside for any reason.



SERVING THE PUBLIC

CONSUMER PROTECTION

The Consumer Protection division investigates and prosecutes consumer fraud cases and violations of the Do Not Call laws, mediates individual consumer complaints, and educates the public on how to avoid becoming victims of fraud.

- The division filed **257** civil actions against individuals and businesses for violating consumer fraud laws, resulting in **\$3.18 million** in refunds to consumers.
- The division collected an additional **\$3.18 million** in civil penalties, investigative costs and to recoup attorney fees for a total of **\$6.36 million**.

The **Consumer Protection division** held **49** community awareness events during the biennium.



CONSUMER COMPLAINTS

During the biennium, the division opened **2,565** complaint files – a **38%** increase over the previous biennium – and closed **2,590** complaints.



Almost three-quarters of the closed complaints (1,902) were satisfactorily resolved either through informal mediation or legal action. Another 44 complaints were referred to other state or federal agencies.

The remaining complaints were determined to be unfounded, or were closed because the business could not be located/was no longer in existence or the consumer chose to discontinue mediation.

Top Ten Complaints

#1 - Telemarketing & Do Not Call - 314.

- This category was #1 last biennium, with 234 complaints.

#2 - Identity Theft - 276.

- Last biennium, there were 130 ID theft complaints. This category has moved from 3rd place to 2nd.

#3 - Contractor/Home Improvement - 271.

- This was #2 last biennium, with 172 complaints.

#4 - Mail Order - 76.

- Mail order was #7 last biennium, with 96 complaints.

#5 - Services (home security, credit card processing) - 70.

- This category was not in the Top 10 last biennium.

#6 - Vehicle advertising, repairs, warranty problems - 56.

- This category was #9, with 71 complaints.

#7 - Transient Merchants - 54.

- Last biennium there were 102 complaints, the #4 category.

#8 - Telephone billing and services - 39.

- Up from #10 last biennium (64 complaints)

#9 - Directories, phony business listings - 38.

- Down from #5 last biennium (101 complaints).

#10 - Sweepstakes - 32.

- This category was not in the Top 10 last biennium.

Identity Theft

The Consumer Protection division serves as the state's clearing house for identity theft complaints. The division assists victims with completing the identity theft affidavit and other forms the victims must file with the companies where the fraudulent accounts or debts were created.

- There were **276 reports of identity theft** received by the Consumer Protection division during the biennium - a **112% increase** over the previous biennium.

Tax ID theft is becoming more prevalent in North Dakota. The majority of victims reported that they first realized their identity had been stolen when the IRS rejected their tax return because a fraudulent return had already been filed under their name and social security number.

Under North Dakota law, a victim of identity theft can file a report of identity theft with the police or sheriff's office where they live, regardless of where the actual identity theft occurred.

DATA SECURITY BREACHES

Recent data security breaches involving major retailers, financial institutions and global businesses have exposed millions of individuals to the risk of identity theft and scams. These companies were not required by law to report the breach to the Office of Attorney General.

In an effort to provide additional protections for the state's citizens, Attorney General Stenehjem submitted legislation to the 64th Legislative Assembly requiring any company that experiences a data breach involving data of a North Dakota customer to submit a detailed report to the Consumer Protection division. The bill passed, and took effect on August 1, 2015.

Do Not Call Violations

The division received **230** complaints for solicitations to consumers registered on the DNC registry, of which 102 were illegal prerecorded messages.

The division conducted **31** investigations, many involving multiple entities, resulting in **35** settlements for which the division collected **\$26,250 in civil penalties**. The remaining investigations were either settled informally or were still pending at the end of this reporting period.

"Although it may not be possible to stop the scam artists, it may be possible for the telephone companies to block the scam calls," said Stenehjem.

In September 2014, Attorney General Wayne Stenehjem joined 38 other Attorneys General in a letter urging the Federal Communications Commission (FCC) to allow telephone carriers to use existing technology to block these types of calls. To date, the FCC has not issued a decision.

PERVASIVE SCAMS - VICTIM STORIES

The Consumer Protection division issued numerous news releases, alerts, consumer advisories and public service announcements warning about scams. Three scams, in particular, were particularly pervasive throughout the biennium (and continue to be so after the end of the reporting period) and have claimed victims. These scams are:

The Grandparent Scam

This scam involving an imposter grandchild who is supposedly involved in a crisis situation and urgently needs cash.

A 50+ year old male from northwest ND was the victim of the Grandparent Scam. The victim received a call supposedly from his grandson, who said he had been involved in a serious car accident in Canada. The “grandson” said he needed money for legal fees associated with the accident. The victim and his wife were convinced they were talking to their grandson. The victim was directed to purchase Green Dot cards to pay for the alleged legal fees. The man went to several Kum & Go’s in the area and purchased 20 Green Dot cards for \$1,999 each.

Over the course of a week, the victim sent the scammers **\$40,000**. The victim said the scammers requested an additional \$100,000 to settle since the victim in the accident was paralyzed. The victim checked and discovered that his grandson had not been in a car accident in Canada - in fact, he had not even been in Canada - so the victim did not pay the additional \$100,000.

None of the money he sent to the scammers could be recovered.

IRS Enforcement Scam

In this scam, phony IRS agents claim there is a problem with a previously filed tax return and threaten the victim with arrest unless the tax debt is paid immediately.

- A male from Southeast ND was a victim of the IRS Scam. The victim was led to believe that he was past due on 2005 tax returns

and that federal agents would come to his work and arrest him if he didn’t pay past due taxes immediately. The victim purchased 18 Green Dot debit cards, resulting in a loss of **\$8,874**. **None of the money could be recovered.**

- Even after the Consumer Protection division issued several news releases about the scam, a male from central ND fell victim. He, too, was led to believe by the scam artists that he owed back taxes and would be arrested if he did not pay immediately. The victim purchased several Green Dot Money Pak cards, resulting in the loss of **\$9,500**. **None of the money could be recovered.**

“If a caller instructs you to buy a Green Dot money card or other type of instant cash card, or to wire money somewhere, then it’s **a scam**. It’s as simple as that. **It doesn’t matter what reason they give you, it is always a scam, every single time.**”

Attorney General Wayne Stenehjem

Foreign Lottery/Sweepstakes

While some scams involve phony or illegal foreign lotteries, others scams use the name of actual sweepstake companies or state lottery games, in an effort to convince the victim of their supposed good fortune.

- A middle aged male from rural North Dakota was the victim of three intertwined sweepstakes scams in 2014. The victim supposedly won the “Tri-State Lottery,” (\$7.5 million & a car) and the Publishers Clearing House (\$5.5 million & a Mercedes Benz), and Mega Millions (\$11.8 million). To make their efforts appear legitimate, the scammers even sent phony prize verification documents.

The victim sent approximately **\$200,000** – involving **73 financial transactions** – to pay “fees” to receive his alleged winnings. After the victim’s family became concerned, local law enforcement and the consumer protection division provided assistance.

Unfortunately, none of the victim’s money could be recovered.

CEASE & DESIST ORDERS

The division issued cease and desist orders against **31** businesses, banning them from doing business in the state.

Almost all of the cease and desist orders were issued against unlicensed contractors who had taken money from homeowners and then either failed to complete the work for which they had been paid, or performed substandard work that had to be redone by a licensed contractor.

“If you want the job done and done properly, then you have to do your homework first. At the very least, **before** you hand over any money you should make sure the contractor **is properly licensed.**”

Attorney General Wayne Stenehjem

Contractor Licensing Requirements

Contractors must be licensed with the Secretary of State's office if they perform work valued at \$4,000* or more, and must comply with state requirements for liability insurance and workforce safety insurance.

In addition, any contractor who is conducting temporary business within this state is required to obtain a Transient Merchant's License (issued by the Licensing section of the Attorney General's office).



* The previous \$2,000 threshold was increased by the Legislature, effective April 15, 2015.

NEWS RELEASE

November 25, 2014

STENEHJEM BANS CONVICTED FELON FROM DOING BUSINESS IN THE STATE

BISMARCK, ND – Attorney General Wayne Stenehjem has issued a cease and desist order banning Chad Peda and Somer Hilleboe, doing business as CS Companies, Inc., of Horace, North Dakota, from conducting business in the state. Peda, who is a convicted felon, appears to have fled North Dakota.

The Consumer Protection division conducted an investigation after receiving a complaint from a consumer who had made an advance payment of \$11,000 to Peda to demolish a garage and construct a new one. Peda never completed the work.

“Before paying any money to a contractor, check to make sure the contractor is legitimate and is properly licensed and bonded. It only takes a couple of minutes to check, but it could save you from losing both money and time,” said Stenehjem.

The investigators found that neither Peda nor Hilleboe had ever been licensed as contractors in North Dakota. After being contacted by investigators, Peda made a partial refund to the consumer who had filed the complaint.

Court records show that Peda has previous convictions in Ransom and Benson counties for theft of property for soliciting and accepting advance payments for construction projects and then failing to complete the work. He owes over \$130,000 in restitution on those criminal cases.

Parrell Grossman, director of the Consumer Protection Division, reminded consumers that contractors must be licensed with the Secretary of State's office if they perform work valued at \$2,000* or more.

Consumers can check the Secretary of State's list of licensed contractors at <http://www.nd.gov/sos/> or by calling (701) 328-2900.

Licensing

The Licensing section of the **Criminal & Regulatory division** issues licenses to **transient merchants**, alcoholic beverage retailers (bars, restaurants, liquor stores, etc.), wholesaler/retailer tobacco products dealers, coin operated amusement device operators ("crane" machines, pinball, etc.), fair boards, polygraph (lie detector) examiners, charitable gaming operators, gaming manufacturers and distributors, and wholesale fireworks distributors.



Licensees must meet eligibility requirements set by law. As part of the licensing process, the application is checked to ensure the business is registered with Secretary of State and has the required bonds, local licenses, safety inspections.

For alcohol licenses, each applicant must also successfully complete a criminal history record check (processed by the BCI). The license fees are set by statute and the cost depends on the type of license, population served and other factors.

Type of License	# Issued	Revenue Generated
Beer	3,453	\$278,174
Liquor	3,251	\$261,016
Cigarette	3,292	\$52,168
Coin Operated	181	\$66,250
Polygraph	42	\$1,500
Fair Board	18	\$900
Gaming/Distributor/Manufacturer	1,210	\$296,300
Wholesale fireworks	48	12,000
Transient Merchants	227	\$45,400
TOTAL	11,722	\$1,013,708

Over **\$1 million** was transferred to the state's general fund in licensing fees.

The licenses are renewed each year; initial license application fees are prorated.

GAMING

Veterans, charitable, educational, religious, fraternal, civic and service, public safety, or public-spirited organizations located within North Dakota are eligible to apply for a state gaming license to raise money for charitable purposes.

Only licensed organizations may conduct "games of chance" (such as Bingo, Pull Tabs, Twenty-One and Poker). There are over three hundred licensed organizations operating **900** gaming sites across the state.

Revenue

In 2013, the Legislature reduced the gaming tax rate for charitable organizations. As a result, although gaming revenues increased, the amount of funds generated to the state was **reduced**.



During the 2013-2015 biennium, the licensed gaming organizations grossed over **\$571 million**, raising over **\$43 million** for charitable uses (such as student scholarships, community crime prevention projects, financial and other assistance to injured and disabled veterans), and generating **\$6.8 million** in gaming taxes for the state's general fund (a 36% reduction from the previous biennium).

Quick Shot Bingo

In December 2014, Attorney General Wayne Stenehjem determined that electronic Quick Shot Bingo Card Marking Devices were “coin operated gaming devices,” not permitted by law.



An electronic quick shot bingo game is played using 24 pre-selected letters and numbers on a maximum of 16 electronic bingo cards.

At the time, eight charitable organizations were using the devices in 18 sites. In just one financial quarter, those **eight** organizations reported combined adjusted gross earnings from Quick Shot Bingo of **\$222,000**.

The 2015 Legislative Assembly passed House Bill 1235, which redefined Electronic Quick Shot Bingo as a bingo game type rather than a “coin-operated gaming device,” and authorized its use by licensed organizations (when used in conjunction with a site operating system). Although the bill took effect after the end of the reporting period, four of the eight organizations that previously operated quick shot bingo indicated they would be resuming use of the devices.

Gaming Compliance

The Gaming division provides training to charitable organizations and enforces the charitable gaming laws. The division initiated **11** comprehensive field audits (involving unannounced on-site inspections), **16** in-office audits and **75** limited compliance audits, resulting in **63** administrative complaints.

The division collected **\$34,000** in fines and referred **27** incidents of suspected criminal activity to local law enforcement, assisting local law enforcement with the investigations.

Tribal Gaming

The Gaming division also enforces the tribal-state gaming compacts, which authorize the state’s Native American tribes to conduct gaming at casinos on tribal land. There are over 3,600 slot machines regulated under the compacts in North Dakota.

The three Gaming division regulators conduct random inspections at the state’s five Indian casinos to ensure game integrity and compliance with wager limits and prize payout ratios.

NORTH DAKOTA LOTTERY

The Lottery conducts five multi-state games: PowerBall®, Hot Lotto®, Wild Card 2®, 2BY2® and Mega Millions®. The mix of games provides jackpots starting from \$22,000 to \$40 million.

Tenth Anniversary

The North Dakota Lottery celebrated its 10th Anniversary in March 2014 by rolling out a new logo and holding customer appreciation wheel spins at lottery retailer locations.



IMAGINE THE POSSIBILITIES

The Lottery generated total operating revenue of **\$54.23 million** and net proceeds of **\$14.32 million**, down slightly from last biennium. Ticket sales were slower than projected in part because there were fewer big jackpot runs for Powerball and Mega Millions.

Four hundred and fifty businesses across the state now sell North Dakota lottery tickets. These 450 gas stations, convenience stores, grocery stores and other locations earned an impressive **\$2,718,032** in **sales commissions and bonuses**.

Lottery Generates Record Payouts

The North Dakota Lottery paid out a record **\$28 million** in prizes this biennium, including a **\$2 million Powerball** jackpot ticket and **two Wild Card 2** jackpot tickets together worth over \$1 million.

Since the Lottery began, ND players have won more than **\$89.4 million**.

New Lottery Game

The Lottery had hoped to join a new multi-state online game, the Monopoly Millionaires' Club Lottery Game. The Multi-State Lottery Association (MSCL) launched the game in several states in October 2014 and projected a February 2015 launch in North Dakota.

The game would have guaranteed multiple million dollar prizes each drawing and given players in each state a chance to become a contestant on the game's companion TV show. Unfortunately, games sales were consistently below projections and in December 2014, **MSCL suspended the game**.

The North Dakota Lottery continues to work with MSCL to explore new game options.

Players Club

During the biennium, the Lottery launched its **Players Club**. Lottery players can enter webcodes from their lottery tickets to earn points that can be used for special members-only drawings and to purchase prizes from the Points for Prizes Store.



Lottery Ticket Sales

More than half of every \$1 ticket (51¢) is paid out in prize money. State law determines how lottery proceeds are spent. Only 6¢ goes to administration and operating expenses:



Lottery Proceeds

The Lottery transferred **\$13.3 million** to the state general fund, **\$845,000** to the multi-jurisdictional drug task force grant fund, and **\$400,000** to the compulsive gambling prevention and treatment fund.

The state's nine regional narcotics task forces coordinate multi-jurisdictional responses to drug-related activity. The grant awards are based on calendar year. During the biennium, more than **\$916,600** was awarded to the task forces to offset rent, equipment, travel, fuel and other costs associated with the undercover operations.



INFORMING THE PUBLIC

QUICK FACTS

- Agents with the ND BCI assisted local law enforcement agencies in **1,670** drug and criminal investigations.
- The Criminal & Regulatory division prosecuted **116** individuals for drug offenses
- The Consumer Protection division filed 257 civil actions, resulting in **\$3.18 million** in refunds to consumers.
- The North Dakota Lottery transferred **\$13.3 million** to the state general fund.
- Of the 166 fire investigations conducted by the Fire Marshal's division, **24%** were determined to be arson.
- The Civil Litigation division recovered more than **\$7.82 million** for ND state entities during the biennium.
- The Natural Resources Division collected more than **\$2.25** million in penalties from companies violating the state's environmental protection laws.
- The Crime Laboratory processed **26,239** cases during the biennium, a 29% increase from the previous biennium.
- Over **\$1 million** was transferred to the state's general fund in licensing fees.
- The State & Local division issued **44** opinions on open record and meeting violations and **24** legal opinions.



The **Consumer Protection division** continued its participation in the National Consumer League's "**LifeSmarts**" educational program that tests teens on their consumer knowledge in a fun way.

Students participate in online preliminary rounds to advance to the state final event. The state final, hosted by the Attorney General's office, is a game-show style competition with elimination rounds.

Jamestown High School won the competition in both 2014 and 2015, and went on to represent the state in the national competition.

PUBLIC INFORMATION

In addition to responding to thousands of telephone calls, emails and letters covering everything from requests for agency records to referrals to other government agencies, the administration division continued its efforts to provide the public with useful information regarding the Office of Attorney General and state government in general.

The office posts news releases and consumer alerts to its website, **www.ag.nd.gov**, and makes available numerous publications, reports, fact sheets, forms and manuals.

Fact Sheets & Publications

Asphalt Paving Scams
Choosing a Contractor
Collection Calls
Common Business Scams
Do Not Call
Eminent Domain - Landowner Rights
Fair Credit Reporting Act
Fair Debt Collections Practices Act
Foreign Lotteries
Gaming Update Newsletter
Grandparent Scam
I Want to File a Complaint
Identity Theft
IRS Enforcement Scam
Lottery Links Newsletter
Network Marketing/Pyramid Schemes
Online Auctions
Open Records and Meetings Guide
Open Records and Meetings Summary
Phishing Scams
Phony Yellow Pages Billing
Privacy and Safety Tips for Parents
Satellite and Cable Programming
Sex Offender Information
Small Claims Court in North Dakota
Smart Shopping Tips
Spoofed Telephone Numbers
Sweepstakes/Display Booths
Teens and Sex

Tenant Rights

Under the Microscope Newsletter

Victim of Tax Fraud

Work-at-Home Schemes

Reports and Manuals

Acquisition and Disposal of Property and Services (Bidding Manual)

Administrative Rules Manual

Biennial Reports, Office of Attorney General

Comprehensive Status and Trends 2014

Concealed Weapon Manual

Contract Drafting Manual

Crime & Homicide Reports

Domestic Violence Fatality Review
Commission Annual Report

Extradition Manual

Law Reports

Open Records and Meetings Manual

Website

Attorney General Opinions

Breath Alcohol training for law enforcement

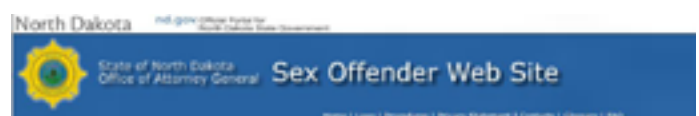
Concealed Weapon License application and information

Do Not Call Complaints

Drug Take Back Program

Security Freeze & Identity Theft

Sex Offender Registry (sexoffender.nd.gov)



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Bureau of Criminal Investigation
PO Box 1054
Bismarck ND 58502
(701) 328-5500
Tip Hotline (800) 472-2185

Gaming Division
17th Floor, Capitol Building
(701) 328-4848

Licensing Section
17th Floor, Capitol Building
(701) 328-2329

Fire Marshal
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(701) 328-5555

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