

Appendix D - A Day in the Life

This appendix is offered to provide operational context for the technical requirements listed in the RFP. The materials herein also offer a general framework for the Operational Capabilities Demonstration that qualifying Offerors will be asked to perform as part of the Pennsylvania Office of Attorney General (PAOAG) decision making process.

Public Protection

A citizen of the Commonwealth of Pennsylvania (Commonwealth) lodges a complaint against a business by completing and submitting a webform that is available on the PAOAG's public facing website. Last year, our office received 20,000 of such complaints. The system automatically generates a notice that is returned electronically and by mail, confirming that we received the complaint and it is being reviewed. The system should automatically assign the complaint (now referred to as a case) to a specific supervisor of agents so that it can then be further assigned to a specific agent for review.

The agent reviews the case, adding keywords and codes that have been developed by the Commonwealth to classify the type and nature. The agent then searches relevant databases, including internal and external sources, to determine the legitimacy of the complaint, building case materials and adding them to the file. Correspondence is then sent to the business or organization that is the subject of the complaint; included in the correspondence is a web address and a case number that the company or organization can use to submit a response to the complaint via a portal. After reviewing the response, the agent then makes a recommendation to the supervisor to either dismiss the case or send further communication to the citizen and the business, specifying the grounds for the complaint and recommendations for its resolution.

In circumstances where the agent discovers a pattern of behavior at the business that warrants further investigation, the agent writes a memo with a summary of the complaint and additional background information that was discovered during the initial review. The agent supervisor and attorney-in-charge discuss whether or not to open the investigation, and if it is open, they assign an agent and attorney (sometimes it is the same Agent). In 2016 more than 400 cases from the Public Protection Division became investigatory matters.

During the formal investigation, the agent and attorney assigned to the case build the case file with legal documents, testimony, relevant electronic evidence, and with hard copy files and/or notes meetings scanned directly into the file for review. The attorney assigned to the case makes a recommendation to the attorney-in-charge whether the case should be closed, if a warning should be issued, or if legal action should be taken. Last year, 115 legal actions arose as a result of the investigatory process.

Civil Litigation

The following “Day in the Life” scenario illustrates how the new Integrated Case Management System would be used to handle legal matters by employees of PAOAG’S Civil Division. This scenario is based on a specific kind of case and is not meant to be representative of all cases handled by the PAOAG’s office.

Case Initiation:

A new legal matter is initiated when an individual sues the Commonwealth and is served with a civil complaint through either physical or electronic means, or if the Commonwealth decides to file a complaint against another party. The Intake Coordinator opens the case in the new case management system and uploads an electronic copy of the complaint. The Intake Coordinator can then choose to “delegate” the case to a separate agency that is handling the case, or accept it for action by the PAOAG’s office. The Intake Coordinator then assigns the case to a section of the Civil Division and the Chief Deputy Attorney General (CDAG) for the appropriate section (Civil Litigation, Torts Litigation, and Tax Litigation) will receive an email indicating that the new matter was created in the system for their section. The CDAG will be able to review a list of new or unassigned case and attached documents, and may enter additional case information. The CDAG can then assign the new case to a Deputy Attorney General (DAG) or input a specific delegation to a different agency. The system will then save these updates and clear the case from the unassigned cases queue.

The new system will automatically send an email to the assigned DAG advising that a new case has been assigned to him or her. The assigned DAG can then open the new case on the system in a “My Cases” screen that lists all open case assigned to him or her. Contact information from the plaintiff and other relevant parties are directly added to the case file and integrated into Microsoft Outlook for use in electronic and written correspondence. The DAG can review the new case and other documents online and request the Attorney Resource Center (ARC) staff to draft an entrance of appearance to go to the court. Upon filing, the ARC will upload an electronic copy of the filing to the case file in the new system.

Motion Practice:

During the court process, the PAOAG legal team will address or submit various motions and procedural devices in law to bring a contested issue before the court for decision. Each motion will be entered as a separate component within the case, incorporating any legal research, documentation, evidence, or other facts required for submission to the court. The system generates a “motion log” for the team, allowing individuals to quickly determine the status of the case relative to previous progress.

Correspondence with the plaintiff during this phase is directly managed by the case management system, as all emails sent from or received by the DAG and the PA OAG legal team are logged by the system and automatically incorporated into the file. The system, which is integrated with Microsoft Word, offers letter templates to users with portions auto-populated from metadata related to the matter contained in the new system to facilitate correspondence.

When drafting new documents, staff will utilize similar documents drafted for other cases. The DAG can access a “Search” screen in the new system that can search based

on matter data criteria (such as matter type, region, section, document type, issue, etc.) as well as the OCR contents of all documents in the system's document repository.

Alerts based on deadlines for actions in a case are easily created for each component of the motion practice, leading up to court proceedings, with upcoming alerts accessible on a dashboard view for each member of the legal team assigned to the case.

Discovery:

During this period, the PAOAG legal team exchanges evidence with the plaintiff or defendant, exchanging electronic files via the PAOAGs eDiscovery platform. Evidence relevant to the case generated from the eDiscovery platform is ingested directly into the case management system for ease of access and review. Analytic reports generated from the eDiscovery platform and from other analytic tools available to the PAOAG are incorporated if relevant to the proceedings.

Trial:

If the case does not resolve during the Motion Practice phase or via direct engagement with the plaintiff, the team must prepare for trial action in court.

In advance of the trial, the PAOAG legal team creates an electronic summary brief for review by the EDAG or his/her designee (supervisor). This brief incorporates all of the previous work and presents a case summary of potential outcomes and options to the supervisor.

After the review of the brief and approval to move forward, the DAG collects documents, images, and other relevant materials into a series of files that can be loaded and deployed via the Trial Projector system presently used by the PAOAG's office. Materials provided by the plaintiff during the trial are loaded into the Integrated Case Management System for review, analysis, and response as required.

Settlement Administration:

Upon completion of the trial or an administrative action leading to a settlement, the DAG may agree to a financial or administrative settlement that requires ongoing action by the PAOAG's office. In these circumstances the DAG assigns the case to the administrative division of the PAOAG's office to manage financial or managerial requirements.

Appeal:

Once judgment has been entered in the trial court, the losing party may appeal the ruling to an appellate court. The Litigation Appeals section handles appeals from both the Civil and Public Protection divisions. Appellate DAGs have full access to the digital trial level case file and take possession over the physical case file during the pendency of the appeal.

The Appellate DAG enters his or her appearance on behalf of the client(s), reviews the trial level case file, files motions, briefs, and/or the reproduced record in the appellate court, and potentially participates in oral argument. Every oral argument is mooted, requiring coordination and scheduling across sections and divisions of the Office. In cases where we initiate the appeal, the DAG also files the notice of appeal, with accompanying documents, and remits the appropriate filing fee.

Once the appellate court renders its decision, further appeals to higher courts may be taken by the losing party. Once, however, all appellate options have been exhausted, the physical trial level case file is returned to the trial attorney and the appellate matter is closed.

If the judgment below is affirmed by the appellate court, the case has typically ended (save for the collection or payment of awarded costs and/or damages). If the judgment below is reversed, however, additional litigation may be necessary at the trial level. In the latter case, a second appeal is possible, starting the process anew.

Finally, interlocutory appeals (appeals before a final order has been issued below) will sometimes be taken, usually (but not always) staying the trial court proceeding during the pendency of the appeal. A case may experience multiple appeals before completion.

Closing a Case:

Upon completion of any administrative or financial remedies the DAG assigned to the case will receive a notification from the Integrated Case Management System. The DAG will complete a final summary review and close the case.

The case materials will be logged in the Integrated Case Management System for up to five (5) years before being archived to external data storage.

Criminal Litigation

The Criminal Law Division conducts criminal investigations and criminal prosecutions throughout the Commonwealth. Cases, incorporating both investigations and prosecutions, are initiated either internally or based on referrals from county district attorneys or state agencies. Cases originating from outside of the OAG may be referred to the office at any stage including investigation, trial level, direct appeal, or state or federal collateral review. In some cases, the OAG both investigates and prosecutes the case. However, in other cases, the OAG serves only as the prosecuting agency, while either local or state police conduct the investigation.

The OAG operates three statewide investigating grand juries. Investigations, including those conducted by OAG agents or by other law enforcement agencies, may be submitted to the grand jury for use of any or all of the grand jury's investigative tools, including the power to compel testimony, grant immunity, or to compel the production of documents.

In addition to criminal investigations and prosecutions, the Criminal Law Division also litigates civil asset forfeitures arising from both OAG cases and from seizures made by the Pennsylvania State Police.¹

Currently, agents utilize an electronic records management system. Prosecutors do not have a records management system.

Investigations

Criminal investigations are initiated either internally or based on referrals from county district attorneys or state agencies. In cases where the OAG will be conducting the

¹ The division also operates the Witness Relocation Program.

investigation, those investigations are conducted by either special agents or narcotics agents (collectively agents).²

For investigations conducted by OAG agents, a case is created in the records management system. Agents conduct interviews and collect documentary, electronic, and physical evidence. Agents generate an initial report and will generate supplemental reports, including reports of interviews, as needed. Those reports are uploaded into the records management system in Word format. Documentary evidence that is scanned to PDF format and other digital evidence may be uploaded to the records management system. Agents also access various criminal justice information systems, including JNET and CLEAN, as well as commercial information systems. Presently, information from those systems may be printed, scanned, and uploaded into the records management system. Additionally, evidence may be gathered through wiretaps, other electronic interceptions, video surveillance, or through the use of computer forensics tools. Various software programs are used for these purposes.

Investigations may be submitted by a prosecutor to one of our grand juries by submitting a submission memo to the attorney who supervises the grand juries through the prosecutor's section chief. After submission, subpoenas may be issued to compel the appearance and testimony of witnesses or to compel the production of documents or electronic records. Those documents or electronic records are maintained either by the investigating agent or the prosecutor overseeing the investigation. Transcripts of witness testimony are maintained on secure folders on the Criminal Law Division's shared network drive. At the conclusion of a grand jury investigation, if charges are warranted, a presentment may be submitted to the grand jury. Prior to presentation to the grand jury, presentments must be approved through the chain-of-command. A grand jury report, which makes policy recommendations, may also be issued by the grand jury. Finalized copies of presentments and reports are maintained on the same secure folder on the shared network drive. All grand jury documents and records are sealed unless otherwise unsealed by the supervising judge of the grand jury. Agents may upload scanned copies of grand jury materials into the records management system.

When criminal charges are to be filed, agents, in cooperation with prosecutors, draft criminal complaints. Prior to filing, criminal complaints must be approved through the chain-of-command.

Prosecutions

Once criminal charges have been filed, judicial proceedings commence. This begins with a preliminary arraignment where bail is set. Soon after, a preliminary hearing is scheduled. At the preliminary hearing, unless waived by the defendant, the Commonwealth bears the burden of establishing a *prima facie* case for the charges. Prosecutors put on evidence which could include witness testimony and the presentation of exhibits. In some cases, staff from the Litigation Support Section will assist with the presentation of evidence using trial presentation software. If the Commonwealth proves a *prima facie* case, the case is held for court.

² A small number of investigations arise from online complaints filed with the Insurance Fraud Section through the OAG's public website. The Bureau of Narcotics Investigation also receives anonymous drug tips via text messaging.

After a case is held for court and the defendant has had a formal arraignment, pretrial motions may be filed. Prosecutors will respond to those motions, and hearings will be held, as needed. Discovery is also provided during this period. Discovery may be provided in either hard copy or in electronic format.

Most cases are resolved through plea negotiations. However, some cases will proceed to trial. Prosecutors and agents compile exhibits and trial preparation materials. In some cases, the Litigation Support Section will assist with the presentation of evidence. Some prosecutors use electronic trial preparation materials; however, most rely on paper files.

If the defendant is found guilty of any charges either following a trial or a guilty plea, the case proceeds to sentencing. Pre-Sentence Investigation reports are often generated by county adult probation offices. Either the OAG, the district attorney's office, or the adult probation office will prepare Sentencing Guidelines, which assist the court in determining the minimum sentence to impose, using the JNET system. Once sentenced, a defendant may file post-sentence motions and/or appeal his or her judgment of sentence.

Appeals/ Collateral Review

When a direct appeal is filed from a judgment of sentence,³ each party files written briefs, and oral argument may be held. Once a decision is issued by the court, the losing party may seek appeal either to Supreme Court of Pennsylvania or the Supreme Court of the United States, and there are court filings associated with those requests.

After a defendant's judgment of sentence is final, the defendant may file a Post-Conviction Relief Act petition with the trial court seeking to collaterally attack his or her judgment of sentence. Prosecutors may file answers and briefs related to the petition, and an evidentiary hearing may be held. Once the court issues a decision, the losing party may appeal the court's decision. Those appeals progress in the same manner as a direct appeal.

Finally, defendants may file a petition for writ of habeas corpus in the United States District Court. Prosecutors will file answers, briefs, and other pleadings. An evidentiary hearing may be held. Once the district court issues a decision, the losing party may appeal seek permission to appeal to the United States Court of Appeals for the Third Circuit, and if unsuccessful, may seek appeal to the Supreme Court of the United States.

Asset Forfeiture

When contraband or other items are seized based on criminal activity, a petition seeking civil forfeiture of the asset may be filed with the trial court. These cases proceed in the same manner as other civil litigation cases. Various answers, motions, and other pleadings are filed. Discovery, including the production of documents, issuance of interrogatories, and the taking of depositions also takes place. A non-jury trial may be held. Once a decision is issued by the court, the losing party may appeal in the same manner as described above.

³ In addition to appeals filed following a conviction, pretrial or interlocutory appeals may also be filed. Those progress in a similar manner to direct appeals.