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Flint water legal bills could top \$34.5 million

CHAD LIVENGOOD  

State has spent \$26.5 million on private law firms in Flint water crisis civil and criminal cases

\$1.6 million spent on state health chief Nick Lyon's criminal defense

\$3.55 million budgeted for Lyon's defense in manslaughter case



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Three years after lead was discovered in Flint's water, there's no end in sight for the legal bills the state is paying private law firms to represent state officials in civil litigation and criminal prosecutions.

Private attorneys representing state health director Nick Lyon have billed taxpayers more than \$1.6 million to defend a high-ranking member of Gov. Rick Snyder's cabinet facing

involuntary manslaughter charges stemming from Flint's water crisis — and his trial date hasn't even been set yet.

That number is only a small part of amount the state has spent on Flint water crisis-related legal bills. Through mid-August, the state had spent \$26.5 million, while three state departments have current capacity in contracts to make that total top \$34.5 million, according to public records compiled by *Crain's*.

Three days after a Genesee County judge [ordered Lyon to stand trial last month](#) for the suspected water-related deaths of two elderly Flint-area men, the state's Administrative Board increased the contract for Lyon's primary defense attorneys at the Grand Rapids firm Willey & Chamberlain by \$1 million to \$2.75 million.

The state Department of Health and Human Services, which Lyon remains in charge of while facing prosecution, has additional contracts of \$400,000 each with two other law firms working to keep him out of prison — Bursch Law PLLC in Caledonia and Chartier & Nyamfukudza PLC in Lansing.

[Complete coverage: Flint water crisis](#)

The \$3.55 million budgeted for Lyon's criminal defense in a high-stakes and politically tinged criminal case brought by Attorney General Bill Schuette is seen by longtime Lansing observers as an unprecedented expense of taxpayer money.

Lyon's legal bills alone over three fiscal years exceed what Genesee County spends annually for defense attorneys who represent indigent residents.

"It's unheard of. It's beyond exorbitant," said [William Whitbeck](#), a retired Court of Appeals judge who was paid nearly \$300,000 by Schuette to evaluate charges leveled by a special prosecutor. "If you or I were to commit a crime or even be charged with committing a crime, we'd pay our own way. There's no reason in God's green earth why a similarly situated citizen who happens to be a state employee should be treated differently."

Schuette, the Republican nominee for governor, has run up some big bills himself in pursuit of criminal convictions of state officials [he says are culpable](#) for Flint's tainted water. To date, Schuette's investigation, run by the Royal Oak law firm of attorney Todd Flood, has spent \$6.9 million. The Legislature has approved an additional \$3.1 million for the prosecutions over the next 13 months.

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Three years have passed since elevated levels of toxic lead were discovered in the city's drinking water, and, despite deep distrust from residents, public health officials have since declared the Vehicle City's tap water safe to drink again.

But there's no end in sight for the legal recriminations from the crisis that are keeping some private attorneys in Michigan busy.

Not a single trial from Schuette's litany of charges against 15 current and former local and state officials has begun, with Lyon just getting bound over for trial **two weeks ago** in Genesee County Circuit Court after a laborious 11-month preliminary examination in district court.

Gov. Rick Snyder's administration has spent at least \$13.75 million to date on private attorneys hired to produce some 2 million pages of records for Schuette and Flood's investigation and represent the governor and at least 30 state employees in the criminal probe and subsequent court proceedings, state records show.

Richard McLellan, a Lansing attorney and **ally of Lyon**, said the outgoing Republican governor is "doing the right thing" using taxpayer money to defend "his people" in court.

"Yeah, it costs money. But what is the cost of maybe going to prison for 15 years for something you didn't do?" McLellan said, referencing the prison sentence Lyon faces for involuntary manslaughter. "... What's Snyder supposed to do? Say, 'Oh, it's too much. You're just going to have to be on your own.'"

Flint water law firm expenses

The Royal Oak law firm of Special Assistant Attorney General Todd Flood has billed the state nearly \$7 million for his investigation and subsequent prosecution of state and local officials in the Flint water crisis. Total spending on private law firms for the investigations and defense of state employees has topped \$26.5 million, with capacity in current contracts for up to \$34.5 million. Gov. Rick Snyder's administration has provided private attorneys for the governor and at least 30 individual state employees in the governor's office and the departments of health and human services and environmental quality.

Law	Amount	Client
Flood Law	\$6,978,837	Attorney General Bill Schuette's Flint water investigation team, expert witnesses, prosecution team and other outside counsel
Warner Norcross & Judd LLP	\$3,883,440	Gov. Rick Snyder and his office
Clark Hill PLC	\$2,314,102	Former Department of Environmental Quality Director Dan Wyant and his former communications director, Brad Wurfel
Barris, Sott, Denn & Driker P.L.L.C	\$1,778,775	Gov. Rick Snyder and his office
Wiley & Chamberlain LLP	\$1,501,584	Nick Lyon, director of the Department of Health and Human Services Director
Foster Swift Collins & Smith PC	\$1,416,478	Mike Prysby, Patrick Cook and Adam Rosenthal, DEQ water quality office employees
Kotz Sangster Wysocki P.C.	\$1,284,739	Stephen Busch, DEQ water quality office district supervisor
Fraser Trebilcock	\$1,031,746	Lianne Sheker-Smith, former DEQ water quality chief
Varnum Law	\$1,025,342	Michigan Department of Health and Human Services
Alana & Chartier PLC	\$795,197	Robert Scott, data manager at DHHS
Pear Egan & Daniels PLC	\$651,914	Eden Wells, M.D., chief medical executive at DHHS
LaRene & Kriger PLC	\$317,078	Stephen Busch, DEQ water quality office district supervisor
Smietanka, Buckleitner, Steffes & Gezon	\$220,154	Patrick Cook, DEQ water quality specialist
McShane & Bowie PLC	\$156,880	Sarah Lyon Callo and Cirstin Larder, DHHS epidemiologists
Cafferty & Associates	\$147,004	Nancy Peeler, program director at DHHS

Source: Gov. Rick Snyder's office; Attorney General Bill Schuette's office; state departments of treasury, environmental quality and health and human services. • [Get the data](#) • [Created with Datawrapper](#)

Criminal defense attorneys from private law firms representing state officials charged in the Flint water cases say Flood has waged a disorganized prosecution that has added to the time and length of the proceedings in multiple Genesee County courtrooms.

"If you're wondering why our legal fees are so high, attorneys have to wade through millions of pages of documents to find things related to their clients," said attorney Mary Chartier, whose Lansing law firm has been paid nearly \$800,000 representing health department data manager Robert Scott in criminal and civil cases. "We've received over 2 million documents in discovery. They were not organized in any particular manner."

Pear, Sperling, Eggan & Daniels, an Ann Arbor law firm representing the state's chief medical executive, Eden Wells, M.D., also pointed to delays in receiving the state's evidence against their client as contributing to their ever-growing legal bills.

"In fact, many of the exhibits were not provided to the defense until the moment they were offered as evidence during the examination," the law firm said in a statement to *Crain's*. "The prosecution appeared unprepared to proceed with the examination at the time it brought the original charges against Dr. Wells, and expanded and modified the charges against Dr. Wells as the matter proceeded."

Schuetz spokeswoman Andrea Bitely said Flood's team provided defense attorneys documents "in the format we received them" from the Snyder administration.

"We shared all evidence as it became relevant," Bitely told *Crain's*.

Like her boss, Wells also faces a manslaughter charge for the Legionnaires' death of 83-year-old John Snyder. Her preliminary examination spanned ten months and 18 days in court. Flood called 13 witnesses; the defense team called five witnesses.

Pear, Sperling, Eggan & Daniels has billed the state nearly \$652,000 for Wells' legal defense to date; the state Administrative Board increased the law firm's contract to \$1.1 million on Aug. 23.

"This case is not comparable to any other case this firm has defended," Wells' attorneys said in a statement.

DHHS also has retained Varnum Law to represent the department as a whole in Schuetz's criminal investigations. The Grand Rapids-based law firm has billed DHHS more than \$1 million and has a contract for \$1.55 million, according to state records.

"Varnum Law firm, like the law firms hired by other State agencies, has advised the department and protected the department's interests throughout these investigations as well as in connection with the later prosecution of department employees," DHHS spokeswoman Angela Minicuci said in an email to *Crain's*.

DHHS has spent nearly \$6 million to date on private law firms and other legal expenses defending its employees in civil litigation and Schuette's criminal investigation, records show. The department has contract capacity to spend another \$5 million on private legal representation.

Lyon's legal team includes former Solicitor General John Bursch, who is seen as one of the country's [top appellate attorneys](#). He has argued 27 times before the Michigan Supreme Court and 11 times before the U.S. Supreme Court. Bursch had billed the department about \$118,000 on his \$400,000 contract through mid-August, records show.

"That's a pretty heavy-duty legal team they've put together — costing a lot of money," Whitbeck said. "And you and I and the rest of the citizens of Michigan are paying for it."

Chartier's firm also was recently retained to help represent Lyon for common issues in public health that cross over in the case against Scott, who is accused of covering a report showing a spike in lead levels in the blood of Flint children.

Even though the Department of Health and Human Services gave her firm a \$400,000 contract, Chartier said, "We don't anticipate it going beyond \$10,000."

'Working diligently'

Stephen Busch, a Department of Environmental Quality water official who oversaw Flint's switch from Detroit's water system, has received \$1.5 million in legal representation to date from private attorneys in both the civil and criminal cases against him.

The lion's share of Busch's legal bills stem from dozens of lawsuits filed by residents of Flint over the leaching of lead into Flint's drinking water system.

The preliminary examination of Schuette's evidence that Busch and other DEQ employees covered up Flint's water problems only recently began this summer; he was charged criminally and suspended with pay more than two years ago in [April of 2016](#).

Flood added an involuntary manslaughter charge against [Busch last summer](#) when he charged Lyon, the highest-ranking member of the Snyder administration to be charged criminally over the Flint water crisis.

Busch's criminal defense attorneys at LaRene & Kriger PLC have billed the DEQ for more than \$317,000 in fees and expenses to date.

Attorney Mark Kriger, a partner at the downtown Detroit law firm, said the cost of Busch's criminal defense is "not excessive" given the complexity of the case.

"Both the defense and prosecution have been working diligently on this case," Kriger said. "But given the volume of material and the difficulty of coordinating schedules, the amount of time this case has taken is not excessive."

Inline Play

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