



COLORADO DEPARTMENT OF LAW
Joint Judiciary Presentation
December 19, 2017

Office of the Attorney General
Ralph L. Carr Colorado Judicial Center
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COLORADO DEPARTMENT OF LAW

Budget Overview

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Department of Law

December 19, 2017

The Department of Law, (often referred to as the Colorado Attorney General's Office), which Attorney General Cynthia H. Coffman oversees, represents and defends the legal interests of the people of the State of Colorado and its sovereignty.

Request by Long Bill Group	TF	FTE	GF	CF	RF	FF
Administration	20,809,258	53.2	5,272,955	2,106,298	12,990,636	439,369
Legal Services to State Agencies	32,925,061	244.8	0	1,094,523	31,830,538	0
Criminal Justice and Appellate	17,537,716	110.8	6,108,384	8,262,805	1,577,867	1,588,660
Water and Natural Resources	1,983,263	12.5	612,122	813,639	557,502	0
Consumer Protection and Antitrust	5,490,957	53.2	1,467,712	3,863,234	160,011	0
Special Purpose	4,497,197	1.0	3,247,197	1,250,000	0	0

	TF	FTE
Total Department Request	83,243,452	475.5

Leading Budget Change Requests for FY 2018-19:

The FY 2018-19 budget request highlights include the following:

Decision Item #1: Medicaid Fraud Investigator

The Department of Law (DOL) is requesting \$120,281 of total funds to support 1.0 Criminal Investigator II FTE in the Medicaid Fraud Control Unit. This position is funded with 75% Federal Funds and a 25% General Fund match.

This request will bolster the DOL Medicaid Fraud abuse, neglect, and exploitation investigations. This request stems from an audit recommendation by the Federal Department of Health and Human Services and from the unsustainable investigation workload for the 1.0 Criminal Investigator currently dedicated to these efforts.

Decision Item #2: POST Compliance Investigator

The DOL is requesting 1.0 FTE Compliance Investigator 1 and \$93,093 cash spending authority. Currently there are 23 basic police academies, 5 reserve academies and 1 refresher

academy, which require oversight and inspection by POST. Three new academies will be up and operating by January 2018 bringing the total to 32 academies across the state.

Most academies receive a full inspection every five years which includes all four programs (driving, firearms, arrest control, and the curriculum portion of the academies). There is only 1.0 FTE currently assigned these responsibilities in addition to the other duties of managing and providing oversight to the four Subject Matter Expert committees, tracking academy accidents/injuries, and approval of instructor training programs of all academies.

The POST Board has determined that a five year inspection cycle is creating opportunities for the academies to vary from POST rules and state statutes, thereby increasing risk. POST is anticipating that with an additional 1.0 FTE Compliance Investigator, the inspection of each academy can occur every three years, thereby improving overall compliance with POST academy requirements.

Decision Item #3: Combine Marijuana Appropriations in POST Line Item

The DOL is requesting a transfer of \$286,766 Marijuana Tax cash spending authority and 1.0 FTE from the Special Prosecution Unit to the Peace Officers Standards and Training Board (POST) Support line item.

SB 14-215 - Disposition of Legal Marijuana Related Revenue - provided general direction and appropriations to various state agencies. Marijuana efforts included, in part, "training to increase the expertise and knowledge among prosecutors and law enforcement officials regarding the legal and regulatory issues surrounding the legalization of marijuana." This bill initially appropriated 3.0 FTE and associated spending authority to cover the FTE costs and training dollars in two line items, The Special Prosecution Unit and the POST line item.

Consolidating marijuana related resources into one line item, will provide a more cohesive training campaign. The DOL is requesting the transfer of 1.0 FTE and associated dollars currently housed in the Special Prosecution Unit line item, to the POST line item, thereby merging all training personnel and associated dollars managed and supervised within one line item. Additionally, this consolidation, allows the DOL to reduce the total FTE dedicated to marijuana training by 1.0 FTE, thereby increasing the dollars available for on ground training for the POST training regions and peace officer jurisdictions.

Decision Item #4: Budget Reduction Request:

The DOL is requesting a reduction of (\$425,000) spending authority, for FY 19, and out years to better align spending authority with recent legal counsel trends and related litigation.

The DOL consistently analyzes budgetary needs in line with program delivery. As an example, during the FY 2017-18 budget request, the DOL proposed a roughly \$760,000 spending authority reduction in the Legal Services to State Agencies line items, associated with the new legal allocation and billing methodology. Similarly, the DOL has analyzed other programmatic line items.

The DOL is proposing a reduction of spending authority in specific line items that better aligns spending authority with programmatic need, without compromising legal support. The DOL is proposing eliminating the CERCLA Contracts Line, with a \$100,000 RF reduction. Any CERCLA associated contracts will be accommodated within the CERCLA line item. Additionally, the DOL is proposing a \$125,000 RF reduction in the Consultant Expenses Line Item and a \$200,000 CF reduction in the Tobacco Litigation Line Item. These reductions will not compromise service delivery.

Non Priority Decision Items:

Vehicle Lease Payments:

Annual request to right size each agencies Vehicle Lease Payment lines accommodating for any new vehicles and the elimination of any lease payments, with Department of Personnel and Administration (DPA) oversight.

Payment to Risk Management and Property Fund: Cybersecurity Liability Insurance Policy:

The DPA is requesting resources to procure a statewide Cybersecurity Liability Insurance Policy. This insurance policy will be added to the Liability Fund within the Risk Management Program. This will be an ongoing expense beginning FY 2018-19. Each state agency including the DOL will pay an allocated portion of this insurance policy.

OIT Administration: Operating System and Office Productivity Suite Service Operating:

This OIT request is for the new Operating System and Office productivity software suite enterprise license agreement (ELA). This new Common Policy service secures discounted pricing and access to additional products and services for all agencies under the agreement. Costs associated with the ELA will be budgeted and billed per OIT Common Policy across state agencies.

Other Budget Requests:

This budget request includes a 3.0% salary increase for classified employees and 3.2% for attorney positions. The 3% for classified employees is in line with the Governor's recommendation. The 3.2% increase reflects the most recent World at Work recommendation of 3.2%. These two requests total roughly \$1.5M and include salary, PERA, and Medicare benefits.

For more information about this Department and its programs, please call 720-508-6000 or visit, <http://www.coloradoattorneygeneral.gov/>



**COLORADO DEPARTMENT OF LAW
SMART Government Act Strategic Plan
October 1, 2017**

Office of the Attorney General
Ralph L. Carr Colorado Judicial Center
1300 Broadway, 10th Floor
Denver, Colorado 80203
(720) 508-6000

Mission:

The Colorado Department of Law (DOL) advances respect for the law and the public interest, and provides independent, ethical, quality, and professional legal services to the State of Colorado for the benefit of the public and in the interest of justice.

Vision:

It is the vision of the DOL to be the premier law enforcement agency and public law office leading the state with the trust, confidence, and support of partners, consumers, and policy-makers, while committing to the highest professional and ethical standards.

Values:

- Professionalism: To serve our clients and the public with honesty, integrity, accountability and with respect for our customers, clients and the DOL.
- Excellence: To hire and retain -elite professionals to develop and deliver high quality work.
- Public Service: To serve the people of Colorado and the legal interests of the state.
- Dynamic: To motivate a creative, flexible, and energetic work place.
- Responsiveness: To recognize and address developing client issues and the changing needs of Coloradoans.
- Engagement and Collaboration: To facilitate connectivity and influence productive citizenship and inclusivity.

Focus: The DOL is focused on:

- Upholding the United States and Colorado Constitutions.
- Providing the highest level of ethical legal service to the State of Colorado.
- Defending the laws and officers of the State of Colorado from legal challenge.
- Protecting and preserving the quality of Colorado's land, water and air.
- Advocating for policies that help law enforcement improve community safety.
- Protecting Coloradans from consumer scams and fraud.
- Ensuring that Colorado's elections remain free from criminal fraud.
- Promoting open, accountable governance.

Statutory Authority:

The statutory authority for the Attorney General and for the DOL is found in section 24-31-101, et seq., C.R.S. Additional, more specific, statutory authority is found in titles 5, 6, 10, 11, 12, 25, 33, 34, 36, 37 and 39.

Department Description:

The Attorney General and the Department of Law, collectively referred to as the Colorado Attorney General's Office, represents and defends the legal interests of the people of the State of Colorado and its sovereignty. The Attorney General exercises the responsibilities given to the office by the Colorado Constitution, statutes enacted by the Colorado General Assembly, and the common law.

The Attorney General has primary authority for enforcement of consumer protection and antitrust laws, prosecution of criminal appeals and some complex white-collar crimes, the Statewide Grand Jury, training and certification of peace officers, and most natural resource and environmental matters. Additionally, the Attorney General's Office works concurrently with Colorado's 22 district attorneys and other local, state and federal law enforcement authorities to carry out the criminal justice responsibilities and activities of the office. The Attorney General is also the chief legal counsel and advisor to the executive branch of state government including the governor, all of the departments of state government, and to the many state agencies, boards, and commissions.

The Department is largely a cash-funded agency that receives funding from state agencies and various programs for the provision of legal services, the investigation and prosecution of fraud, and the protection of citizens of this State through a number of consumer protection efforts. The Department delivers its responsibilities within a nearly \$81 million appropriated budget, and utilizes roughly 500 employees to carry out these responsibilities.

The DOL's services primarily are delivered through eight operational sections. These sections carry out their specific responsibilities in order to provide the highest quality legal representation for state clients, to all state government agencies, and each program and board within. Additionally, investigative and prosecutorial efforts help protect the interests of state citizens by minimizing fraud and ensuring public safety. These eight sections include:

- **Business and Licensing Section** – Provides legal advice and litigation services to several state agencies, including the Department of Regulatory Agencies and its divisions of Professions and Occupations, Banking, Civil Rights, Financial Services, Insurance, Real Estate, and Securities. The Section also represents the Department of Agriculture, the State Personnel Board, and the Independent Ethics Commission.
- **Civil Litigation and Employment Law Section** – Defends state employees and agencies in administrative, state, and federal courts. Cases may involve personal injury suits, property damage, constitutional violations or employment discrimination among others. The Section also prosecutes civil rights violations in administrative and state courts and provides employment law advice to all state agencies. The Section provides day-to-day advice to the Departments of Corrections, Public Safety, and Transportation.

- **Consumer Protection Section** – Protects Colorado consumers against fraud and provides a competitive business environment through enforcement of state and federal consumer protection, charitable solicitations, antitrust, consumer lending, fair debt collection practices, and numerous other consumer protection statutes. The Section also represents the state Office of Consumer Counsel, advocating before the Public Utilities Commission on behalf of residential, small business, and agricultural ratepayers.
- **Criminal Appeals Section** – Represents law enforcement interests when defendants challenge their felony convictions in the state and federal appellate courts.
- **Criminal Justice Section** – Assists local prosecutors and law enforcement agencies throughout the State on matters that occur in more than one local jurisdiction, including presenting cases to the Statewide Grand Jury and serving as special district attorneys in local counties upon request. Section members provide special assistance to district attorneys in complex violent crimes including homicides and cold cases. The Section also prosecutes multi-jurisdictional cases that include human trafficking, major drug trafficking organizations, white-collar and environmental crimes. The Section prosecutes crimes in which it has original jurisdiction, including securities, insurance, and election fraud. It also investigates and prosecutes fraud committed against the State by providers of Medicaid products and services, as well as abuse and neglect of patients in federally-funded long-term care facilities. The Section also coordinates the prosecution of foreign fugitives and oversees the Peace Officer Standards and Training Board (POST).
- **Natural Resources and Environment Section** – Works with client agencies to protect and improve the quality of Colorado’s natural environment and to ensure intelligent use and development of the state’s natural resources. The Section provides legal counsel and representation to the Department of Natural Resources on the regulation of mining, oil and gas, parks and wildlife, state lands, and water rights and to the Department of Public Health and Environment on the regulation of air quality, water quality, radiation control, and hazardous and solid waste management. The Section also advocates on behalf of the State Natural Resource Trustees and the State Energy Office.
- **Revenue and Utilities Section** – Provides litigation and general counsel support to the Department of Revenue, the Trial Staff of the Public Utilities Commission within the Department of Regulatory Agencies, the Property Tax Administrator and Property Tax Division within the Department of Local Affairs, and statewide clients regarding bankruptcy matters.
- **State Services Section** – Provides representation to eight of sixteen executive branch state agencies, as well as Colorado’s five statewide elected public officials: the Governor, Lt. Governor, Attorney General, Secretary of State, and Treasurer. The Section also represents the Judiciary and the Public Utilities Commission, as well as the Departments of Human Services, Health Care Policy and Financing, Personnel and

Administration, and Public Health and Environment, many of the institutions of Higher Education and the Department of Education. The Section reviews hundreds of state contracts and defends the State against claims typically involving the inadequacy of funding of various programs.

The DOL received funding to create a new Office of Community Engagement in fiscal year 2015-2016. This office proactively reaches out to those in need with the goal of preventing Coloradans from becoming victims of fraud, crime and abuse, and educates the public about how the Rule of Law impacts their daily lives. The Office of Community Engagement will coordinate the DOL's numerous education and outreach programs, including management of the Safe2Tell™ program. Safe2Tell™ is an anonymous tipline that provides young people a way to report any threatening behaviors or activities endangering themselves or someone they know.

Objectives:

The DOL aims to achieve its vision and accomplish its mission through these objectives:

- Minimize state risk through the effective counsel and representation of clients and protect Coloradans by enforcing laws and prosecuting and defending cases referred by clients;
- Facilitate consumer protection and maintain financial integrity through consumer protection and antitrust enforcement efforts;
- Ensure consumer protection through licensure and registration of regulated consumer lenders, debt collectors, debt-management services providers, and credit repair companies;
- Minimize state risk through the effective representation of state prosecution when defendants challenge their felony convictions before the state or federal appellate courts; and
- Prosecute criminal offenses within its jurisdiction, including handling a wide variety of criminal matters across all areas of the state including white-collar crime offenses, human trafficking cases, homicides, complex drug conspiracies, and special prosecutions in which our assistance is requested by the Governor or an elected district attorney.

The DOL tracks specific workload and performance measures and strategic efforts in attempting to meet performance measures. In coordination with the objectives listed above, the DOL has provided specific performance measures, strategies, and performance evaluations provided below.

The DOL's annual budget request reports additional measures to help provide a complete analysis of DOL's efforts. Please refer to the Attorney General's website at <http://coag.gov/> to review the annual budget document.

FY 2017-18 Long Bill and Special Bills Appropriations to DOL:

Total Funds	FTE	General Fund	Cash Funds	Reappropriated Funds	Federal Funds
\$81,081,662	473.5	\$16,214,183	\$17,314,175	\$45,724,833	\$1,828,471

STRATEGIC PRIORITY: INNOVATIVE PRACTICE OF LAW

The DOL will work collaboratively to fill gaps in federal and local criminal, consumer protection, antitrust, and environmental law enforcement in areas of concern to the State that are not being otherwise addressed, focusing on human trafficking, the opioid epidemic, and cybercrime.

Objective: Protect public health and safety by pursuing cutting-edge areas of legal practice and programs, and providing high quality legal services where most needed.

Human Trafficking

Objective: The DOL will collaborate with partner agencies to bolster information sharing and best utilize skills across the state enterprise to combat the various facets of human trafficking, thereby building an informed network of responsible change agents.

Strategy: The DOL will lead and advise on investigative, training and prosecutorial efforts across the state. Additionally, the DOL will create internal working groups to best align resources and knowledge in this area of law and will annually review and recommend relevant statutory changes. The DOL also will engage other outside partners to create a unified and consistent statewide approach to prosecuting these cases. The impact of prosecuting human trafficking case is broad. As human trafficking operations typically involve complex criminal enterprises, the prosecution of human trafficking cases will affect multiple jurisdictions, offenders and victims.

Evaluation of Prior Year Performance: This is a new measure. The DOL will be tracking this measure over the course of the next fiscal year and reporting on most recent results in the next DOL Strategic Plan.

Opioid Epidemic

Objective: Each opioid-related action taken by the DOL, such as a criminal prosecution, a community initiative, a professional or facility license sanction, or an enforcement effort based on consumer protection litigation, will have a strong statewide impact on the opioid epidemic.

Performance Measure		Actual FY 15	Actual FY 16	Actual FY 17	Estimate FY 18	Request FY 19	Request FY 20
	Target	NA	NA	NA	20	25	25
	Actual	NA	NA	NA	NA	NA	NA

Strategy: The DOL will lead and advise on investigative and prosecutorial efforts across the state, both criminally and civilly. The DOL will create an internal working group populated from amongst all its various sections to best align resources and knowledge in this area of law. This internal working group will annually review and recommend relevant statutory changes as well as coordinate the legal efforts and expertise within the office to better impact the abuse of opioids throughout the State. Through this coordinated effort, the DOL can prioritize and respond to each opioid issue the office has the opportunity to address. Each opioid action taken by the DOL, such as a criminal prosecution, a community initiative, a professional license revocation or an enforcement effort based on consumer protection litigation, will have a strong statewide impact on the opioid epidemic. While this is a new performance measure, the DOL's commitment to this issue has already been evidenced in increased investigations, prosecutions, and civil actions against manufacturers and distributors of opioid medications, efforts to increase community awareness, the lifesaving distribution of Narcan to law enforcement agencies across the state, and the enforcement of professional standards against the medical professionals who prescribe opioid-based medications.

Evaluation of Prior Year Performance: This is a new measure. The DOL will be tracking this measure over the course of the next fiscal year and reporting on most recent results in the next DOL Strategic Plan.

Cybercrime

Objective: The DOL will establish Colorado as a leader in cyber-security within the state and among the country's Attorneys General Offices by demonstrating responsibility, influence and actively promoting a practical, useful, and secure cyberspace to the DOL and to the community.

Strategy: The DOL will launch consumer protection initiatives to better inform Coloradans how to recognize and protect themselves against cybercrime by increasing awareness of cybersecurity measures. The DOL will work internally and externally to investigate and prosecute criminal activity related to cybercrime. This will include sharing expertise in the area and becoming a statewide resource for cybercrime issues, especially for rural areas. By implementing an in-house forensic program which will allow the DOL to more effectively gather and analyze evidence related to cybercrimes, the DOL will be able to advance the use of these tools in rural areas that may not otherwise have the ability to access these resources. Additionally, the DOL will analyze

current law and propose legislative changes, as needed. The DOL will continue to analyze the data and data protection tools utilized by the DOL and will update processes and hardware in line with best practices and risk mitigation.

STRATEGIC PRIORITY: SUSTAINING EXCELLENCE

The DOL will continue current legal and programmatic operations and provide high quality, cost-effective legal services to minimize risk and liability to the State and to recover money owed to the State, to pursue just results in criminal prosecution and on appeal, to protect consumers, and to maintain a competitive business environment.

Representation and Advice to Clients

The Attorney General by statute is the legal counsel and advisor of each department, division, board, bureau, institution of higher education, and agency of state government other than the legislative branch. § 24-31-101, et seq., C.R.S. The DOL represents the various clients efficiently and effectively. The key to this success is retaining quality employees by providing competitive attorney compensation and benefits package and a dynamic work environment.

Objective: To provide quality legal counsel and representation, and provide effort that is satisfactory or greater to client agencies.

Performance Measure	Actual FY 15	Actual FY 16	Actual FY 17	Estimate FY 18	Request FY 19	Request FY 20
Target	95%	95%	95%	95%	95%	95%
Actual	96.56%	96.04%	96.17%	NA	NA	NA

Strategy: The DOL strives to hire, develop, and retain the best lawyers possible to represent client agencies by providing high level and interesting work. The DOL is committed to the professional development of its attorneys through ongoing continuing legal education on a variety of subjects and skills, including brief writing, oral advocacy, substantive and procedural matters, and ethics, as well as exercising good judgment in advising and representing client agencies.

Additionally, the DOL will identify employees with particular subject matter expertise, and will encourage and approve those employees to lead or co-lead trainings. The DOL will provide additional training to equip AAGs with the knowledge and skills necessary to provide more comprehensive legal services in evolving practice areas, such as the assistance of client agencies with respect to federal rule making.

Evaluation of Prior Year Performance: The DOL anticipates having the latest survey results in November, 2017, and will update. The DOL recently changed the annual survey cycle to coincide with the attorney performance evaluation cycle and for incorporation into a comprehensive review and evaluation of the performance of the DOL’s attorneys. As set forth above, the survey will be reviewed to determine how to accommodate new actions undertaken to measure additional legal services provided to client agencies. The DOL will continue to hire and do its best to retain quality attorneys through the valuable work attorneys are exposed to and within the available resources to continue to be “an employer of choice” in the legal field.

Criminal Investigations and Prosecution

Pursuant to section 2-7-204(3)(c), C.R.S., the DOL must supply performance goals as part of this report. For purposes of complying with this requirement, the Criminal Justice Section estimates, to the best of its ability, how it can best have a positive impact on behalf of all Coloradans. The projections supplied are only estimates based on previous results as well as anticipated trends. These numbers are not intended to, and will not, subvert the ethical duties regarding the charging and disposition of criminal cases by any prosecutor in the DOL.

Medicaid Fraud Control Unit

Objective: To defend the financial integrity of the State’s Medicaid program and the safety of patients in Medicaid-funded facilities.

Performance Measure	Actual FY 15	Actual FY 16	Actual FY 17	Estimate FY 18	Request FY 19	Request FY 20
Target	NA	NA	NA	75%	75%	75%
Actual	NA	NA	NA	NA	NA	NA

Strategy: The Medicaid Fraud Control Unit (“MFCU”) of the Attorney General’s Office receives 75% of its funding from the federal government with the rest coming from the State of Colorado. In addition to pursuing criminal cases involving Medicaid fraud and instances of abuse and neglect in Medicaid-funded residential care facilities, the MFCU is authorized to pursue civil cases pursuant to the Colorado Medicaid False Claims Act, which became law in 2010, as well as act as the State’s legal representative in civil cases involving the Act. The MFCU also acts as the State’s legal representative in *qui tam* (whistleblower) Medicaid cases which involve Medicaid programs in several states.

The Unit receives referrals from numerous sources. Fraud referrals often require substantial investigation, and some investigations take months or years. Many of the fraud referrals, once investigated, do not result in criminal charges. This is for a variety of reasons, including lack of provable criminal intent, and inconsistencies or vagueness of applicable rules. The Unit endeavors

to be as quick and responsive as possible in receiving referrals, opening investigations, and bringing cases through the court system. When cases are not appropriate for criminal investigation, the Unit reviews them promptly for consideration of civil recoveries or refers them to other agencies and/or delivers information or assistance to the referring entity or person to ensure that their concerns may be addressed. Anticipating that the majority of investigations will be addressed within one year of the time they are opened will enable MFCU to have a positive impact in this arena.

The vast majority of MFCU collections come from the global *qui tam* cases, where someone sues a pharmaceutical manufacturer or other business nationwide. However, the pharmaceutical suits have declined steeply in value over the last 5 years, and while there are numerous such cases in district courts around the country, the companies are no longer engaging in similar behaviors and the damages are much less. The off-label marketing scandals of previous perpetrators and the atypical antipsychotics have been resolved, and the rebate regulations changed such that there is likely only one significant rebate case in process.

The MFCU team has engaged in an effort to expand its focus to address issues in two additional areas. First, in its push to address the opioid issue, MFCU has increased investigation and prosecution of medical providers who prescribe excessive amounts of opioid medications. By working with outside partners, as well as with other sections within the DOL, MFCU will increase the number of opioid actions it will prosecute. Secondly, MFCU has also increased investigation and prosecution of nursing home providers who provide substandard care to their residents. These cases often involve the death of nursing home residents as a result of this behavior.

Evaluation of Prior Year Performance: This is a new measure. The DOL will be tracking this measure over the course of the next fiscal year and reporting on most recent results in the next DOL Strategic Plan.

Securities Fraud

Objective: To conduct a statewide program for investigating and prosecuting violations of applicable state laws pertaining to securities fraud which local jurisdictions may not have the resources to handle.

Performance Measure	Actual FY 15	Actual FY 16	Actual FY 17	Estimate FY 18	Request FY 19	Request FY 20
Target	NA	NA	NA	75%	75%	75%
Actual	NA	NA	NA	NA	NA	NA

Strategy: The Attorney General has concurrent and original jurisdiction to prosecute criminal violations relating to securities fraud. The Securities Fraud Team within the Financial Fraud Unit handles these cases and is recognized statewide for its expertise. As a result, the Unit handles many high profile cases. The Team is comprised of two attorneys, two investigators, a paralegal and a program assistant. The Securities Fraud Team is funded through an industry assessment on brokers and dealers doing business within the State of Colorado. The Team frequently uses the Statewide Grand Jury for these sophisticated and complex cases.

The Securities Fraud Team receives case referrals from numerous sources. The team collaborates closely with the Colorado Division of Securities. The Division of Securities refers approximately 50% of the Unit's cases to the Attorney General's Office. Private attorneys, law enforcement, and private citizens also refer cases to the Unit. The Financial Fraud Unit exercises its original jurisdiction to independently investigate these referrals, initiate criminal charges when appropriate, and prosecute securities fraud statewide. Securities fraud is typically widespread and may involve many victims who have lost large amounts of money. The amount of restitution sought in these cases usually involves hundreds of thousands of dollars with some cases exceeding one million dollars. Thus a single case can have a large impact. Referrals often require substantial investigation, and most investigations take months or years. However, some of the fraud referrals, once investigated, do not result in criminal charges. This is due to various reasons, including lack of provable criminal intent, inconsistencies or uncooperative victims and witnesses, or statute of limitations problems when cases are brought to the unit's attention years after the criminal behavior.

Evaluation of Prior Year Performance: This is a new measure. The DOL will be tracking this measure over the course of the next fiscal year and reporting on most recent results in the next DOL Strategic Plan.

Insurance Fraud

Objective: To conduct a statewide program for investigating and prosecuting violations of applicable state laws pertaining to fraud relating to insurance which local jurisdictions may not have the resources to handle.

Performance Measure	Actual FY 15	Actual FY 16	Actual FY 17	Estimate FY 18	Request FY 19	Request FY 20
Target	NA	NA	NA	75%	75%	75%
Actual	NA	NA	NA	NA	NA	NA

Strategy: As a result of legislation passed in 1997, the Attorney General has concurrent jurisdiction to prosecute criminal violations of applicable state laws regarding insurance fraud. The Insurance Fraud Team within the Financial Fraud Unit handles these cases and has been

nationally recognized for their efforts. The Insurance Fraud Team is funded exclusively through an industry assessment on insurance companies doing business in the State.

The Unit receives referrals from numerous sources. Once received, these referrals are reviewed, prioritized and, if appropriate, assigned for investigation. Fraud referrals often require substantial investigation, and some investigations take months or in rare cases even years. Typical cases involved staged or caused automobile accidents, theft of insurance premiums, fraudulent claims, contractor fraud and overbilling for services. However, some referrals do not result in criminal charges once they are fully investigated. This is a common part of the criminal investigation process and can be due to a variety of factors including a lack of provable criminal intent, jurisdictional issues, ambiguous documentation or inconsistencies or vagueness in the applicable laws. The Team will occasionally partner with outside law enforcement agencies to prosecute cases when appropriate. The Team works closely with the National Insurance Crime Bureau (NICB), the Colorado Division of Insurance, the Federal Bureau of Investigation and local law enforcement agencies. The Unit endeavors to be expeditious and responsive when reviewing referrals, opening investigations, and bringing cases through the court system.

Evaluation of Prior Year Performance: This is a new measure. The DOL will be tracking this measure over the course of the next fiscal year and reporting on most recent results in the next DOL Strategic Plan.

Consumer Protection

Objective: The Attorney General's Consumer Protection Section has very broad jurisdiction (Consumer Protection Act, Antitrust Act, Charitable Solicitations Act, and approximately a dozen other state and federal statutes), and the Section receives complaints about possible violations of these laws from a variety of sources. The Section will continue selecting appropriate cases for investigation and enforcement to maximize overall benefit to consumers, as well as providing consumer outreach to empower consumers, especially vulnerable populations, to protect themselves against common scams.

Performance Measure	Actual FY 15	Actual FY 16	Actual FY 17	Estimate FY 18	Request FY 19	Request FY 20
Target	NA	75%	75%	75%	75%	75%
Actual	New Measure FY 16	72.50%	74.29%	NA	NA	NA

Strategy: The Section effectively manages its resources to promote its enforcement priorities. Because there are so many variables in conducting a consumer protection investigation, including delays in obtaining documents or witness testimony, it is impossible to attain a 100% success rate in resolving investigations within one year. The DOL will continue to monitor work efforts and

resources, to maintain efficient and effective program delivery and to ensure out-year objectives are reasonable and challenging.

Evaluation of Year- to-date Performance: Unresolved cases during this time period are multistate investigations involving a number of entities coordinating efforts, and cases that, due to the complexity of the case or other challenges, cannot be resolved within a year. The DOL will continue to include all cases in this measure to maintain data integrity and to continue to monitor and assess efforts in this area.

Consumer Credit

Objective: Ensure efficient operations to benefit credit providers through licensing and to ensure compliance and protection of consumers through enforcement of consumer credit laws.

Performance Measure		Actual FY 15	Actual FY 16	Actual FY 17	FY 18 Estimate	Request FY 19	Request FY 20
Investigate and resolve 90% of complaints within 60 days or less	Target	90%	90%	90%	90%	90%	90%
UCCC	Actual	97%	88%	80%	90%	90%	90%
Debt Management	Actual	90%	91%	94%	90%	90%	90%
Debt Collection	Actual	82%	81%	43%	43%	80%	80%

Strategy: The Consumer Credit Unit endeavors to expeditiously investigate all complaints it receives related to the programs it oversees, including soliciting a response from the licensee or business. While CCU is able to accomplish this goal with the vast majority of complaints, occasionally the complexity of a complaint, challenges in communicating with a consumer or a business, or a change in staffing will result in a longer investigation period.

Evaluation of Prior Year Performance: The DOL was successful in addressing complaints within these measures. The performance in the Debt Collection Program is reflective of a vacancy period of a compliance investigator position and the training of the new compliance investigator. The DOL will continue to monitor efforts in this area to ensure the most effective program delivery within resources.

Criminal Appeals

Objective: To produce quality briefs appropriately tailored to the seriousness of the offense and the appellate challenge, while (1) maintaining or improving success rate and (2) reducing extensions of time for filing briefs in the Court of Appeals.

Performance Measure	Actual FY 15	Actual FY 16	Actual FY 17	Estimate FY 18	Request FY 19	Request FY 20
Target	90%	90%	90%	90%	90%	90%
Actual	89.6%	89.5%	89.9%	NA	NA	NA

Strategy: To achieve the objective of maintaining or improving the appellate success rate, the Criminal Appeals Section continues to focus on providing quality representation of the State’s interests in as efficient a manner as possible.

Cases are channeled within the Section to ensure that the best attorneys for the job are working on particular cases. Many Section attorneys have developed special expertise, and to the extent possible, supervisors assign cases dealing with particular subject areas to those with the appropriate expertise. Few cases, however, consist of single issues. Resource materials, including a brief bank and topical outlines, help provide starting points for research. Senior staff provide mentoring and oversight so that junior staff get on the right track quickly and efficiently.

Evaluation of Prior Year Performance: Over the past three years, the Section has met its goal of preserving at least 90% of the convictions challenged on appeal.

Performance Measure	Actual FY 15	Actual FY 16	Actual FY 17	Estimate FY 18	Request FY 19	Request FY 20
Target	NA	NA	NA	85%	NA	NA
Actual	NA	NA	NA	NA	NA	NA

Strategy: This year, the Criminal Appeals Section adopted a new objective. In previous years, much attention was given to the Section’s “backlog,” meaning the total number of cases for which the Section was under a deadline for filing a brief. This year, the Section’s focus has shifted to reducing the time it takes for briefs to be filed.

There are several reasons for this change. First, crime victims cannot truly have a sense of closure until the appeal of the defendant’s conviction is resolved; decreasing the time taken to file appellate briefs helps advance the date when victims can achieve that closure. Second, for those convictions that get reversed on appeal, it is best to have a new trial sooner rather than later, since witnesses’ memories may fade over time. Third, defendants with meritorious appellate arguments have a strong interest in having their appeals resolved as quickly as possible.

In decreasing the time it takes for appeals to be resolved, there are some factors the Criminal Appeals Section has little control over: court staff must complete the appellate record, the defense must file their briefs, and judges must decide the appeal. But the Section does have some

control over how long it takes to file its own briefs, by consistently prioritizing answer briefs in the Court of Appeals based on when the defendant’s opening brief was filed.

The Section is now using automated weekly reports generated from the DOL’s case management system to track case aging, monitor attorney workload, and redistribute cases if necessary to avoid excessive extensions of time. The Section will also continue to monitor the number of cases represented in the “backlog,” but believes that working to reduce the time it takes to file briefs should help to control the backlog’s growth.

Another factor the Criminal Appeals Section has no control over is the number of incoming cases. The State Judicial Department has projected that, based on the increasing number of criminal cases that have been filed in the district courts, there will be an increase in the number of criminal appeals beginning in the summer of 2018. The Section will assess whether this increase in appellate workload requires additional attorney staffing.

Evaluation of Prior Year Performance: This is a new measure. The DOL will be tracking this measure over the course of the next fiscal year and reporting on most recent results in the next DOL Strategic Plan.

Process Improvement and Employee Engagement

Objective: To conduct two LEAN process improvement analyses and implementations annually. In the most recent State of Colorado Employment Engagement Survey, the DOL recognized that the knowledge across the Department of LEAN was below expectations.

Performance Measure	Actual FY 15	Actual FY 16	Actual FY 17	Estimate FY 18	Request FY 19	Request FY 20
Target	NA	NA	NA	NA	2	2
Actual	NA	NA	NA	NA	2	2

Strategy: The DOL will promote a culture of constant process improvement. The DOL will continue to send a new group of employees each year to the Governor’s Performance Academy. The DOL will identify, analyze, and modify current business processes to improve efficiency, effectiveness and service delivery.

Evaluation of Prior Year Performance: This is a new measure. The DOL will be tracking this measure over the course of the next fiscal year and reporting on most recent results in the next DOL Strategic Plan.

Objective: Based on Employee Engagement and Exit Survey data, employees want more opportunities for professional development and growth. DOL continually will enhance the DOL University (professional development program) by offering at least four new programs each year, one in each track (Substantive Law, Litigation Skills, Professionalism & Effectiveness, and Technical Training), to support continued growth, sustained engagement and employee retention.

Performance Measure	Actual FY 15	Actual FY 16	Actual FY 17	Estimate FY 18	Request FY 19	Request FY 20
Target	NA	NA	NA	4	4	4
Actual	NA	NA	NA	NA	NA	NA

Strategy: DOL will dedicate resources to support a culture of continuous professional growth and development in an effort to support employee desire for advancement and in support of its attorney’s professional obligation to meet their continuing legal education requirements.

Evaluation of Prior Year Performance: This is a new measure, the DOL will be tracking this measure over the course of the next fiscal year and reporting on most recent results in the next DOL Strategic Plan.

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Office of the Attorney General

DEPARTMENT OF LAW REGULATORY AGENDA FOR CALENDAR YEAR 2018

This document contains the Colorado Department of Law's regulatory agenda for calendar year 2018 submitted pursuant to C.R.S. §2-7-203(4)

List of New Rules or Revisions to Existing Rules Expected to Be Proposed in CY 2018

I. Consumer Credit Unit

A. Colorado Fair Debt Collection Practices Act (CFDCPA)

1. Proposed Rules

- a. New rules implementing changes to CFDCPA as a result of the sunset review.
- b. Amend rule 1.04 under the CFDCPA regarding the process for Letters of Admonition.
- c. Repeal rule 1.08 on Abbreviated Applications.
- d. Amend rule 2.03(1) to clarify what "expressly authorized" means.
- e. Amend rule 3.01 to clarify trust account requirements and liquid asset requirements of C.R.S. §5-16-123.
- f. Amend rule 3.04 to clarify sufficiency of financial responsibility.
- g. New rule regarding what is and is not allowed as far as a payment convenience fee.
- h. New rule regarding the requirements before a collection agency may utilize ACH or other electronic payment methods in the collection of a debt.
- i. New rule clarifying the administration of C.R.S. §5-16-108(1)(j).
- j. New rules implementing changes to CFDCPA as a result of the sunset review.

2. Statutory Basis

The statutory basis for adoption of any proposed rules is C.R.S. §5-16-114.

3. Purpose

The purpose of the any proposed rule is to provide clarification to persons subject to the CFDCPA of terms used therein so they may conform their conduct to the law. Clarification in definitions and processes results in better compliance, consumer protection, and efficient enforcement.

4. Contemplated Schedule for Adoption

Rules will likely be adopted and/or repealed by December 31, 2018.

5. Listing of Persons and Parties Affected

Persons subject to the Act, including collection agencies and consumers that are collected upon by such companies, will be affected by this anticipated rulemaking.