



**COLORADO DEPARTMENT OF LAW  
SMART Government Act Strategic Plan  
September 1, 2019**

Office of the Attorney General  
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**Vision:**

The DOL vision is “Together, we serve Colorado and its people by advancing the rule of law, protecting democracy, and promoting justice for all.”

**DOL Core Values:**

The DOL core values include:

1. We are Public Servants:
  - a. We uphold the rule of law and serve all the people of Colorado;
  - b. We are engaged and empathetic;
  - c. We act with humility;
  - d. We serve our client agencies.
2. We are Innovative:
  - a. We act with courage;
  - b. We seek and create opportunities for others;
  - c. We are creative problem solvers;
  - d. We are committed to continuous improvement.
3. We are Principled:
  - a. We act with integrity;
  - b. We do our best;
  - c. We deliver excellent work;
  - d. We are transparent.
4. We are Better Together:
  - a. We are inclusive and diverse;
  - b. We work as a team;
  - c. We are respectful of others;
  - d. We have fun.

**Priorities:** The DOL’s Priorities are:

- Defending the Rule of Law: Advancing the principles of justice, freedom, and equality for all.
- Addressing the opioid epidemic: Fighting the opioid epidemic through accountability, collaboration, and innovation.
- Improving the criminal justice system and protecting public safety: Keeping communities safe through smarter, fairer response to crime.
- Protecting consumers: Allowing responsible businesses to thrive by holding bad actors accountable.
- Protecting Colorado’s land, air and water.
- Community engagement: Engaging in meaningful dialogue with communities around the state.

The DOL’s Strategic Plan is focused on addressing the DOL priorities and ensuring that the DOL’s work reflects and furthers the vision and core values.

**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 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 \$93 million appropriated budget and utilizes roughly 513 employees to carry out these responsibilities.

The DOL's services primarily are delivered through nine 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 nine 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. 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.

- **Office of Community Engagement** – The Office of Community Engagement serves as Coloradans’ open door to the AG’s Office. We work hard to build relationships and establish meaningful dialogue across Colorado, to truly hear the needs, ideas, and voices of the people of our state. The Office of Community Engagement engages with Coloradans on a range of issues—from criminal justice reform, to financial literacy and protecting consumers, to addressing the opioid epidemic, protecting our land, air, and water, to many others—through three primary areas of work: outreach and engagement, partnerships, and state impact programs (including the Safe2Tell™ program). Safe2Tell™ is an anonymous tip line 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;
- Protect Colorado consumers by holding individuals and businesses accountable when they engage in unfair business practices and harm consumers, including consumer fraud 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 is engaged in a comprehensive performance management planning process across the organization. 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 2019-20 Long Bill and Special Bills Appropriations to DOL:**

Total Funds	FTE	General Fund	Cash Funds	Reappropriated Funds	Federal Funds
\$92,553,270	512.8	\$18,717,773	\$17,875,249	\$53,606,154	\$2,354,094

**We are Public Servants**

**Opioid Epidemic**

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

Performance Measure		Actual FY 17	Actual FY 18	Actual FY 19	Estimate FY 20	Request FY 21	Request FY 22
Staff hours invested in statewide opioid efforts	Target	NA	NA	15,000	18,000	18,000	18,000
	Actual	NA	12,404	15,042	NA	NA	NA

**Strategy:** The DOL has an internal working group comprised of staff from most of its Sections to best align resources and knowledge in this area of law. This internal working group coordinates the legal efforts and expertise within the office to better impact the abuse of opioids throughout the State. Through this coordinated effort, the DOL prioritizes and responds to a wide variety of opioid issues facing the state. Each opioid action taken by the DOL, such as a criminal prosecution, an enforcement effort based on consumer protection litigation, a community impact initiative, or professional license revocation will have a strong statewide impact on the opioid epidemic.

In June 2018, the DOL added staff to create an Opioid Unit within the Consumer Protection Section to focus on investigation of opioid marketing and distribution practices and to prepare, file, and prosecute consumer protection enforcement lawsuits against opioid manufacturers, distributors, and retail pharmacies. The Department is currently prosecuting a lawsuit against opioid manufacturers Purdue Pharma, L.P. and Purdue Pharma, Inc., and the company’s owners and executives. In coordination with other States’ Attorney Generals’ offices, the Opioid Unit is also actively investigating additional opioid manufacturers, distributors, retail pharmacy chains, and others who may have caused or contributed to the opioid crisis. Additional focus areas include working with partners to implement best practices for substance-abused newborns in Colorado hospitals; working with our partners on youth substance abuse education; development of a comprehensive remediation plan and grant making process, including grants for increased access to treatment, prevention, and education; efforts to increase community awareness; and the enforcement of professional standards against the medical professionals who prescribe opioid-based medications. The DOL plans to hire a full-time Opioid Strategy Coordinator to lead its grant making and community outreach efforts in this area and help coordinate with local governments and community partners.

**Evaluation of Prior Year Performance:** The number of hours expended upon opioid-related matters demonstrates that addressing the opioid epidemic is a significant priority for the Department of Law. In September 2018, the Opioid Unit filed a lawsuit against Purdue Pharma, L.P. and Purdue Pharma, Inc. asserting claims for violations of the consumer protection laws, fraud, negligence, and public nuisance. During the first half of 2019, the Opioid Unit investigated companies affiliated with Purdue Pharma, and conduct of the owners and executives of Purdue Pharma. As a result of these investigations, the office amended the lawsuit against Purdue Pharma to add as defendants companies affiliated with Purdue Pharma and owners and executives of Purdue Pharma. Additional claims were also added to the lawsuit. During the first half of 2019, the Opioid Unit also opened investigations of other opioid manufacturers, distributors, retail pharmacies, and others who aided in the proliferation of opioid use and abuse. The DOL expects the number of hours expended on its efforts to combat the opioid crisis to increase in the next year as it ramps up to file additional lawsuits and investigates additional entities and individuals responsible for the current opioid crisis. The office is also expanding its efforts to remediate the opioid crisis including addition of staff to focus on working with communities and government and non-government partners to formulate and implement state-wide comprehensive remediation programs.

**Cybersecurity and Data Protection:**

*Objective: The DOL will establish Colorado as a leader in cybersecurity and data protection within the state and among the country’s Attorneys General Offices by developing best practices, providing training to consumers and businesses, and advancing legislative initiatives.*

Performance Measure		Actual FY 17	Actual FY 18	Actual FY 19	Estimate FY 20	Request FY 20	Request FY 21
Staff hours invested in statewide data protection and cyber security efforts	Target	NA	NA	NA	1,500	1,500	1,500
	Actual	NA	1,140	1,493	NA	NA	NA

**Performance Measure:** Performance will be measured by a combination of hours invested, development and promulgation of best practices, trainings and community engagement opportunities, and successful legislative initiatives.

**Strategy:** The DOL’s previous strategic initiative around cybercrime should be expanded in scope to include efforts involving cybersecurity data protection, and consumer privacy more generally. The DOL’s cybersecurity and data protection related outreach efforts include maintaining strong partnerships with local and national working groups, including the National

Association of Attorney's General (NAAG), the Conference of Western Attorneys' General

(CWAG), the International Association of Privacy Professionals (IAPP), the Sedona Conference Working Group on Data Security and Privacy Liability, Colorado Electronic Crimes Task Force (CECTF), and the Silicon Flatirons Technology Policy Clinic at the University of Colorado. These partnerships provide a network of resources and experts that can help maximize the scope and effect of DOL's outreach efforts. DOL attorneys will continue their outreach efforts by developing best practices and holding trainings to engage the public. In addition, the DOL is currently exploring the possibility of comprehensive data protection legislation, by soliciting input from privacy experts and industry advocates. This undertaking is designed to protect Colorado consumers and is in direct response to the absence of Federal privacy protections. Additionally, DOL will continue to expand its capabilities to investigate reported data breaches and take enforcement actions, by leveraging the cross-sectional participation of interested attorneys, fellows, and interns from the Silicon Flatirons program. This effort is already underway, with the recent hiring of an Assistant Attorney General to focus on privacy and data protection issues. Finally, the DOL will continue to assist the State of Colorado in developing a framework for data sharing among state agencies.

**Evaluation of Prior Year Performance:** Last year's initiative provided a good foundation for office growth in the area of cybercrime, however the DOL can have a greater impact by expanding the scope of its strategic objective to focus on and include privacy and protection. This past year saw more engagement than ever before with the public, with DOL attorneys speaking at both local and national conferences. Additionally, the Consumer Protection section established a system for recording and categorizing different types of data breaches, which helps to provide insight into areas of vulnerability and methods of compromise. However, it should be noted that no enforcement actions were taken during the past year and limited investigations were conducted, in part due to a lack of resources.

### **We are Principled and We are Better Together**

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 17	Actual FY 18	Actual FY 19	Estimate FY 20	Request FY 21	Request FY 22
Provide quality legal counsel and representation to client agencies as measured by client annual survey as satisfied or very satisfied with legal counsel	Target	95%	95%	95%	95%	95%	95%
	Actual	96.17%	94.1%	Nov. 2019	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. The DOL provides 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.

Additionally, the DOL will focus on improved client service, including better understanding our clients’ needs and objectives, demonstrating improved responsiveness to client requests, and improving client communication and reporting. We are also undertaking a comprehensive review of how we can better serve our clients and developing innovative alternative performance management measures focused on successfully meeting client needs.

**Evaluation of Prior Year Performance:** As set forth above, the survey is 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 17	Actual FY 18	Actual FY 19	Estimate FY 20	Request FY 21	Request FY 22
Resolve 75% of MFCU investigations within one year through settlement, filing, or closure	Target	NA	75%	75%	75%	75%	75%
	Actual	NA	81.8%	84.3%	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. Ensuring that the majority of referrals will be addressed within one year of the time they are received 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 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 because of this behavior.

**Evaluation of Performance to date:** Between July 1, 2018 and June 30, 2019, the Medicaid Fraud Control Unit (MFCU) received **331** case referrals, of that number, **52** remain queued for investigation. As a result, **84.3%** of the referrals received by the MFCU within SFY 2019 were resolved during this same fiscal year, though many investigations have not yet reached one year of age. The MFCU exceeded the performance measure for SFY 2019. The MFCU has recently implemented a new case intake process that was developed using the LEAN method and it is hoped that this new process will permit the unit to continue to exceed the performance measure though the number of case referrals continues to increase.

During this time, the MFCU opened **178** cases; of which **75** were criminal, cases and **103** were civil cases. The criminal cases opened during the SFY consist of **158** fraud cases, **16** abuse and neglect cases, and **4** drug diversion cases. The civil cases opened during the SFY consist of **105** cases opened solely by the Colorado Medicaid Fraud Control Unit and **73** cases that involve the participation of other states in addition to Colorado.

In SFY 2018, the MFCU settled 22 civil cases and 8 defendants were sentenced in MFCU criminal cases, including one (1) case involving the neglect of an at-risk patient that resulted in death. As a result of these conviction and settlements, the MFCU recovered **\$22,935,640.99** during SFY 2018 for the State of Colorado.

**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 17	Actual FY 18	Actual FY 19	Estimate FY 20	Request FY 21	Request FY 22
Resolve 90% of complex, multi-jurisdictional securities fraud Grand Jury investigations within twelve months	Target	NA	75%	90%	90%	90%	95%
	Actual	NA	100%	100%	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:** Over the last year, the DOL has had several multijurisdictional securities fraud grand jury investigations that have resolved by way of indictment within one year. In addition, multiple investigations are ongoing, and resolution is expected this fiscal year. The DOL is meeting this performance measure. During the last fiscal year, all grand jury cases resulted in an indictment within one year from the time the grand jury investigation process commenced.

**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 17	Actual FY 18	Actual FY 19	Estimate FY 20	Request FY 21	Request FY 22
Resolve 75% of assigned insurance fraud investigations within one year through filing/closure	Target	NA	75%	90%	90%	90%	90%
	Actual	NA	91%	100%	NA	NA	NA

**Strategy:** Because 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 collaborate 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:** The DOL is on track meeting the expectations of this performance measure. System modifications have been put in place over the last year to ensure all referrals are addressed in an expeditious manner.

**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 17	Actual FY 18	Actual FY 19	Estimate FY 20	Request FY 21	Request FY 22
Resolve 75% of consumer protection investigations within one year through settlement, litigation, or closure	Target	75%	75%	75%	75%	75%	75%
	Actual	74.29%	83%	76%	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. We are also undertaking a comprehensive review of our consumer complaint intake system, with the goals of improving the consumer experience and more timely and effective processing of consumer complaints.

**Evaluation of Prior Performance:** The investigations team has emphasized closing matters that do not warrant further investigation due to the nature of available complaints. We will continue to streamline the bridge between investigation and litigation phases to effectively resolve matters.

**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 17	Actual FY 18	Actual FY 19	FY 20 Estimate	Request FY 21	Request FY 22
Investigate and resolve 90% of complaints within 60 days or less	Target	90%	90%	90%	90%	90%	90%
UCCC	Actual	80%	77%	96%	NA	NA	NA
Debt Management	Actual	94%	64%	86%	NA	NA	NA
Debt Collection	Actual	43%	13%	53%	NA	NA	NA

**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 performance improvement across the board is a result of the structure change within the Unit, which is fully staffed. The addition of a Complaint Intake Specialist has dramatically improved complaint processing. 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 17	Actual FY 18	Actual FY 19	Estimate FY 20	Request FY 21	Request FY 22
Percentage of cases with a successful outcome on appeal	Target	90%	90%	90%	90%	90%	90%
	Actual	89.9%	91%	92%	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:** The Criminal Appeals Section has continued to strive and achieve its goal of preserving at least 90% of the convictions challenged on appeal.

Performance Measure		Actual FY 17	Actual FY 18	Actual FY 19	Estimate FY 20	Request FY 21	Request FY 22
Percentage of Court of Appeals briefs within 180 days of the initial deadline	Target	NA	85%	85%	85%	85%	85%
	Actual	NA	82%	79%	NA	NA	NA

**Strategy:** The Criminal Appeals Section continues to pursue the goal of reducing the time it takes for briefs to be filed.

The goal is important for several reasons. 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 are 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 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. The Criminal Appeals Section also has no control over the number of incoming cases, and the State Judicial Department has projected that, based on



the increasing number of criminal cases being filed in the district courts, the number of criminal appeals will also increase.

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 also monitors its “backlog,” meaning the total number of cases for which the Section is under a deadline to file a brief. Reducing the backlog is essential to the larger goal of reducing the time it takes for briefs to be filed.

The Section is adding additional resources to help reduce the backlog. The Joint Budget Committee approved the addition of Carr Fellows, recent law school graduates who will be assisting with criminal appeals. The DOL is also hiring a Senior Appellate Fellow, a retired court of appeals judge, to coach and work with the Carr Fellows and other criminal appellate lawyers

**Evaluation of Prior Year Performance:** Although the Criminal Appeals Section has continued to prioritize work based on case age, with the goal of reducing the time taken to file briefs, this performance measure is challenging because the volume of the section’s incoming cases has been increasing.

**We are Innovative**

*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 17	Actual FY 18	Actual FY 19	Estimate FY 20	Request FY 21	Request FY 22
LEAN analyze and modify business practices in two program areas annually	Target	NA	2	2	2	2	2
	Actual	NA	4	5	NA	NA	NA

*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 17	Actual FY 18	Actual FY 19	Estimate FY 20	Request FY 21	Request FY 22
Identify and implement four new professional development opportunities to support employees in career development and continuing education obligations	Target	NA	4	10	10	10	10
	Actual	NA	35	43	NA	NA	NA

**Strategy:** DOL will continue to 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. DOL will revamp its orientation program and continue to develop its Boot Camp program to best prepare incoming attorneys and paralegals for the unique aspects of working for the Department of Law. Additionally, DOL will work to develop individual trial training skills programs to ensure attorneys get practical experience in simulated court environments. We will be piloting this program in the Business and Licensing section through a program called BALLAST, and will hope to roll out the program office wide by 2020.

**Evaluation of Performance to date:** The DOL is currently working through five LEAN objectives. One in the Natural Resources Section, one in the Criminal Justice Section, one office-wide objective, and two objectives that are currently being developed through current ongoing HONSHA training.

**Natural Resources & Environment Section LEAN Project:** During FY18, the Water Resources Unit of the Natural Resource & Environment Section worked with the Department of Natural Resources and its Division of Water Resources to jointly organize and facilitate a LEAN Problem-Solving Session for the State Engineer’s office and the seven Division Engineers’ offices. This session focused on the following problem statement regarding the upcoming 2020 decennial water right abandonment proceeding:

The 2010 decennial abandonment proceedings cost \$572,000 in legal fees (exceeding the \$300,000 provided for the proceedings by the Colorado Water Conservation Board) and the mean times to resolve the majority of abandonment protests that do not go to trial ranged from 270 days to 476 days depending on the Water Division, with the maximum days to resolve ranging from 487 days to 1155 days. Final judgments cannot be entered until all protests are resolved, which delays the start of the statute of limitations period and delays certainty for water users and the State. Reducing the number of protests in the 2020 decennial abandonment proceeding and expediting their resolution should reduce legal fees and may reduce the time until the entry of final decrees.

Meaningful measures were generated that may be implemented to: (1) better assist water users in making objections to the initial decennial abandonment list; (2) reduce the number of formal protests to the final decennial abandonment list filed by water users; (3) timely resolve formal protests without requests for legal services from the Attorney General's office; (4) expedite the resolution of protests once referred to the Attorney General's office; and (5) prepare a communication plan regarding the new proposed measures for the 2020 decennial abandonment proceeding. These efforts may have fiscal impacts for the agency and our office in FY19 and FY20 and may eliminate or reduce the need to hire a temporary attorney or use attorneys from other units to help with the increased attorney workload caused by the decennial proceedings. During January-February 2019, the Attorney General's office worked with the Division of Water Resources to finalize new online forms for water user objections to the initial decennial abandonment list and assisted with development of the communication plan presented at the State Engineer's Annual Meeting in April 2019.

### **HONSHA Training**

During SFY 18, as part of the Governor's Talent Challenge, the DOL sent two teams to the state's Honsha PDCA 8-Step LEAN training. The Honsha PDCA 8-Step LEAN system focuses on improving value and improving the ability of an organization to meet its assigned mission. In order to accomplish this, efforts are focused on determining areas for improvement, examining the current processes that are in place and improving efficiency through the elimination of non-value added activities. For the training, two teams were created and each was tasked with identifying an area for improvement within the office:

- Attorney Retention - this team sought to improve the retention of Assistant Attorney General's with between three to five years of experience.
- Medicaid Fraud Intake Process – this team sought to improve the process used to address cases that were referred to the Medicaid Fraud Control Unit (“MFCU”) for investigation.

### **Office-Wide Objective - Attorney Retention**

In recent years, the Department has experienced continued turnover of Assistant Attorneys General with 3-5 years of tenure, which in turn negatively affects employee engagement and the mission of the Department.

During the transition, Attorney General Phil Weiser and his transition team reviewed the materials generated as part of the Attorney Retention Project during the prior administration, including the results of a working group that presented various ideas and measures to improve engagement and the retention of the 3-5 year Assistant Attorneys General in the office. In the Spring of 2019, the Attorney General's Office executive management team sat down to discuss retention and initiatives with the focus group and the considerations and ideas advanced have been integrated into the culture and approach of the office. Those considerations include ideas around collaboration, compensation, innovation, cross-disciplinary opportunities and advancement and professional development.

Counter measures taken to date by the Department include:

- Creating a focus group of 3-5 year attorneys to provide a venue to discuss their concerns and ideas. The results of the focus group formed the basis for other countermeasures to improve retention and engagement.
- Creating opportunities for cross-collaboration between various Sections of the Department resulting in greater opportunities for professional development across disciplines. An example is an AAG who works primarily on tax matters assisted in an antitrust case, securing a great result. The Department is also creating impact teams to allow cross-office participation and leadership opportunities in priority areas for the Attorney General.
- Creating an additional advancement opportunity within the Department of Law to counter the perception that the career path within the Department is flat.
- Presenting the focus group findings to the transition team for the incoming Attorney General Phil Weiser to ensure continuity of measures to advance the objective. One of the Department's primary issues with retaining critical attorney positions is salary. Compensation offered by the Department lags substantially in comparison to comparable public law offices, in particular, the City and County of Denver. This disparity is especially acute given the rising cost of living throughout the Denver Metropolitan Region.
- Attorneys participated in office-wide vision and values meetings with the executive management team of the office to provide direct insight and input into changing the culture of the office to be more inclusive, diverse, collaborative, and engaging.
- An additional promotional category was created within the Department of Law for Assistant Attorneys General. This category identifies high performing attorneys with 3 years of tenure or more and recognizes and rewards those high performers for consistently meeting professional goals set out as important to the Department's vision, values, and culture.

#### **Criminal Justice Section - Medicaid Fraud Intake Process**

The Medicaid Fraud Intake Process team used the Honsha PDCA 8-Step LEAN process to evaluate the efficiency of the intake process used by the Unit. This was undertaken as the Unit's outreach activities had led to an increase in case referrals and the sudden influx of those referrals resulted in an increase in the number of matters queued for investigation. Utilizing the LEAN process, the team identified a *prioritized problem* within the existing intake process and created several countermeasures with the goal of reducing the referral queue. The team has developed an improved intake process that successfully addresses the increase in case referrals.

The countermeasures taken by the Unit in SFY 19 include:

- The development of a collaborative MFCU intake team composed of attorneys, investigators, a forensic auditor, and a program assistant to review and triage matters that are queued for investigation.
- The use of a series of Microsoft Excel spreadsheets to seek to capture and track multiple data points surrounding case referrals, while also providing access to members of the intake team.
- Monthly meetings of the MFCU intake team to strategize and prioritize queued referrals for investigation and assign tasks to team members.

- The creation of templates for mail and email correspondence to provide Coloradans with information and resources for matters that were reported to the MFCU that fell outside of the Unit's jurisdiction.
- The creation of an improved online complaint form on the Attorney General's website.

The Unit is working collaboratively with other Units within the Attorney General's Office towards the formation of a standardized intake process for all referrals received from the public.

**Additional Objectives**

A collateral benefit of the interface of the Honsha teams has been to raise awareness and knowledge of the LEAN process.