



**COLORADO DEPARTMENT OF LAW
SMART Government Act Strategic Plan
November 1, 2018**

Office of the Attorney General
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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 \$84 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 coordinates 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 2018-19 Long Bill and Special Bills Appropriations to DOL:

Total Funds	FTE	General Fund	Cash Funds	Reappropriated Funds	Federal Funds
\$83,466,003	477.2	\$16,611,039	\$18,047,130	\$46,805,512	\$2,002,322

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.

Performance Measure	Target	Actual	Actual	Actual	Estimate	Request	Request
		FY 16	FY 17	FY 18	FY 19	FY 20	FY 21
Staff hours invested in statewide human trafficking efforts	Target	NA	NA	NA	600	600	600
	Actual	NA	NA	477	NA	NA	NA

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: The DOL's investment of time and skill is an important and critical effort of the Attorney General. The DOL is a member of the Colorado Human Trafficking Council. Additionally, the DOL uses the state-wide Grand Jury for those cases that cross multiple jurisdictions in coordination with the appropriate District Attorney's Office.

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 16	Actual FY 17	Actual FY 18	Est. FY 19	Request FY 20	Request FY 21
Staff hours invested in statewide opioid efforts	Target	NA	NA	NA	15,000	15,000	15,000
	Actual	NA	NA	12,404	NA	NA	NA

Strategy: The DOL created 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 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 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 are additional focus areas.

Evaluation of Prior Year Performance: The number of hours expended upon opioid-related matters demonstrates that this has been a significant priority for the office. In June of this year, DOL brought on additional staff to create an Opioid Unit within the Consumer Protection Section to focus on its investigation of opioid marketing and distribution practices, resulting in a dramatic uptick in hours on that particular initiative. These hours also reflect time spent on criminal prosecutions, regulatory disciplinary actions, legislative efforts, and community outreach activities related to the opioid crisis. The DOL expects this number to continue to increase in the next year as it ramps up the opioid manufacturer and distributor investigation and continues to address the opioid crisis on all fronts.

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.

Performance Measure		Actual FY 16	Actual FY 17	Actual FY 18	Estimate FY 19	Request FY 20	Request FY 21
Staff hours invested in statewide cybercrime efforts	Target	NA	NA	NA	1,500	1,500	1,500
	Actual	NA	NA	1,140	NA	NA	NA

Strategy: The DOL's cybersecurity related outreach efforts include authoring and leveraging known cyber fraud and cybersecurity content on our www.stopfraudcolorado.gov website and in publications like our "Identity Theft Repair Kit." This content is then translated into digestible social media posts leveraged across the office's social media platforms. DOL's Consumer Protection Section also participates and even hosts cybersecurity related Twitter Chats and engages in national campaigns like National CyberSecurity Awareness Month in October. Content experts from the office make presentations to help better educate consumers and colleagues about cyber fraud and how to protect themselves online. Additionally, DOL investigates data breaches that impact Coloradans, often with other state Attorneys General.

Evaluation of Prior Year Performance: In addition to engaging in the activities detailed above, this year the DOL spent a considerable amount of time drafting and running legislation designed to update Colorado's data security Laws, HB 18-1128. This law takes effect on September 1, 2018, and requires both commercial and public entities to 1) maintain a policy providing for the proper destruction of materials containing personal identifying information (PII); 2) implement and maintain reasonable security procedures and practices to protect any PII; and 3) provide more detailed notice to consumers in the event that their PII has been compromised such that the information is likely to be misused. Entities must also notify the DOL of the breach if 500 or more Coloradans are impacted. This new law has gained nationwide attention as being both comprehensive and a reasonable approach to cybersecurity.

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 16	Actual FY 17	Actual FY 18	Estimate FY 18	Request FY 19	Request FY 20
	Target	95%	95%	95%	95%	95%
Provide quality legal counsel and representation to client agencies as measured by client annual survey as satisfied or very satisfied with legal counsel	Actual	96.04%	96.17%	94.1%	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: 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 16	Actual FY 17	Actual FY 18	Estimate FY 19	Request FY 20	Request FY 21
Resolve 75% of MFCU investigations within one year through settlement, filing, or closure	Target	NA	NA	75%	75%	75%	75%
	Actual	NA	NA	81.8%	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

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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 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 because of this behavior.

Evaluation of Prior Year Performance: Between July 1, 2017 and June 30, 2018, the Medicaid Fraud Control Unit (MFCU) received two hundred and ninety-seven (297) case referrals, of that number, fifty-four (54) remain queued for investigation. As a result, seventy-five (81.8%) of the referrals received by the MFCU within SFY 2018 were resolved during this same fiscal year, though many investigations have not yet reached one year of age. The MFCU exceeded the performance standard for SFY 2018, and has recently implemented a new case intake process developed using the Lean method, with the goal of continuing to do so as the number of case referrals continues to increase.

During this time, the MFCU opened one hundred and forty-four (144) cases; of which sixty (60) were criminal, cases and eighty-four (84) were civil cases. The criminal cases opened during the SFY consist of one hundred and twelve (112) fraud cases, twenty-three (23) abuse and neglect cases, and nine (9) drug diversion cases. The civil cases opened during the SFY consist of thirty-nine (39) cases opened solely by the Colorado Medicaid Fraud Control Unit and forty-five (45) cases that involve the participation of other states in addition to Colorado.

In SFY 2018, the MFCU settled thirty-one (31) civil cases and twelve (12) defendants were sentenced in MFCU criminal cases, including one (1) drug diversion case involving opioids and in one (1) case involving the neglect of a patient. As a result of these convictions and settlements, the MFCU recovered \$7,255,230.66 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 16	Actual FY 17	Actual FY 18	Estimate FY 18	Request FY 19	Request FY 20
Resolve 75% of complex, multi-jurisdictional securities fraud Grand Jury investigations within twelve months	Target	NA	NA	75%	90%	90%	95%
	Actual	NA	NA	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: The DOL is meeting the expectations of 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 16	Actual FY 17	Actual FY 18	Estimate FY 19	Request FY 20	Request FY 21
Resolve 75% of assigned insurance fraud investigations within one year through filing/closure	Target	NA	NA	75%	90%	90%
	Actual	NA	NA	91%	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 16	Actual FY 17	Actual FY 18	Estimate FY 19	Request FY 20	Request FY 21
Resolve 75% of consumer protection investigations within one year through settlement, litigation, or closure	Target	75%	75%	75%	75%	75%	75%
	Actual	72.50%	74.29%	83%	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 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. The DOL attributes its higher resolution rate this year to establishing an Investigations Unit in the Consumer Protection Section, which has allowed it to more efficiently track investigations and ensure that cases that do not have the complexity or challenges articulated above are on track to resolution within a year.

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 16	Actual FY 17	Actual FY 18	FY 19 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	88%	80%	77%	NA	NA	NA
Debt Management	Actual	91%	94%	64%	NA	NA	NA
Debt Collection	Actual	81%	43%	13%	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 in the Debt Management Program and the Collection Program is reflective of new personnel and more thorough review measures put in place. 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 16	Actual FY 17	Actual FY 18	Estimate FY 18	Request FY 19	Request FY 20
Percentage of cases with a successful outcome on appeal	Target	90%	90%	90%	90%	90%	90%
	Actual	89.5%	89.9%	91%	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 16	Actual FY 17	Actual FY 18	Estimate FY 19	Request FY 20	Request FY 21
Percentage of Court of Appeals briefs within 180 days of the initial deadline	Target	NA	NA	85%	85%	85%	85%
	Actual	NA	NA	82%	NA	NA	NA

Strategy: For FY 18, 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 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. However, 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 goal of 85% was not met, as the percentage of cases within 180 days of the initial deadline at the end of the fiscal year was 82%. The Criminal Appeals Section will continue to prioritize work based on case age with the goal of reducing the time taken to file briefs.

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

Evaluation of Performance to date: The DOL is currently working through five LEAN objectives. One in the Criminal Appeals section, one in the Consumer Credit Unit and one in the Natural Resources & Environment section, and one that impacts all sections that employ attorneys.

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 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 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.

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. As of the date of this report, the Attorney Retention team is utilizing the LEAN process and considering different short, medium and long-term countermeasures gathered from surveys and a focus group to address the causes of the high turnover.

Medicaid Fraud Intake Process

The Medicaid Fraud Intake Process team used the Honsha PDCA 8-Step LEAN process to evaluate the efficiency of the previous complaint intake process used by the MFCU. The team used this process to analyze the MFCU's current queued referrals and discovered an increase in their number over the last eight years. This resulted in new intakes becoming queued for investigation. The team identified a prioritized problem within the process. As of the date of this report, the Medicaid Fraud Intake Process team has created several countermeasures that have begun to eliminate the current queued referrals and developed an improved complaint intake process.

A collateral benefit of the interface of the Honsha teams has been to raise awareness and knowledge of the LEAN process. The Department is making plans as of the date of this report to send employees to a future Honsha training.

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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 16	Actual FY 17	Actual FY 18	Estimate FY 19	Request FY 20	Request FY 21
Identify and implement four new professional development opportunities to support employees in career development and continuing education obligations	Target	NA	NA	4	10	10	10
	Actual	NA	NA	35	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 develop a new 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 Prior Year Performance: In February 2018, DOL hired a full time training professional who has increased the training opportunities in all four tracks. DOL offered 12 new substantive law courses, 11 new litigation skills courses, 2 new professionalism courses, 8 new technical trainings, and 3 new management courses in just this year. This far exceeded our target. In addition, the new Director of Professional Development has provided individual mentorship and trial training to staff in numerous different sections. Training attendance has dramatically increased, as has the employees’ satisfaction ratings based on survey results.