

**Mission Statement:**

It is the mission of the Department of Law to provide professional, ethical, and independent legal services to the State of Colorado and its citizens, to promote respect for law and access to the justice system, to ensure the fair and open exercise of government, and to protect and advance the public interest.

**Vision Statement:**

The Colorado Department of Law will 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.

**Statutory Authority:**

The statutory authority for the Department is found in Section 24-31 C.R.S. Additional more specific statutory authority is found in Titles 5, 6, 10, 11, 12, 25, 33, 34, 36, 37 and 39.

**Description:**

The Colorado Attorney General is one of four independently elected statewide offices in Colorado and was established by the state constitution upon statehood in 1876.

The Attorney General and the Department of Law, which Attorney General John W. Suthers oversees (collectively referred to as the Colorado Attorney General's Office or AGO), 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 his office by the Colorado Constitution, statutes enacted by the Colorado General Assembly and the people of the state of Colorado, 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 certain 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, except as otherwise provided by statute, all of the departments of state government, and to the many state agencies, boards, and commissions.

The Department is primarily 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 helping protect the citizens of this state through a number of consumer protection efforts. The Department delivers its responsibilities within a nearly \$56M budget and utilizes roughly

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400 employees to carry out these responsibilities. The Department's services are delivered primarily through six operational sections.

These six divisions carry out their specific responsibilities in order to provide the highest quality legal representation for state clients, and to all state government agencies and each program and board within. Additionally, investigative and prosecutorial efforts help protect the interests of state citizens through minimizing fraud and ensuring public safety. These six units include:

- Criminal Justice and Appellate – Colorado statutes provide that the Attorney General's Office has criminal jurisdiction to: 1) To pursue trial level prosecutions of certain offenses, 2) To oversee certification and training of peace officers, and 3) Provide victim services for Department of Law cases. The Appellate Division – Represents the state on defense appeals of all felony convictions before the state appellate courts or the federal courts.
- Legal Services to State Agencies/ Business and Licensing Section – Provides litigation and legal counsel to State professional licensing and occupational regulatory boards, under the Department of Regulatory Agencies. The section also represents the Department of Revenue in taxation, bankruptcy and regulatory matters involving the racing, lottery, liquor and motor vehicle dealer boards and commissions. The section also represents the Department of Agriculture and the Independent Ethics Commission. Additionally, this section represents the staff of the Colorado Public Utilities Commission in rate cases, company mergers, licensee matters and performance standards for the telecommunications, electric, gas and transportation companies.
- Legal Services to State Agencies/Natural Resources Section – Protects and defends the interests of the State and its citizens in all areas of natural resources and environmental law. It represents and advises state agencies and boards that regulate and oversee the use and conservation of Colorado's natural resources and the quality of Colorado's environment.
- Legal Services to State Agencies / State Services Section – The Section's work protects children and people at risk. It also conserves the state's fiscal system by reviewing hundreds of state contracts and defending the State against claims typically involving the inadequacy of funding of various programs. The Section also gives legal advice to the statewide elected officials (including the various Governor's offices), and provides legal advice and counsel to the Public Utilities Commission, and the State Higher Education Institutions.
- Legal Services to State Agencies/ Civil Litigation and Employment Law Section – Defends State employees and agencies in State and federal courts. Cases may involve personal injury suits, property damage, or employment discrimination

among others. The Section also prosecutes civil rights violations in administrative and state courts and provides employment law legal advice to all state agencies.

- 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 rate payers.

### **Objectives:**

The Department of Law aims to achieve our vision and accomplish our mission through these objectives:

- Minimize state risk through the effective representation of client agencies and protect citizens by enforcing regulatory laws and prosecuting cases referred by client agencies;
- 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 appellate courts or the federal courts;
- The Attorney General's Office has statewide jurisdiction to prosecute criminal offenses and, as such, this section handles 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 Department tracks specific workload and performance measures with each program administered. The Department's annual budget request reports these measures to help provide a complete analysis of the Department's efforts. Please refer to the Attorney General's webpage at <http://www.coloradoattorneygeneral.gov/> to review the annual budget document.

### **Priorities:**

**Representation of Client Agencies.** The Attorney General by statute is the legal counsel and advisor of each department, division, board, bureau and agency of state government other than the legislative branch (§ 24-31-101 C.R.S.). The Department 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.

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

Performance Measures		Actual	Actual	Estimate	Request
		FY 10	FY11	FY12	FY13
Provide quality legal counsel and representation to client agencies as measured by client annual survey as satisfied or very satisfied with legal counsel.	<b>Target</b>				
		95%	95%	95%	95%
	<b>Actual</b>	95.5%	95.4%		

*Strategy:* The Attorney General’s Office strives to hire and retain the best lawyers possible to represent client agencies by providing high level and interesting work. Additionally, the office attempts to build the career of each attorney through ongoing continuing legal training, brief writing, oral advocacy, and substantive and procedural matters, as well as exercising good judgment in advising and representing client agencies.

**Criminal Enforcement and Prosecution.** The Department has acquired additional resources in order to pursue criminal prosecutions, particularly in the insurance and securities fraud arenas. These additional resources are providing excellent results. It’s important that the Department be effective in these areas because many DA’s offices do not have the resources or expertise to handle them.

**Complex and/or multi-jurisdictional Securities fraud investigations and prosecutions**

*Objective: To conduct a statewide program for investigating and prosecuting violations of applicable state laws pertaining to securities fraud which local jurisdictions would be unable to effectively handle.*

Performance Measures		Actual	Actual	Estimate	Request
		FY 10	FY11	FY12	FY13
<b>Measure</b> Restitution Ordered	<b>Target</b>	\$2,500,000	\$4,000,000	\$5,000,000	\$5,000,000
	<b>Actual</b>	\$8,151,322	\$20,680,887		

*Strategy:* The Unit receives referrals from numerous sources. The Division of Securities refers approximately 50% of the Unit’s cases to our office. Private attorneys, law enforcement and private citizens also refer cases to the Unit. Fraud referrals often require substantial investigation, and most investigations take months or years. 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 our attention years after the criminal behavior.

**Complex and/or multi-jurisdictional Insurance fraud investigations and prosecutions**

Objective: To conduct a statewide program for investigating and prosecuting violations of applicable state laws pertaining to fraud relating to insurance which local jurisdictions would be unable to effectively handle.

Performance Measures		Actual FY10	Actual FY11	Estimate FY12	Request FY13
<b>Measure 1.4</b> Restitution Ordered	Target	\$450,000	\$450,000	\$450,000	\$450,000
	Actual	\$947,472	\$164,386		

*Strategy:* 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 due to various 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 reviewing referrals, opening investigations, and bringing cases through the court system. When cases are not appropriate for investigation, the Unit occasionally refers them to other agencies or informs the referring entity or person of alternative avenues that may allow their concerns to be addressed.

**Medicaid Fraud Unit**

The Medicaid Fraud Control Unit (“MFCU”), authorized for 17 FTE positions, defends the financial integrity of the state’s Medicaid program and the safety of patients in Medicaid-funded facilities. The MFCU investigates and prosecutes fraud by providers against the Medicaid program and patient abuse in Medicaid-funded facilities throughout the state. It also pursues civil recoveries and damages against providers under the Colorado Medicaid False Claims Act, which became law on May 26, 2010.

Performance Measures	Actual FY10	Actual FY11	Estimate FY12	Request FY13
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Medicaid Fraud Total fines / Costs / Restitution Recovered	Target	\$450,000	\$450,000	\$450,000	\$450,000
	Actual	\$4,149,928.01	\$5,197,151.64		

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**Consumer Protection:** Given the fact that the AG’s Consumer Protection Section is small but has very broad jurisdiction (Consumer Protection Act, Antitrust Act, Charitable Solicitation Act and approximately a dozen other statutes) the section does a very good job of selecting appropriate cases for investigation and enforcement, as well as providing consumer outreach to vulnerable groups, most notable the elderly.

Performance Measure	FY 10	FY 11	FY 12	FY 13
Open investigations and file, defend, or settle cases regarding consumer lending, debt collection, and debt settlement	Actual	Actual	Estimate	Request
	107	207	200	NA

Performance Measure	FY 10	FY 11	FY 12	FY 13
Investigate and sue or settle with individuals or entities that are engaged in deceptive trade practices or antitrust violations	Actual	Actual	Estimate	Request
	86	67	77	NA

*Strategy:*

The strategy of the Section continues to be, as it has in the past, to investigate those companies attracting both the largest number and the most discernable pattern of complaints alleging violations of the Consumer Protection Act, Charitable Solicitations Act, state and federal antitrust acts, and the state consumer lending, fair debt collection practices, debt-management services, and other consumer statutes. In the two consumer fraud units, almost all of the investigation and prosecution of violations flows from the receipt and analysis of formal consumer complaints received in the Office. For our regulatory units (UCCC/CAB) the source of investigations and prosecutions come both from formal complaints and from formal examinations of businesses subject to licensure or registration as consumer lenders, debt collectors, debt-management providers and credit repair companies. When investigations confirm the allegations of deceptive trade practices the unit proceeds with prosecution alternatives ranging from voluntary changes to business practices to Formal Assurances of Discontinuance to Complaints for restitution, fines, attorney fees and injunctive relief.

**Appellate:**

**Objective:** Produce quality briefs appropriately tailored to the seriousness of the offense/appellate challenge while maintaining or improving success rate. As a performance measure, the most quantifiable indicator may be “Cases Resolved,” which reflects the number of

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briefs filed plus the cases decided by the Court of Appeals via its expedited docket (which issues opinions in simple cases without the need for an AG response) or otherwise resolved.

Performance Measure	FY 10 Actual	FY 11 Actual	FY 12 Estimate	FY13 Request
Percentage of cases with a successful outcome on appeal	93%	90%	90%	90%

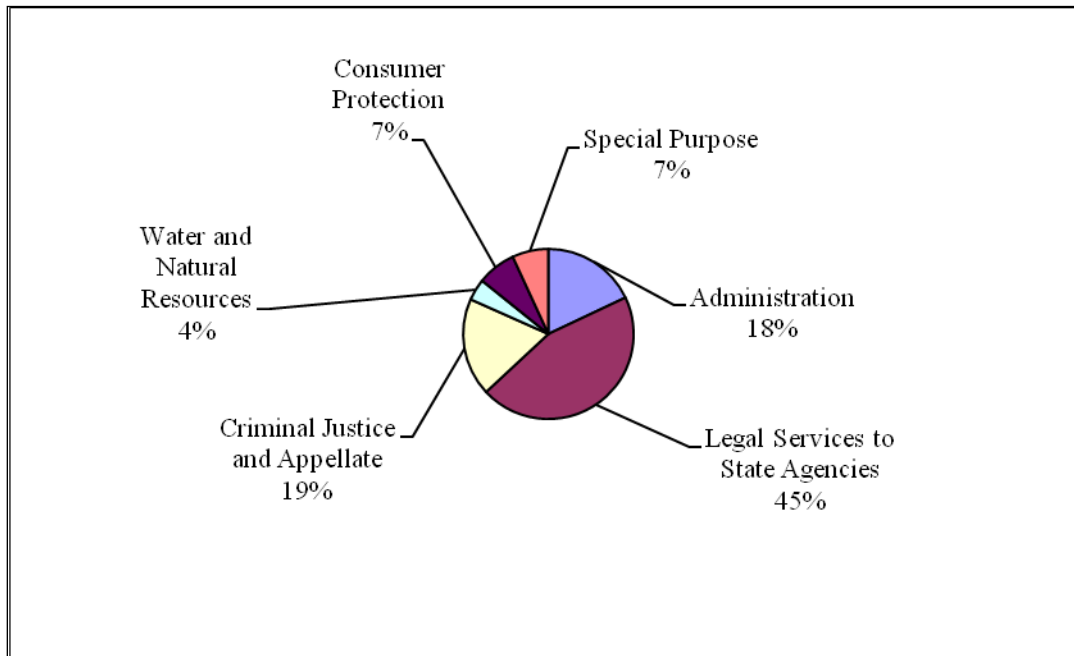
**Budget Request:**

<b>FY 2011-12 Appropriation</b>		<b>FY 2012-13 Request</b>	
Total Appropriation	\$54,346,573	Total Appropriation	\$56,831,994
General Fund		General Fund	
Appropriation	\$9,393,105	Appropriation	\$9,865,161
Total Full Time		Total Full Time	
Equivalent	419	Equivalent	427.5
Employees (FTE):		Employees (FTE):	

FY 2012-13 Request by Long Bill Division

Long Bill Division	Total Funds
Administration	\$10,209,122
Legal Services to State Agencies	\$25,628,560
Criminal Justice and Appellate	\$10,580,068
Water and Natural Resources	\$2,337,818
Consumer Protection	\$4,165,057
Special Purpose	\$3,911,368
<b>DEPARTMENT TOTAL</b>	<b>\$56,831,994</b>

### FY 2012-13 Request by Long Bill Division



### Department Budget Highlights in Summary FY 2011-12

- HB 11-1300 “Conservation Easement Tax Credit Dispute Resolution” This act allocates 9.1 FTE to the department’s Business and Licensing unit to represent the Department of Revenue and the Department of Regulatory Agencies to provide an expedited process to resolve disputed claims over conservation easement tax credits. This bill allows tax payers to appeal directly to district court.
- The department requested and was appropriated refinance spending authority from the Securities Cash Fund in DORA to pay all the Department of Law’s Security Fraud efforts through the cash fund, thereby eliminating any General Fund support for this program.
- The department received an additional attorney FTE and associated spending authority to due to a request by the Colorado Department of Public Health to better match anticipated legal representation and counsel with program needs.



## **Leading Budget Change Requests for FY 2012-13:**

The FY 2012-13 budget request highlights include the following:

- Decision Item #1 – 5.0 FTE Consumer Protection Enhancement. This request will allow the Department of Law, to better protect Colorado consumers across a whole range of deceptive trade practices. Additionally, these resources will enable the agency to manage the huge number of consumer complaints and inquiries received each year, better manage a growing number of lawsuits, and more efficiently investigate and resolve complaints.
- Decision Item #2 – 2.0 FTE Consumer Credit Unit Unlicensed Entities Compliance Effort. This request will allow the Department of Law to better protect Colorado consumers involved in lending, debt management, credit repair, and debt collection activities. Additionally, these resources will enable the unit to better support these industries by maintaining a level playing field for those companies that lawfully provide these services to Colorado residents while enforcing the laws against those that fail to comply.
- Decision Item #3 – 1.0 FTE Case Management System. This request will enable the Department of Law to implement a case management system. The Department has no case management system and yet handles thousands of cases and documents annually. The benefits of having such a system are substantial and a case management system is necessary to handle a continuing growing case load.
- Decision Item #4 – 1.0 FTE Deputy Assistant Attorney General. This request will allow the Department of Law to support an additional Deputy Attorney General in the Legal Services to State Agencies (LSSA) Line item. The department has witnessed extensive growth in FTE to support client agencies the past two legislative sessions. Due to this growth, the department is witnessing a span of control concern.
- Decision Item #5 – Appellate Unit 1.5% base reduction reinstatement. This request is seeking the reinstatement of the FY 2011-12 1.5% base reduction to the Appellate Unit for \$37,428.
- The Governor's Office of Information Technology and the Governor's Energy Officer are initiating requests for additional legal support. These requests total 0.8 FTE and associated spending authority for the Legal Services to State Agencies Line Items.
- The department's budget request accommodates for an additional \$775,000 TF associated with the state paid PERA rate going back to the traditional rate of 10.15% from a one year 7.65% rate.
- The department's budget request accommodates for additional spending authority associated with statutory increases to state paid benefits for AED and SAED. Additionally, this request maintains the current Health, Life and Dental insurance contributions for each employee's chosen coverage for the request year.

## **Key Issues and Legislation from 2011:**

- S.B. 11-1300 increased department staff by 9.1 FTE and associated spending authority to support the Department of Revenue with the procedures governing conservation easement tax credit cases.
- The department continues to support state interests in the defense and trial of *Lobato v. State of Colorado*. This complaint alleges that the current statutory scheme for funding public schools in Colorado violates various state constitutional provisions. This case was heard during the fall of 2011 with the court's decision still pending.
- The department is supporting state interests in the defense and possible trial of claims that Colorado's Renewable Energy Standard statute (RES) is unconstitutional and discriminates against out of state energy producers. The RES requires retail electric utility companies to obtain a growing percentage of their energy from renewable, non-carbon based resources such as wind, solar and biomass. The federal court lawsuit, *American Tradition Institute v. State of Colorado*, is currently stayed pending a decision on the State's motion to dismiss the complaint.
- The department of law represents the department of human services in *Center for Legal Advocacy v. Bicha*. The department is defending against claims that the State hospital in Pueblo is violating constitutional rights when criminal defendants must wait more than seven days for competency evaluations and restoration to competency treatment. A motion to dismiss is pending in federal district court, and plaintiff's have begun seeking discovery.
- The Department continues to support state interests under a settlement agreement in *Davis (formerly Hawthorne-Bey) v. Birch*. This lawsuit concerns the Colorado Benefits Management System (CBMS) and timely processing of Medicaid and food assistance benefits. The parties negotiated revised settlement agreements between the plaintiffs, the Department of Human Services, and the Department of Health Care Policy & Financing in late 2010 and early 2011. The settlement agreements require stepped increases in timely processing of benefits applications and regular reporting.

*For more information about this Department and its programs, please call 303-866-4500.*

## **Links to Additional Fact Sheets and Websites**

Colorado Department of Law      <http://www.ago.state.co.us/index.cfm>

Colorado No Call Web-site      <http://www.coloradonocall.com/>