



**COLORADO DEPARTMENT OF LAW
SMART Government Act Strategic Plan
July 1, 2016**

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

Mission:

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:

It is the vision of the Colorado Department of Law 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.

Focus: The Colorado Department of Law (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 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.

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. Attorney General Cynthia H. Coffman is Colorado's 38th Attorney General.

The Attorney General and the DOL, 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 DOL 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 DOL delivers its responsibilities within an approximately \$78 million appropriated budget, and utilizes roughly 500 employees (483.5 FTE) to carry out these responsibilities.

The DOL's services are delivered primarily 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 Section** – Works with client agencies to protect and improve the quality of Colorado’s natural environment and to ensure intelligent use and development of the state’s natural resources. The Section provides legal counsel and representation to the Department of Natural Resources on the regulation of mining, oil and gas, parks and wildlife, state lands, and water rights and to the Department of Public Health and Environment on the regulation of air quality, water quality, radiation control, and hazardous and solid waste management. The Section also advocates on behalf of the State Natural Resource Trustees and the State Energy Office.
- **Revenue and Utilities Section** – Provides litigation and general counsel support to the Department of Revenue, the Trial Staff of the Public Utilities Commission within the Department of Regulatory Agencies, the Property Tax Administrator and Property Tax Division within the Department of Local Affairs, and statewide clients regarding bankruptcy matters.
- **State Services Section** – Provides representation to eight of sixteen executive branch state agencies, as well as Colorado’s five statewide elected public officials: the Governor, Lt. Governor, Attorney General, Secretary of State, and Treasurer. The Section also represents the Judiciary and the Public Utilities Commission, as well as the Departments of Human Services, Health Care Policy and Financing, Personnel and Administration, and Public Health and Environment, many of the institutions of Higher Education and the Department of Education. The Section reviews hundreds of state contracts and defends the State against claims typically involving the inadequacy of funding of various programs.

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

Objectives:

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

- Minimize state risk through the effective 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 or federal appellate courts;

- 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 webpage at <http://coag.gov/> to review the annual budget document.

FY 2016-17 Long Bill and Special Bills Appropriations DOL:

Total Funds	FTE	General Fund	Cash Funds	Reappropriated Funds	Federal Funds
\$78,164,694	483.5	\$15,138,947	\$15,612,031	\$45,630,682	\$1,783,034

Priorities:

Representation of Client Agencies.

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 and University of Colorado. § 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 14	Actual FY 15	Actual FY 16	Request FY 17	Request FY 18	Request FY 19
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	95.36%	96.56%	Measure will not be reported until Oct. 2016, due to change in timing of survey	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. In fiscal year 2016, the DOL formalized its training and professional development program for its staff with the launch of the DOL University Professional Development Program.

The DOL is examining new initiatives to evaluate and implement measures outside of the historic, programmatic legal services the Office has provided, to better address and serve the legal needs of the client agencies. These measures include identification and development of legal expertise to address complex legal issues that historically have required the retention and designation of a Special Attorney General, as well as formalization of client training programs to proactively educate client agencies on issues that result in recurring legal issues. Implementation requires adapting existing resources and technology to accommodate new processes and duties. As part of this initiative, the DOL will be examining changes to its annual client survey to account for these new measures.

Evaluation of Prior Year Performance: Annual client surveys have been deferred to October 2016 to coincide with the new attorney performance evaluation cycle and for incorporation into a comprehensive review and evaluation of the performance of the DOL’s attorneys. As set forth above, the survey will be reviewed to determine how to accommodate new measures 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 Enforcement and Prosecution.

The DOL’s trial prosecution efforts (in addition to the litigation that is conducted by our dedicated Financial Fraud and Medicaid Fraud Units) are focused in multiple areas: 1) Complex Crimes, 2) Environmental Crimes, 3) Gang Prosecution, 4) Prosecution Assistance, 5) Auto Theft and 6) the Violent Crime Assistance Team (VCAT).

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 has supplied projections of different restitution figures. 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.

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 may not have the resources to handle.

Performance Measure		FY 14 Actual	FY 15 Actual	FY 16 Actual	FY 17 Estimate	FY 18 Request	FY 19
Restitution Ordered	Estimate	\$5,000,000	\$5,000,000	\$5,000,000	\$5,000,000	\$5,000,000	\$5,000,000
	Actual	\$7,113,232	\$3,020,538	\$3,801,150.	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 Security 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. Fraud 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 our attention years after the criminal behavior.

Evaluation of Prior Year Performance: The Unit’s numbers were fairly similar for the past two years. However, while the case numbers are low, the sentences and restitution figures reflect the complexity and size of the cases prosecuted. The Department will continue to monitor these numbers to assess effort and modify out year goals if necessary.

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 may not have the resources to handle.

Performance Measure		Actual FY 14	Actual FY 15	Actual FY 16	Request FY 17	Request FY 18	Request FY 19
Insurance Fraud Restitution Recovered	Target	\$450,000	\$450,000	\$300,000	\$300,000	\$300,000	\$300,000
	Actual	\$3,204,781	\$576,017	\$273,781	NA	NA	NA

Strategy: As a result of legislation passed in 1997, the Attorney General has concurrent jurisdiction to prosecute criminal violations of applicable state laws regarding insurance fraud. The Insurance Fraud Team within the Financial Fraud Unit handles these cases and has been nationally recognized for their efforts. The Insurance Fraud Team is funded exclusively through an industry assessment on insurance companies doing business in the State.

The Unit receives referrals from numerous sources. 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 rules. The Team will occasionally partner with outside law

enforcement agencies to prosecute cases when appropriate. The Team works closely with the National Insurance Crime Bureau (NICB), the Colorado Division of Insurance, the Federal Bureau of Investigation and local law enforcement agencies. The Unit endeavors to be expeditious and responsive when reviewing referrals, opening investigations, and bringing cases through the court system.

Evaluation of Prior Year Performance: The Insurance Fraud Unit’s restitution recovered was lower in FY 16 than previous years. Often the complexity of the case is not dependent on the total value of the fraud perpetrated. The DOL will continue to monitor efforts and out year objectives to continue to challenge program staff.

Medicaid fraud investigations and prosecutions

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 14	Actual FY 15	Actual FY 16	Request FY 17	Request FY 18	Request FY 19
Medicaid Fraud: Fines, Costs, Restitution Recovered	Target	\$3,500,000	\$3,500,000	\$4,000,000	\$4,000,000	\$4,000,000	\$4,000,000
	Actual	\$9,441,306	\$5,298,867	\$8,318,899	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 residence 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 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 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 assure that their concerns may be addressed.

Evaluation of Prior Year Performance: 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 one significant rebate case in process.

The MFCU team had tremendous in-state success this year with respiratory therapists and anesthesiology. The DOL will continue to monitor the changing landscape of this area and may likely need to reduce out

year projections in the future, as the nationwide efforts success is decreasing the propensity for fraudulent behavior.

Consumer Protection.

Objective: To select and prioritize appropriate cases for investigation and enforcement, as well as to provide consumer outreach to vulnerable groups, most notably the elderly.

Performance Measure		Actual FY 14	Actual FY 15	Actual FY 16	Request FY 17	Request FY 18	Request FY 19
Resolve 75% of consumer protection and antitrust investigations within one year through settlement, litigation, or closure	Target	NA	NA	75%	75%	75%	75%
	Actual	New Measure FY 16	New Measure FY 16	72.5%	NA	NA	NA

Strategy: The AG’s Consumer Protection Section is small it but has very broad jurisdiction (Consumer Protection Act, Antitrust Act, Charitable Solicitation Act, and approximately a dozen other statutes). 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, resources, to ensure efficient and effective program delivery and to ensure out year objectives are reasonable and challenging.

Evaluation of Prior Year Performance: Of the eleven cases that the DOL failed to resolve within twelve months, six are multistate efforts. The DOL, in these instances, has little control over the pace of a case and the resolution of it due to the number of entities that are coordinating efforts. 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. As this measure develops, the DOL may modify targets, in order to ensure the optimal use of its resources. Currently, enough data does not exist to modify.

Performance Measure		Actual FY 14	Actual FY 15	Actual FY 16	Request FY 17	Request FY 18	Request FY 19
Resolve 75% of loan modification/foreclosure complaints within one year	Target	NA	NA	75%	75%	75%	75%
	Actual	New Measure FY 16	New Measure FY 16	100%	NA	NA	NA

Strategy: Resolution of these complaints involve interviewing the consumer, getting access to loan files, communicating with the relevant bank or servicer, and trying to assist the homeowner either to avoid foreclosure or to obtain a favorable loan modification.

Evaluation of Prior Year Performance: The DOL was successful in addressing all complaints within one year on this measure. The DOL will assess this measurement moving forward to determine if any work efforts, goals and objectives should be modified.

Performance Measure		Actual FY 14	Actual FY 15	Actual FY 16	Request FY 17	Request FY 18	Request FY 19
Take initial action on 80% of actionable no-call complaints within 30 days after receiving a 3rd complaint against a telemarketer within a month	Target	NA	NA	75%	75%	75%	75%
	Actual	New Measure FY 16	New Measure FY 16	62%	NA	NA	NA

Strategy: An “actionable no-call complaint” is one where the consumer provides enough information, including a real, offending, telemarketing phone number, to enable this office to conduct an investigation. Pursuant to the No-Call List Act, this office has jurisdiction to investigate a company only when it receives a minimum of three complaints within a one-month period.

Evaluation of Prior Year Performance: This is a new measure for FY 16 and the DOL implemented a new system to track this data. The DOL will continue its efforts in these areas to better utilize the new system in line with work efforts to assess business direction and reasonable and challenging objectives.

Consumer Credit

Objective: To ensure efficient operations to benefit providers and consumers and to ensure compliance with debt management laws.

Performance Measure		Actual FY 14	Actual FY 15	Actual FY 16	Request FY 17	Request FY 18	Request FY 19
Investigate and resolve 90%/80% of complaints within 60 days or less	Target	NA	90%/80%	90%/80%	90%/80%	90%/80%	90%/80%
UCCC	Actual	NA	97%	88%	90%	90%	90%
Debt Management	Actual	NA	90%	91%	90%	90%	90%
Debt Collection	Actual	NA	82%	81%	80%	80%	80%

Strategy: To ensure efficient operations, the Unit processes licenses and/or registrations by verification and review for timeliness, completeness, and compliance with statutory requirements. The Unit conducts operations so that a final issuance and approval to do business in Colorado is expeditious but thorough.

To ensure compliance and protect consumers from potentially illegal and/or harmful activities, the Unit investigates consumer complaints, information from competitors, proactively detected information on the internet, and in certain programmatic cases, conducts onsite and mail-in examinations. Additionally, upon

cause, the Unit conducts examinations. These efforts may result in cease and desist advisories, administrative discipline, or other enforcement actions.

Evaluation of Prior Year Performance: This is a new measure with its second year of actual data. In general, the professional goals originally established seem appropriate. The DOL will continue to monitor efforts in this area to ensure the most effective program delivery within resources and to ensure that programmatic goals continue to be both realistic and challenging.

Key Workload Indicators: Annual applications for license and registration renewal or new licensees.

Appellate.

Objective: To produce quality briefs appropriately tailored to the seriousness of the offense/appellate challenge while maintaining or improving success rate.

Performance Measure		Actual FY 14	Actual FY 15	Actual FY 16	Request FY 17	Request FY 18	Request FY 19
Percentage of cases with a successful outcome on appeal	Target	90%	90%	90%	90%	90%	90%
	Actual	91.3%	89.6%	88.4%	NA	NA	NA

Strategy: The strategy of the Appellate Section is to do whatever it can to resolve cases in a timely fashion while providing quality representation of the State’s interests. Toward that end, it is critical that the Section continues to ensure quality briefs with attention to reducing the backlog to a manageable level.

The Section received funding for six new attorney FTE for FY 2014, two permanent, and four short-term (three positions end in FY 2018 and one in FY 2017). With the additional resources garnered by the Public Defender’s Office, the Section is currently assessing resource needs in out years.

Cases are channeled within the Section as efficiently as possible so that the best people for the job are working on particular cases. Many Section attorneys have developed special expertise, and to the extent possible, supervisors channel cases dealing with particular subject areas to those with expertise (few cases, however, ever consist of single issues). Resource materials (a brief bank, outlines, etc.) are compiled and updated to provide starting points and shortcuts for research, and senior staff provide mentoring and oversight so that junior staff get on the right track quickly and efficiently.

Evaluation of Prior Year Performance: Recently, the Section has met its goal of preserving at least 90% of the convictions challenged on appeal. In FY 16, this section came in just below the goal. The DOI is working through backlog and changing staffing and will continue to monitor this to ensure effective program delivery, use of resource, and performance management.