



COLORADO DEPARTMENT OF LAW
Strategic Plan Performance Report
March 1, 2020

Office of the Attorney General
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Vision:

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

DOL Core Values:

The DOL core values include:

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

Priorities: The DOL’s Priorities are:

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

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

Objectives:

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

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

We are Public Servants

Opioid Epidemic

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

Performance Measure		Actual FY 17	Actual FY 18	Actual FY 19	FY 20 To Date	Request FY 21	Request FY 22
Staff hours invested in statewide opioid efforts	Target	NA	NA	15,000	18,000	18,000	18,000
	Actual	NA	12,404	15,042	11,383	NA	NA

Evaluation of Performance to date: The number of hours expended upon opioid-related matters demonstrates that addressing the opioid epidemic is a significant priority for the Department of Law. In September 2018, the Opioid Unit filed a lawsuit against Purdue Pharma, L.P. and Purdue Pharma, Inc. asserting claims for violations of the consumer protection laws, fraud, negligence, and public nuisance. During the first half of 2019, the Opioid Unit investigated companies affiliated with Purdue Pharma, and conduct of the owners and executives of Purdue Pharma. As a

result of these investigations, the office amended the lawsuit against Purdue Pharma to add as defendants companies affiliated with Purdue Pharma and owners and executives of Purdue Pharma. The bankruptcy filing by Purdue Pharma on September 15, 2019 also has required substantial supplemental effort associated with claims against the companies and affiliated individuals. Additional claims were also added to the lawsuit. During the first half of 2019, the Opioid Unit also opened investigations of other opioid manufacturers, distributors, retail pharmacies, and others who aided in the proliferation of opioid use and abuse. The DOL expects the number of hours expended on its efforts to combat the opioid crisis to increase in the next year as it ramps up to file additional lawsuits and investigates additional entities and individuals responsible for the current opioid crisis. The office is also expanding its efforts to remediate the opioid crisis including addition of staff to focus on working with communities and government and non-government partners to formulate and implement state-wide comprehensive remediation programs. .

Cybersecurity and Data Protection:

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

Performance Measure		Actual FY 17	Actual FY 18	Actual FY 19	FY 20 To Date	Request FY 20	Request FY 21
Staff hours invested in statewide data protection and cyber security efforts	Target	NA	NA	NA	1,500	1,500	1,500
	Actual	NA	1,140	1,493	1,380	NA	NA

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

Evaluation of Performance to date: Last year’s initiative provided a good foundation for office growth in the area of cybercrime, however the DOL can have a greater impact by expanding the scope of its strategic objective to focus on and include privacy and protection. This past year saw more engagement than ever before with the public, with DOL attorneys speaking at both local and national conferences. Additionally, the Consumer Protection section established a system for recording and categorizing different types of data breaches, which helps to provide insight into areas of vulnerability and methods of compromise. Enforcement activity was largely focused on multi-states. The Section is currently wrapping up an investigation into a Colorado-specific data security incident that was brought to us by a whistleblower, and a second investigation into an

education-services provider is underway. In addition, we are developing a specific strategy around data breach investigations to provide for efficient use of resources to address this ever expanding issue. However, it should be noted that no enforcement actions outside of the multi-state arena were taken during the past year and limited investigations were conducted, in part due to a lack of resources.

We are Principled and We are Better Together

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

Representation and Advice to Clients

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

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

Performance Measure		Actual FY 17	Actual FY 18	Actual FY 19	Estimate FY 20	Request FY 21	Request FY 22
Provide quality legal counsel and representation to client agencies as measured by client annual survey as satisfied or very satisfied with legal counsel	Target	95%	95%	95%	95%	95%	95%
	Actual	96.17%	94.1%	97.5%	NA	NA	NA

Evaluation of Performance to date: 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. This measure will be updated when new survey results are finalized.

Medicaid Fraud Control Unit

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

Performance Measure		Actual FY 17	Actual FY 18	Actual FY 19	FY 20 To Date	Request FY 21	Request FY 22
Resolve 75% of MFCU investigations within one year through settlement, filing, or closure	Target	NA	75%	75%	75%	75%	75%
	Actual	NA	81.8%	84.3%	74%	NA	NA

Evaluation of Performance to date: During this review period, the Medicaid Fraud Control Unit (MFCU) received **204** case referrals, and of that number **53** remain queued for initial investigation. The result is that an initial investigation has been conducted for **74.02%** of the referrals received by the COMFCU during the review period. This initial investigation permits the unit to determine whether or not a formal case opening and a full investigation of the matter is warranted. Based upon this, the COMFCU is not currently meeting the performance measure.

The Unit has continued to deploy the intake system that was developed using the LEAN system to efficiently address incoming case referrals as the number of cases continues to increase.

Securities Fraud

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

Performance Measure		Actual FY 17	Actual FY 18	Actual FY 19	FY 20 To Date	Request FY 21	Request FY 22
Resolve 90% of complex, multi-jurisdictional securities fraud Grand Jury investigations within twelve months	Target	NA	75%	90%	90%	90%	95%
	Actual	NA	100%	100%	100%	N	NA

Evaluation of Performance to date: During the course of the current fiscal year, the DOL has initiated several multijurisdictional securities fraud grand jury investigations. The DOL is expected to meet this performance measure. During the last fiscal year, all grand jury cases resulted in an indictment within one year from the time the grand jury investigation process commenced.

Insurance Fraud

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

Performance Measure		Actual FY 17	Actual FY 18	Actual FY 19	FY 20 To Date	Request FY 21	Request FY 22
Resolve 75% of assigned insurance fraud investigations within one year through filing/closure	Target	NA	75%	90%	90%	90%	90%
	Actual	NA	91%	100%	93.7	NA	NA

Evaluation of Prior Year Performance: The DOL is on track meeting the expectations of this performance measure. During the relevant time period, 96 cases were resolved either by filing criminal charges or closing the investigation for lack of actionable conduct. A small percentage of cases were resolved outside of one year after assignment due to extenuating circumstances.

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.

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Performance Measure		Actual FY 17	Actual FY 18	Actual FY 19	FY 20 To Date	Request FY 21	Request FY 22
Resolve 75% of consumer protection investigations within one year through settlement, litigation, or closure	Target	75%	75%	75%	75%	75%	75%
	Actual	74.29%	83%	76%	74%	NA	NA

Evaluation of Performance to date: During this review period, the Medicaid Fraud Control Unit (MFCU) received **204** case referrals, and of that number **53** remain queued for initial investigation. The result is that an initial investigation has been conducted for **74.02%** of the referrals received by the COMFCU during the review period. This initial investigation permits the unit to determine whether or not a formal case opening and a full investigation of the matter is warranted. Based upon this, the COMFCU is not currently meeting the performance measure.

The Unit has continued to deploy the intake system that was developed using the LEAN system to efficiently address incoming case referrals as the number of cases continues to increase.

Consumer Credit

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

Performance Measure		Actual FY 17	Actual FY 18	Actual FY 19	FY 20 To Date	Request FY 21	Request FY 22
Investigate and resolve 90% of complaints within 60 days or less	Target	90%	90%	90%	90%	90%	90%
UCCC	Actual	80%	77%	96%	97%	NA	NA
Debt Management	Actual	94%	64%	86%	63%	NA	NA
Debt Collection	Actual	43%	13%	53%	90%	NA	NA

Evaluation of Performance to date The performance improvements continue as a result of fully staffing the Unit, and, in particular, the Complaint Intake Specialist has been instrumental in ensuring complaints are properly routed or referred in an appropriate amount of time. CCU continues to improve its complaint management processes.

Criminal Appeals

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

Performance Measure		Actual FY 17	Actual FY 18	Actual FY 19	FY 20 To Date	Request FY 21	Request FY 22
Percentage of cases with a successful outcome on appeal	Target	90%	90%	90%	90%	90%	90%
	Actual	89.9%	91%	92%	91%	NA	NA

Evaluation of Performance to date: The Criminal Appeals Section has continued to strive and achieve its goal of preserving at least 90% of the convictions challenged on appeal.

Performance Measure		Actual FY 17	Actual FY 18	Actual FY 19	FY 20 To Date	Request FY 21	Request FY 22
Percentage of Court of Appeals briefs within 180 days of the initial deadline	Target	NA	85%	85%	85%	85%	85%
	Actual	NA	82%	79%	81%	NA	NA

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

We are Innovative

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

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Performance Measure		Actual FY 17	Actual FY 18	Actual FY 19	FY 20 To Date	Request FY 21	Request FY 22
LEAN analyze and modify business practices in two program areas annually	Target	NA	2	2	2	2	2
	Actual	NA	4	5	1	NA	NA

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

*The current lead for professional is vacant.. The DOL will update this measure when staffing has returned.

Evaluation of Performance to date: The DOL is currently analyzing business processes for the successful implementation for the Student Loan Servicer regulatory efforts and relevant tools. The DOL anticipates this efforts will help govern some business changes in other regulatory efforts.

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

The 2010 decennial abandonment proceedings cost \$572,000 in legal fees (exceeding the \$300,000 provided for the proceedings by the Colorado Water Conservation Board) and the mean times to

resolve the majority of abandonment protests that do not go to trial ranged from 270 days to 476 days depending on the Water Division, with the maximum days to resolve ranging from 487 days to 1155 days. Final judgments cannot be entered until all protests are resolved, which delays the start of the statute of limitations period and delays certainty for water users and the State. Reducing the number of protests in the 2020 decennial abandonment proceeding and expediting their resolution should reduce legal fees and may reduce the time until the entry of final decrees.

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

Abandonment Subcommittee of the Supreme Court's Water Court Committee to update the water court's abandonment protest form for the 2020 decennial abandonment proceedings and to create a new entry of appearance form, consistent with the new decennial abandonment rule in Uniform Local Rules for All State Water Court Divisions, for the use of water users who wish to participate in any protests to the final decennial abandonment lists.

HONSHA Training

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

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

Office-Wide Objective - Attorney Retention

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

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

Counter measures taken to date by the Department include:

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

Criminal Justice Section - Medicaid Fraud Intake Process

In the previous fiscal year, MFCU continued the use of the LEAN system to evaluate and improve the efficiency in accomplishing the Unit's performance measure for case referrals and investigations. The development of countermeasures within the intake process has addressed the increase of case referrals queued for investigations. These countermeasures include:

- The development of a collaborative MFCU intake team composed of attorneys, investigators, a forensic auditor, and a program assistant to review and triage matters that are queued for investigation.
- The use of a series of Microsoft Excel spreadsheets to seek to capture and track multiple data points surrounding case referrals, while also providing access to members of the intake team.
- Monthly meetings of the MFCU intake team to strategize and prioritize queued referrals for investigation and assign tasks to team members.
- The creation of templates for mail and email correspondence to provide Coloradans with information and resources for matters that were reported to the MFCU that fell outside of the Unit's jurisdiction.
- The creation of an improved online complaint form on the Attorney General's website.

The use of the LEAN system has significantly improved the Medicaid Fraud Intake Process. However, going forward, the Unit plans to work collaboratively with other Units within the Attorney General's Office to develop a standardized intake process to address all referrals received from the public.