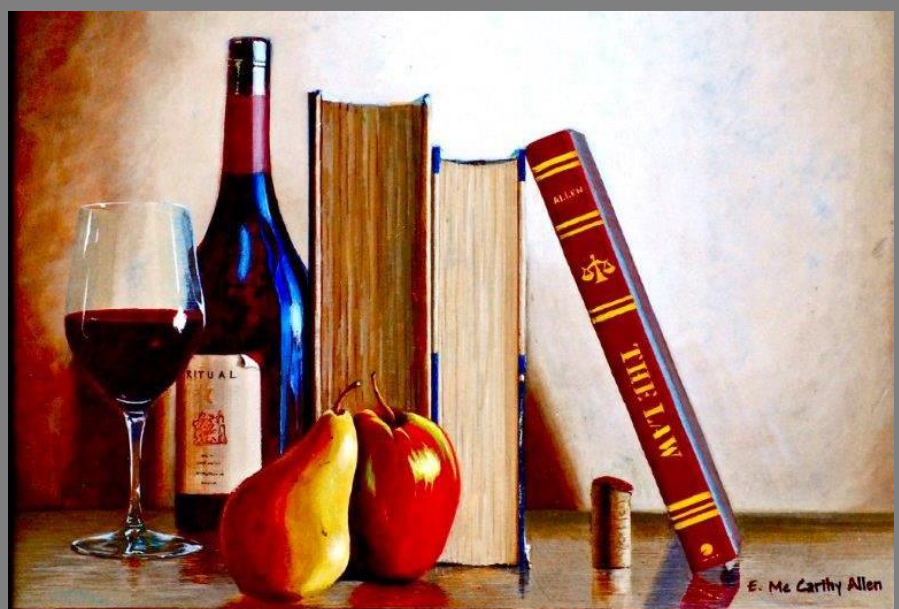
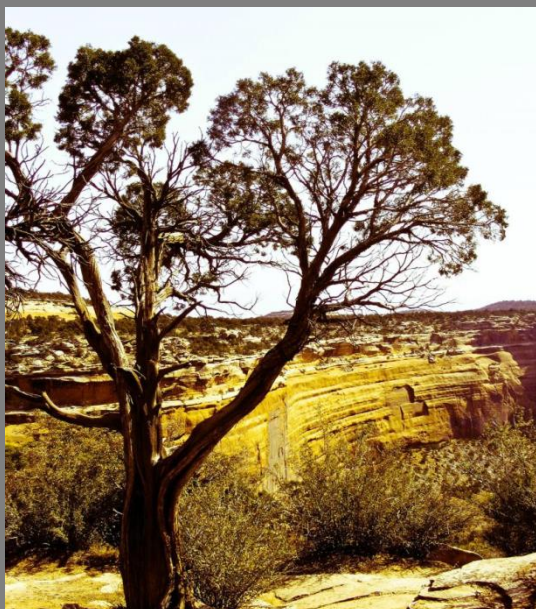




COLORADO ATTORNEY GENERAL  
**2014 ANNUAL REPORT**  
COLORADO DEPARTMENT OF LAW





**CYNTHIA H. COFFMAN**  
**ATTORNEY GENERAL**  
COLORADO DEPARTMENT OF LAW

**ATTORNEY GENERAL CYNTHIA H. COFFMAN**

To my fellow Coloradans,

I am honored to serve as your new Attorney General. I had the pleasure of serving for ten years as Chief Deputy for Attorney General John Suthers, and I thank him for his strong leadership and contributions to this office. We wish him well and know that he will continue to serve the people of Colorado in many ways.

As the 38<sup>th</sup> Attorney General and just the second woman to serve in this role, I take seriously our mission to provide ethical, professional, and independent legal services to the State of Colorado and its citizens.

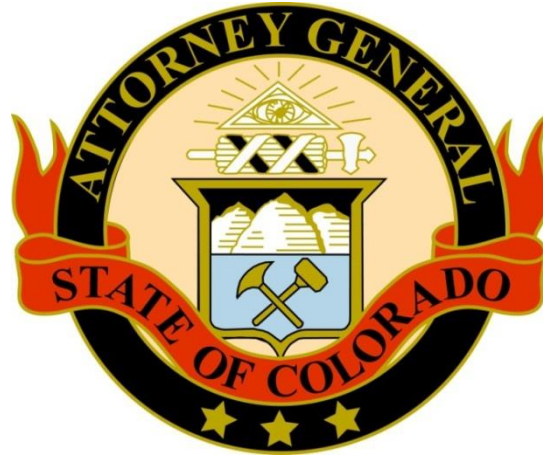
This 2014 Annual Report shows the ways in which the Department of Law has worked on behalf of the people of Colorado and our clients throughout state government. Many of our proudest achievements center on our efforts to keep Coloradans safe.

Last year, we highlighted our move to the new Ralph L. Carr Colorado Judicial Center. Working each day in this beautiful building reminds us of our higher calling to defend the basic rights of all Coloradans as Colorado Governor Ralph L. Carr challenged Coloradans to do. This year, we featured Department of Law employee art throughout the office, and some of that artwork appears on the cover of this report. I am proud also to highlight the impact our employees have in the community, devoting significant time to public service.

We will continue to fulfill our mission with professionalism, passion, and commitment to the people of Colorado.

Warm regards,

A handwritten signature in cursive script, reading "Cynthia H. Coffman", is located at the bottom left of the page.



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*\*\* Cover images courtesy of: (from left to right) “Mt. Evans,” Theresa M. Bertocci;  
“Baby/Equitable Building,” Chris Connell; “Wheel/Lamplight/Whirl,” Emma De Vos Tid;  
“Lines Through Filled Space,” Paige Mackey Murray; “Monument Canyon in the Fall,”  
Alecia Earle; “The Law,” Ed McCarthy Allen*

## Attorney General Cynthia H. Coffman

Colorado Attorney General Cynthia H. Coffman is a dedicated public servant, attorney and leader. In November 2014, she won statewide election and on January 13, 2015, was sworn in as Colorado's 38th Attorney General. Prior to being elected, Ms. Coffman was appointed in 2005 to serve as Chief Deputy of the Office proudly filling the role of chief of staff and chief operating officer for the largest public law firm in the State.



In 2004, Attorney General Coffman had the honor of serving then-Colorado Governor, Bill Owens as his Chief Legal Counsel in the State Capitol. She has also served as the Director of Legal & Regulatory Affairs and later Deputy Executive Director for the Colorado Department of Public Health and Environment.

Her first job in Denver was working for the Colorado General Assembly's Office of Legislative Council. Ms. Coffman staffed the Senate Judiciary Committee and assisted with a study of the state's adult parole system. Her legal career began 24 years ago in the Georgia Attorney General's Office. Ms. Coffman also worked as a lawyer for the 1996 Centennial Olympic Games in Atlanta. Following her initial assignment in Finance & Management Services, Ms. Coffman worked in risk management during the Games. On July 27, 1996, a domestic terrorist detonated pipe bombs in Olympic Park during a celebratory concert. One innocent spectator was killed and scores more badly injured. Attorney General Coffman acted as the primary liaison with the victims and their families demonstrating her compassion and resolve to fight for justice. Following the Atlanta Olympics, Ms. Coffman moved to Colorado and has been a proud and happy resident of the Centennial State for the last eighteen years.

She is a member of the Colorado Supreme Court Chief Justice Commission on the Legal Profession. In September 2012, *Law Week Colorado* recognized her accomplishments by naming her as the Best Public Sector Lawyer.

A native Missourian, she graduated from the University of Missouri-Columbia. She worked in development for children's hospitals and pediatric research for several years before completing law school at Georgia State University in Atlanta.

## Attorney General John W. Suthers

John W. Suthers served as Colorado's 37<sup>th</sup> Attorney General, from January 2005 until January 2015. Mr. Suthers previously served as District Attorney and presidentially-appointed U.S. Attorney. As Attorney General, he represented and defended the interests of all Coloradans and was chief legal counsel and advisor to state government and its many agencies, boards and commissions. In his tenure as Attorney General, Mr. Suthers initiated successful programs to protect children from internet predators, reduce mortgage and foreclosure fraud, and combat drug abuse in Colorado.



He has served on the executive committee of the National Association of Attorneys General (NAAG) since 2007 and has been a member of the U.S. Attorney General's Executive Working Group on Prosecution since 2005. Mr. Suthers was awarded NAAG's Kelley-Wyman Award. It is the highest award given by the Association and is presented annually to the Attorney General who has done the most to advance the interests of the Association.

He graduated magna cum laude from the University of Notre Dame with a degree in Government and from the University of Colorado Law School. Mr. Suthers has authored six books including *No Higher Calling, No Greater Responsibility: A Prosecutor Makes His Case*, an analysis of the prosecutor's role in the justice system. Mr. Suthers has served on the board of numerous civic organizations. He is an adjunct professor at the University of Denver Law School and a Scholar in Residence at the University of Colorado, Colorado Springs campus.

## Solicitor General Daniel D. Domenico

Attorney General Suthers appointed Dan Domenico as Solicitor General of Colorado in April 2006. In 2014, Mr. Domenico argued his second case before the United States Supreme Court in *Direct Marketing Association v. Brohl*, concerning whether the federal Tax Injunction Act barred the district court's jurisdiction to hear the case. The State argued that the Tenth Circuit Court of Appeals properly found that the district court lacked jurisdiction.

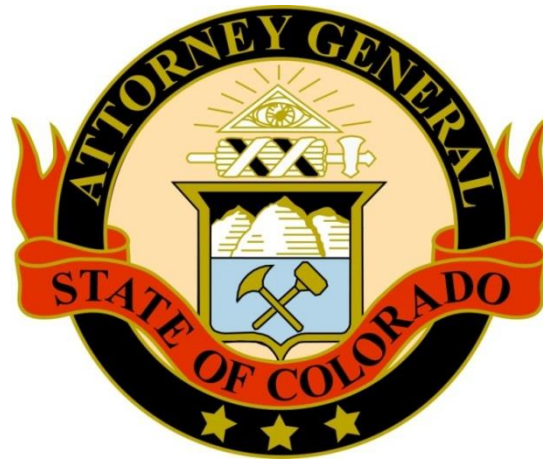


*Photo courtesy of Law Week Colorado*

Before joining the Office of the Attorney General, Mr. Domenico was special assistant to the solicitor of the United States Department of the Interior. In that role, he advised the Secretary and senior management of the Department on a wide range of matters relating to National Parks, federal land, water resources, energy production, and other issues important to Coloradans and citizens of the American West. Prior to his work at the Interior Department, Mr. Domenico practiced for several years in the Denver and Boulder offices of the national law firm Hogan & Hartson. He also clerked for Judge Tim Tymkovich of the United States Court of Appeals for the 10th Circuit (himself a former Colorado Solicitor General), and also worked with U.S. Senator John Thune.

A Boulder native, Mr. Domenico received his undergraduate degree, magna cum laude, from Georgetown University. He attended the University of Virginia School of Law, where he served as editor for two academic journals, including the *Virginia Law Review*, and was elected to the Order of the Coif

## About the Office of the Attorney General

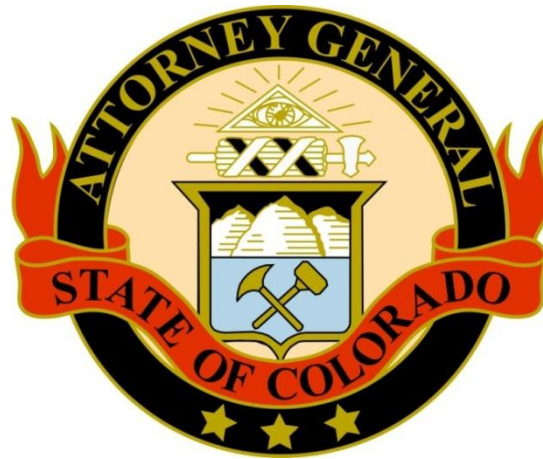


**Mission:** *It is the mission of the Department of Law to provide professional, ethical, and independent legal services to the State of Colorado and its citizens, to promote respect for law and access to the justice system, to ensure the fair and open exercise of government, and to protect and advance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



**Authority:** 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, 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.

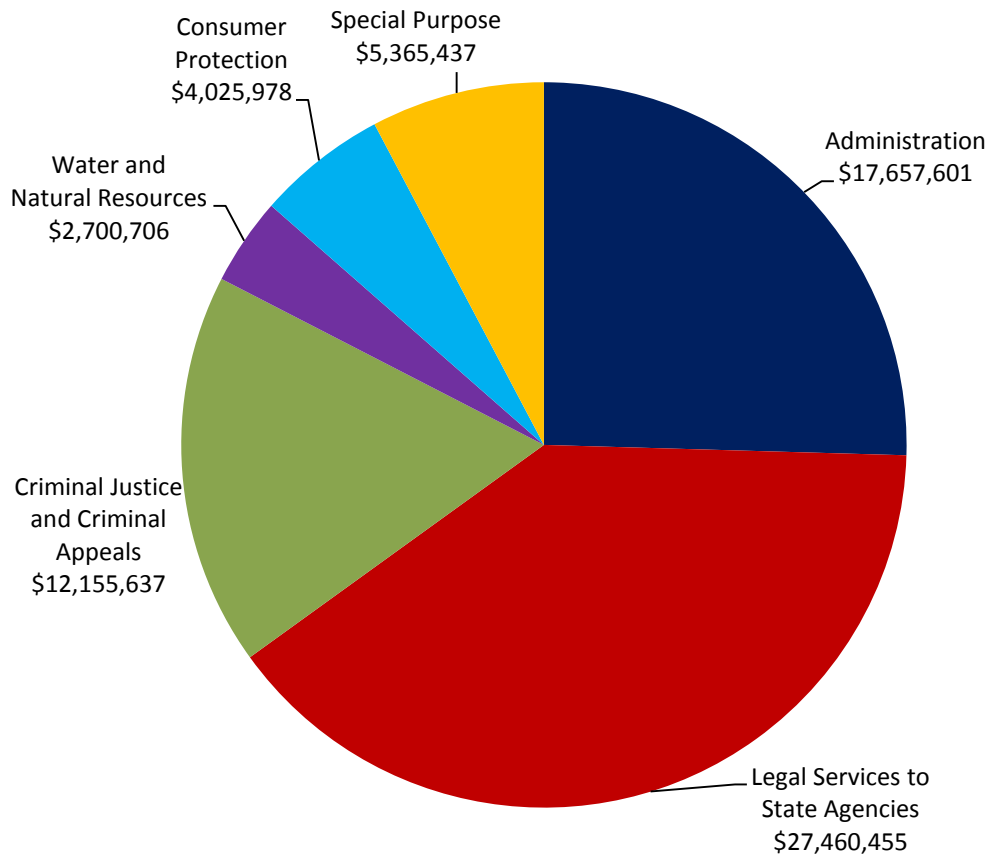
The Attorney General has primary authority for enforcement of consumer protection and antitrust laws, prosecution of criminal appeals and some complex white-collar crimes, the Statewide Grand Jury, training and certification of peace officers, and most natural resource and environmental matters. Additionally, 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 \$70 million appropriated budget, and utilizes roughly 480 employees to carry out these responsibilities.

The Department's services are mainly 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.

## Department of Law Budget

**Total Fiscal Year 2013-2014**  
**Appropriation: \$69,365,814\***  
**Total Full-Time Employees: 452.5**



\* Including Long Bill, special bills, and all supplemental appropriations



### PROGRAM OVERVIEW:

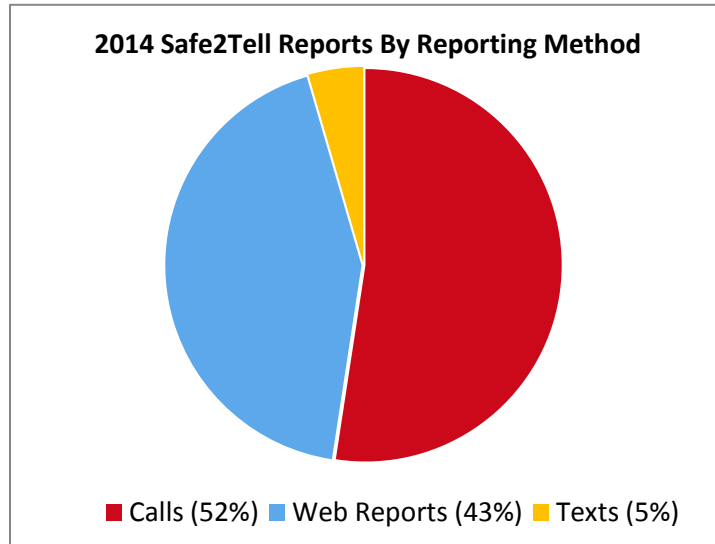
Founded after the 1999 school shootings at Columbine High School, Safe2Tell™ is an anonymous tipline aimed at early intervention to prevent violence and to save lives. The model safety and prevention initiative was developed on the principals of educating young people and school staff on critical issues, encouraging them to be part of the solution of prevention, equipping them with a tangible, direct way to report anonymously, and empowering them to make a difference.

Bringing a proactive plan of reporting to focus, the Safe2Tell™ model allows early interventions to take place, addressing behaviors identified as precipitators to violence and behaviors that endanger the health and well-being of youth. The strategy framework established by the model provides for the sharing of information with local responders and schools, and establishes best practices for schools to identify a response team which includes law enforcement. It also establishes methods for accountability and follow-up on every report, reducing liability to the individual schools and providing an effective way to measure outcomes.

After ten years of operating as a non-profit organization, in 2014, the Department of Law proposed legislation to provide Safe2Tell a permanent home in state government. Colorado Senate Bill 2014-002 passed unanimously and was signed into law by Governor John Hickenlooper on May 20, 2014. Effective August 8, 2014, the Safe2Tell™ staff and program were transferred to the Department of Law.



Safe2Tell™ aims at changing attitudes about reporting, engaging bystanders to be a part of the solution, and building a culture and climate of respect. The Safe2Tell™ model promotes strong surveillance skills among bystanders, teaching young people and adults what to watch for, what to listen for, and what not to ignore.



The Safe2Tell™ tip reporting resource has found success because both state law, and the protocols and procedures established by Safe2Tell™ for receiving and forwarding tips, guarantee the anonymity of every caller. Safe2Tell™ provides a safe, easy way for youth and adults to report information about any issues concerning their safety or the safety of others, in schools or in communities. Anonymity is

guaranteed by law; there is no caller ID and callers' names are not asked. Students know, long before adults do, what's occurring in their schools and communities – including fighting and bullying, substance abuse, dangerous and concerning behaviors, threats, depressions, suicide, and self-injury, either witnessed in-person or observed online.

Safe2Tell™ is available to all Colorado schools, students, teachers, and parents 24 hours a day, 7 days a week. Reports can be made to Safe2Tell™ by calling 1-877-542-SAFE (7233). Reports also can be submitted through the Safe2Tell™ website at: [www.Safe2Tell.org](http://www.Safe2Tell.org). Calls to Safe2Tell™ are answered by the Colorado State Patrol and a trained communications officer collects information for the report and assigns a code number to the reporting party. Every tip submitted to Safe2Tell™ is thoroughly investigated after being given to the appropriate school and/or law enforcement agency.

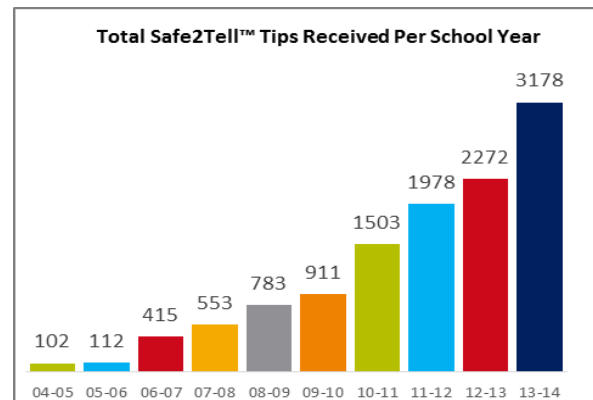
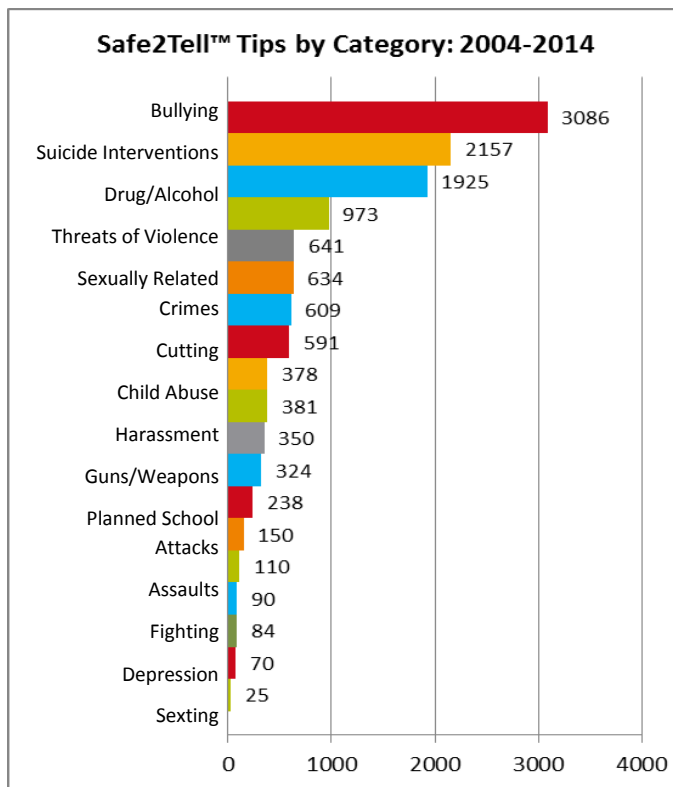
## NEW FOR 2014:

**Toolkit Launch:** In October 2014, as part of Colorado Safe Schools Month, Attorney General John Suthers and Safe2Tell™ announced the launch of the [Safe2Tell™ Education Toolkits](#). Available for download, the toolkits provide Colorado students with age-appropriate resources to report school-safety concerns and showcase how Safe2Tell™ can help. Designed specifically for adoption by elementary schools and middle/high schools, the toolkits provide educational resources that help students learn what to watch for, what to listen for, and how to make an anonymous report when it is about their safety or the safety of others.



Safe2Tell™ relies on key partnerships and collaborations in its efforts to create safe schools and communities. Safe2Tell™ staff serve or participate on a variety of task forces and committees, including the Colorado Department of Education Project Aware State Management Team, Mental Health First Aid Colorado Education Sub-Committee, Bullying Task Force, Domestic Violence Coordinating Council, Not One More Child (NOMC) Child Abuse Task Force, the Colorado Association of School Security and Law Enforcement Organization (CASSLEO), Colorado School Safety Resource Center Advisory Board, National Averted School Attack Task Force (FBI), Behavioral Health Planning Advisory Council, Colorado Statewide Youth Development Plan Committee, and Colorado 9 to25. Safe2Tell™ also works closely with the Center for Study and Prevention of Violence at CU Boulder as a research partner and as part of the Safe Communities, Safe Schools Model. The Colorado Shakespeare Festival also features Safe2Tell™ as part of their performances to end bullying in Colorado schools.

## KEY OUTCOMES:



**39.9% Increase in Tips Received in 2014**

**Wednesday** was the day of the week with the highest number of reports received on average.

**4:00-5:00pm** was the time of day that had the highest number of reports received on average.

### Top 3 Highest Categories of Tips in 2014:

Suicide Threats (656)  
Bullying (518)  
Drugs (353)

## Consumer Protection Section

The Consumer Protection (“CP”) Section protects Colorado consumers and businesses against fraud and maintains a competitive business environment by enforcing state and federal consumer protection laws; enforcing state and federal antitrust laws; implementing and enforcing provisions of the Tobacco Master Settlement Agreement; enforcing state laws on consumer lending, predatory lending, debt collection, rent-to-own, debt management, and credit repair; and advocating for residential, small business, and agricultural public utility ratepayers. The CP Section initiates investigations of anti-competitive, fraudulent, and unlicensed activities, files civil lawsuits and administrative actions to stop those activities, and participates with other state and federal law enforcement offices in national investigations and lawsuits. The section is made up of 20 attorneys and 32 critical staff members, including investigators, financial credit examiners, legal assistants, intake personnel, and support staff.

The CP Section promotes consumer protection through a variety of consumer education and outreach initiatives, including its [www.stopfraudcolorado.gov](http://www.stopfraudcolorado.gov) website, digital newsletters and consumer advisories, distribution of tens of thousands of informational brochures on identity theft and on scams targeting military personnel and their families, and through public-private partnerships with organizations like the AARP Foundation (Colorado ElderWatch) and with Boys and Girls Clubs throughout Colorado.

### UNITS OVERVIEW:

- **Consumer Fraud Unit** – Primary responsibility for consumer complaint intake and investigation/prosecution of violations of the Colorado Consumer Protection Act and the Charitable Solicitations Act. This Unit also handles much of the Section’s consumer education and outreach efforts.
- **Antitrust, Tobacco, and Consumer Protection (“ATCP”) Unit** – Enforces state and federal antitrust statutes, enforces the Tobacco Master Settlement Agreement, and investigates/prosecutes cases involving mortgage loan origination, mortgage loan repair/modification, and foreclosure-related frauds.

- **Consumer Credit Unit** – Regulates (through licensure/registration programs) companies and individuals involved in consumer lending, debt collection, and debt management and enforces a variety of statutes governing those and related practices. Unit regulates 740 supervised lenders, 1,463 credit sellers, 46 credit counseling and debt settlement companies, and 747 collection agencies. It enforces a variety of state laws related to those industries.
- **Office of Consumer Counsel (“OCC”) Unit** – Represents the state’s public advocate on behalf of residential, small business, and agricultural utility ratepayers before the Colorado Public Utilities Commission. Unit attorneys and legal assistant work on cases involving electric, natural gas, and telephone rates.

#### NEW FOR 2014:

- A series of bills passed in 2014 dramatically changed the way telecommunications services are regulated in Colorado. This deregulation effort will create a great deal of work before the PUC for the OCC Unit in coming years.

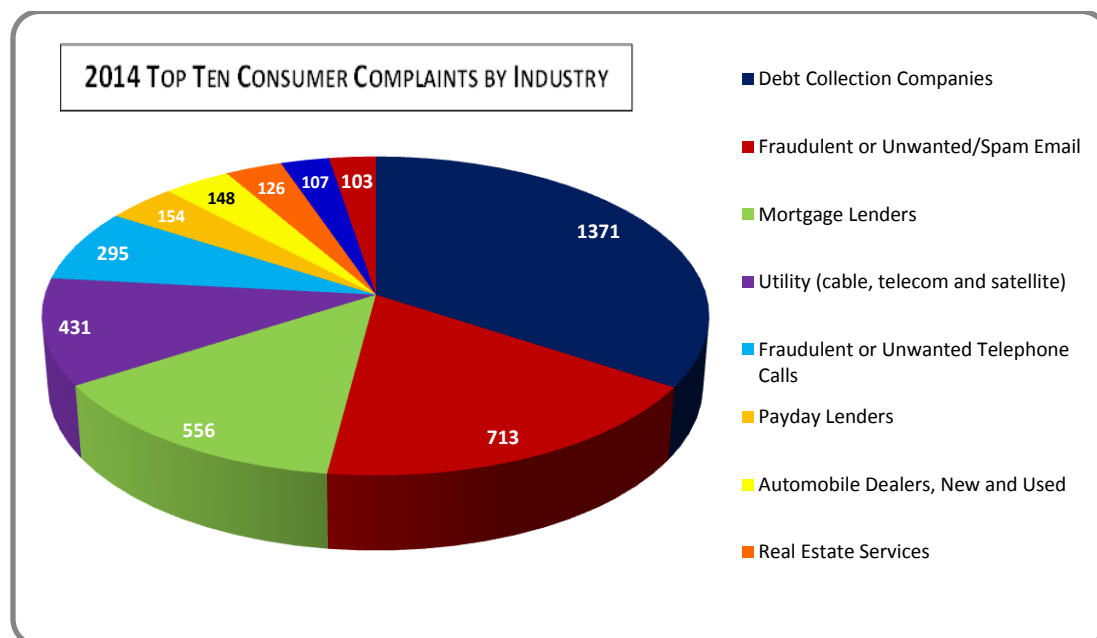
In late 2014, the Consumer Protection Section unveiled a new micro-site dedicated to consumer protection issues. This new site provides consumers information on hundreds of common topics, access to enforcement actions taken by the section, and a one-stop platform for filing consumer complaints on-line. Within the first three months of site launch (December 2014 through February 2015), the site generated over 31,000 unique visitors.



[www.stopfraudcolorado.gov](http://www.stopfraudcolorado.gov)

## KEY OUTCOMES:

- Over the prior five fiscal years (FY 2008-2013), consumer-realized savings from the work of the OCC Unit averaged approximately \$32.50 for every dollar spent funding the OCC. In FY 2014, the consumer-realized savings were \$35.48 per dollar spent, nearly a \$3 increase. Staff in this Unit appeared or worked on 80 matters before the PUC including protests, interventions, and rulemaking activities and before Colorado Courts. In FY 2014, consumer-realized savings, based on the OCC's representation, were approximately \$61.5 million.
- The Consumer Fraud Unit filed eight new lawsuits and successfully resolved eight cases involving fraudulent home air duct cleaning, sale of Spice (synthetic cannabinoids), travel club scam, multi-state pharmaceutical off-label sales, and fraudulent magazine solicitations. The Unit also enhanced its protection of active duty and veteran military members through involvement in the National Association of Attorneys General Veterans Steering Committee, and serving on the National Attorneys General Training and Research Institute planning committee for Veterans Training.
- The Consumer Fraud/Intake Unit reviewed and processed a total of 7,648 consumer and mortgage complaints in 2014 while fielding approximately 14,379 telephone calls. The Unit also engaged in extensive consumer education and outreach efforts to Colorado consumers with the continued development and issuance of consumer fraud advisories, consumer fraud bulletins, and the circulation of over 21,000 consumer fraud publications throughout Colorado.



- The ATCP Unit filed thirteen consent judgments this year, resulting in a total of \$34,024,983 being paid to the State. The vast majority of these funds (\$21.5 million) came from our settlement of a multi-state action against Standard & Poor's, and from settlements resulting from the investigation of several Colorado foreclosure law firms. The Unit continued to work on national mortgage settlements, reaching deals with Ocwen Financial Corporation and SunTrust Mortgage.
- The Consumer Credit Unit conducted 453 compliance examinations of licensed lenders, creditors, and sales finance companies and required them to take corrective action and refund overcharges. Unit required refunds of \$2,325,083.35 to Colorado consumers in excess finance charges and other credit.
- The Consumer Credit Unit required refunds and/or restitution from debt settlement providers of \$1,074,354.49 and obtained \$239,250 in penalties, costs, and fees from settlements and lawsuits.
- The Consumer Credit Unit investigated or litigated 17 cases against collection agencies and obtained \$789,242.59 in fines, payments, and consumer restitution through voluntary stipulations and settlements. The Unit also resolved administrative charges against 22 licensed agencies.

## Criminal Justice Section

The 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 Criminal Justice Section prosecutes crimes in which it has original jurisdiction, including securities, insurance, and election fraud.

Prosecution of crimes in the Criminal Justice Section may be initiated through direct filings in which the prosecutor files charges directly with the court, or through the use of the Statewide Grand Jury, which hears testimony, views evidence and decides whether to issue criminal charges through an indictment. The Criminal Justice Section also coordinates the prosecution of foreign fugitives and oversees the Peace Officer Standards and Training (POST) Board.

### UNITS OVERVIEW:

- **Financial Fraud Unit** – This unit has two primary missions: 1) to investigate and vigorously prosecute criminal offenses relating to insurance fraud, and 2) to stop swindlers from victimizing Colorado citizens through securities fraud.

Colorado residents pay many millions of dollars annually in insurance premiums. These premiums are artificially high because the costs of those who engage in insurance fraud are ultimately borne by the citizens. The effort has four dedicated attorneys, six investigators, one full-time paralegal, one half-time paralegal, and a program assistant.

An equally important practice area for the Unit is in the area of securities fraud. Securities fraud takes many forms, including pyramid schemes, Ponzi schemes, oil and gas investment schemes, and “fix-and-flip” housing scams and often targets vulnerable populations like seniors or veterans. The Unit is made up of two attorneys, two investigators, a paralegal, and a program assistant.

- **Special Prosecutions (“SP”) Unit** – The SP Unit is a specialized unit within the Criminal Justice Section. The Attorney General has statutory authority to prosecute specifically enumerated crimes, including certain environmental violations, auto theft, state tax fraud, mortgage fraud, election fraud, and other fraud-related offenses. Additionally, the Attorney General functions as the legal advisor to the Statewide Grand Jury. In this capacity and through this responsibility, the SP Unit is further authorized to undertake the investigation and prosecution of complex criminal cases which have occurred in multiple judicial districts throughout the State, as well as assist the elected district attorneys and local law enforcement in matters involving all aspects of violent crimes investigation and prosecution. These complex cases often involve enterprises committing narcotics trafficking, identity theft, auto theft and human trafficking. The entire SP Unit, which is comprised of a total of eight attorneys, five investigators, one paralegal and one program assistant, is responsible for many of the State’s multiple jurisdiction matters, as well as special investigations which may be referred by other law enforcement entities, state agencies or the Governor. Unit attorneys prosecute cases throughout Colorado either under the authority of the Attorney General or as specially-appointed Deputy District Attorneys in one of the twenty-two judicial districts.
- **Medicaid Fraud Control Unit (“MFCU”)** – The MFCU is a state and federally-funded unit that investigates 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. Investigations can result in criminal prosecution, handled by MFCU attorneys acting as special deputy district attorneys, and/or civil demands and lawsuits for return of losses, damages and penalties. When fully staffed, the Unit is made up of 3 attorneys, 10 investigators, an auditor, a nurse reviewer, a paralegal and a program assistant.
- **Specialty Units** – The Section also has several personnel dedicated to specific missions critical to the State and the Department. These include our Victim Assistance program, Foreign Prosecutions Unit (FPU), Marijuana Training Team, and the Peace Officer Standards and Training Board (POST). The work of these dedicated civil servants is extraordinary. With the assistance of the FPU, Mexican authorities have apprehended several suspects charged with murder and who are currently in custody awaiting the Mexican federal court’s ruling and sentencing orders. The marijuana team has trained hundreds of peace officers across the State on the ever-evolving issues of marijuana law in light of the State’s legalization of the substance.

## KEY OUTCOMES:

- The Financial Fraud Unit reviewed more than 1,600 referrals and opened 145 new investigations. It filed a total of 31 new felony criminal cases in Colorado courts by complaint or by indictment. Cases were filed across the State, including in Adams, Arapahoe, Boulder, Denver, Douglas, El Paso, Huerfano, Jefferson, Larimer, Mesa, and Weld counties. The unit reviewed a total of 87 securities fraud complaints resulting in guilty pleas from six defendants and almost \$8.5 million dollars in restitution on behalf of 146 victims.
- Mike Tee was charged with multiple felony counts for engaging in a variety of criminal acts related to insurance fraud. He purchased stolen credit card numbers and made purchases for auto parts or other merchandise he could sell overseas. Some merchandise was used to repair cars he used in staged accidents to sell for profit. Tee purchased salvage vehicles for a small cost, transferred title to a friend and then had the friend falsely report it as stolen in order to collect the insurance settlement based upon the car being undamaged. He used vehicles he owned to report hit-and-run accidents. The vehicles had pre-existing damage. Tee then called in police reports to provide cover for filing false insurance claims. After a jury trial, Tee was found guilty of 24 felony counts and was sentenced to 18 years in prison.
- Robert Zickefoose was indicted by the Statewide Grand Jury on seven counts of securities fraud and theft. Zickefoose was the sole owner and president of an oil and gas company and offered shares of a "working interest" in oil and gas wells named the Ruby #1 and Ruby #2 in the Wattenberg oil and gas field. Zickefoose defrauded investors by employing individuals who solicited investment money through "cold calls" to people in Colorado Springs and other locations and then converted investment money for personal use and other non-investment related expenses. Zickefoose never owned or acquired the interests he was selling to investors. Zickefoose was convicted of securities fraud, sentenced to 10 years in the Colorado Department of Corrections, and ordered to pay \$751,245.00 in restitution.
- Conley Hoskins and several others were successfully prosecuted for committing various acts of racketeering activity centered on a group of related medical marijuana businesses and other facilities. A massive, multi-year investigation into the criminal activities of Hoskins and other defendants concluded in 2014. Criminal acts included securities fraud, tax fraud, and the illegal cultivation and distribution of marijuana. The criminal case resulted in \$2 million in fines being imposed to be paid into the State's General Fund.

- Daniel Bessey was successfully prosecuted in conjunction with the local District Attorney in the San Luis Valley. After a three-and one-half-week jury trial, Bessey was found guilty of two counts of first degree murder and other counts for killing his ex-girlfriend and her current boyfriend. The double homicide occurred in Rio Grande County. Bessey was sentenced to life without parole plus an additional term of years for other related convictions.
- Through a cooperative effort with the Metro Auto Theft Taskforce and the Eastern Metro Auto Theft Team, the Attorney General's Auto Theft team wrapped up a lengthy investigation and prosecution. The case resulted in significant prison sentences for several repeat and habitual offenders. Most notably, Sean Stokes and Jeanoh Barnett were convicted at trial and received 24 and 16-year sentences, respectively, for their roles in a scheme to steal large pickup trucks and trade them to drug dealers for methamphetamine.
- The MFCU obtained 12 convictions, court orders for \$87,742 in criminal restitution, and \$2,293,714 in monetary recoveries in 32 separate settlements.
- Donna F. Everly, a registered nurse, committed hundreds of criminal acts including forgeries and thefts from 2008-2010. After a two-week jury trial she was convicted of 136 criminal counts premised on defrauding Medicaid. She committed these crimes while falsely claiming she was caring for medically fragile children she fostered and others she adopted. She acted in concert with her boyfriend, Phil Hyland, who was also prosecuted. A civil demand has since been made against Everly. Two of her employers have already reimbursed Medicaid for losses occasioned during her employment with them.

#### **NEW FOR 2014:**

- The Marijuana Team initiated law enforcement trainings on current marijuana law and regulations beginning in December of 2014. The team developed a new, highly specialized curriculum to include webinars and other presentation materials in order to "train the trainers." The program strives to conduct 100 annual trainings of at least 3,000 Colorado peace officers.
- POST awarded over \$2.5 million dollars to local law enforcement agencies with seventy percent of the funding going to small and rural jurisdictions. This funding is provided for training and equipment statewide for necessities such as medical equipment, marijuana testing devices, computer equipment and other items. POST has also streamlined the reporting mechanism for law enforcement agencies to report and stay current with peace officer training requirements.

## Criminal Appeals Section

The Criminal Appeals Section of the Attorney General's Office is Colorado's prosecutorial authority at the appellate level of the criminal justice system. Section attorneys represent law enforcement interests when defendants challenge their felony convictions in the Colorado and federal appellate courts.

Hundreds of prosecutors do felony trial work in the state's district courts; the Attorney General's Criminal Appeals Section has 34 attorneys supported by four administrative staff members to respond to all of the defense appeals generated by those cases. Cases range from relatively minor sentencing and post-conviction appeals to complicated white collar crime, homicide, child abuse, sexual assault, and death penalty litigation.

The section must provide effective and ethical representation in all cases. In each case, the attorney must read the trial transcript and other pertinent documents, conduct legal research on each of the defendant's claims, and write an argument explaining why law enforcement should prevail. While a majority of the cases impact only the defendants and the victims directly involved, any given case may result in new published law that has a significant impact on law enforcement procedures; on procedures for criminal trials and sentencing hearings throughout the state; on the state's Department of Corrections; or on probation, parole, and county community corrections programs.

In addition to their appellate litigation, Criminal Appeals Section attorneys share their expertise in criminal law and appellate issues with the state's prosecutors and other audiences through weekly case law updates for the Colorado District Attorneys Council (CDAC), offer informal advice, and give presentations at meetings and training sessions. The section deputy serves on the Colorado Supreme Court Appellate Rules and Rules of Evidence Committees; and a First Assistant Attorney General is a prosecution representative on the Colorado Supreme Court's Criminal Rules Committee and the Chair of the Colorado Bar Association (CBA) Appellate Practice Subcommittee. (In addition to meeting quarterly and presenting an annual appellate CLE program, that subcommittee oversees the CBA Appellate Pro Bono Program.)

In 2014, the Criminal Appeals Section attorneys made presentations for the Appellate Practice Subcommittee; Colorado District Attorneys' Council Governing Board meetings, subcommittees, and the annual fall conference; the Denver District Attorney's Office annual retreat; the Sex Offender Management Board; and Arapahoe Community College.

## **KEY OUTCOMES:**

The Criminal Appeals Section opened 864 new appellate cases in calendar year 2014. These cases involved the following convictions:

- 585 assaults or sexual assaults against children
- 318 burglaries and thefts
- 286 homicides and attempted homicides
- 369 kidnappings and assaults
- 217 completed or attempted aggravated robberies
- 210 drug offenses
- 185 sexual assaults on adults
- 970 other offenses (primarily felonies)

In addition, these cases included 399 habitual offender sentence enhancement counts.

Section attorneys:

- filed 962 opening briefs, answer briefs, and answers to orders to show cause;
- appeared at 121 oral arguments in state and federal appellate courts to present the State's position and answer questions for judges;
- filed 37 petitions for rehearing to try to correct matters wrongly decided by the courts; and
- asked the Colorado Supreme Court to conduct further review in 23 cases that would have an adverse effect on law enforcement.

Of the 1,091 Criminal Appeals Section cases decided by the various appellate courts in 2014, section attorneys won 987 (90%).

## Natural Resources & Environment Section

Attorneys in the Natural Resources & Environment Section (NRE) work 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 Colorado Department of Natural Resources (DNR) on the regulation of mining, oil and gas, parks and wildlife, state lands, and water rights and to the Colorado Department of Public Health and Environment (CDPHE) 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. This Section is made up of 48 attorneys and 14 support staff.



Eagle taking off from Rocky Mountain Arsenal, photo courtesy of Kate Kramer

### UNITS OVERVIEW:

- **Parks & Wildlife, Trust Lands, and Resource Conservation Units –** Three units in the NRE Section represent the boards, commissions, and divisions of DNR that regulate state lands, school trust lands, and extractive industries, including: the Oil and Gas Conservation Commission (COGCC) which regulates oil and gas operations throughout the state; the Division of Reclamation, Mining and Safety (DRMS) which regulates prospecting, exploration, mining, and reclamation operations statewide; the Colorado State Board of Land Commissioners (SLB) which manages perpetual public trusts to support public schools and public institutions; and the Parks & Wildlife Commission and Division (CPW) which manage state wildlife areas and state parks, hunting and fishing programs, recreational trails, vessels, snowmobiles, off-highway vehicles and river outfitters.

- **Water Conservation, Water Resources, and Federal & Interstate Water Units** – Three units in the NRE Section represent the boards, commissions, and divisions of DNR that protect and administer water rights within Colorado and safeguard the State’s interests in interstate rivers and the State’s allocations in interstate compacts and agreements, including: the Colorado Water Conservation Board (CWCB) which acquires water for instream flows to preserve the natural environment, reviews applications for recreational in-channel diversions (kayak courses), approves grants and loans to water providers, adopts rules on weather modification and regulation of floodplains; the Colorado Division of Water Resources (State Engineer and seven Division Engineers) which administers water rights throughout the State; and the Colorado Ground Water Commission which regulates designated ground water basins.

- **Hazardous & Solid Waste, Air Quality, and Water Quality & Radiation Units** – Three units in the Section represent the divisions, offices, boards, and commissions within CDPHE that oversee environmental protection programs, including the Hazardous Waste Commission and the Hazardous Materials Waste Management Division which regulate hazardous



*Owl Family at Rocky Mountain Arsenal,  
photo courtesy of Morrison Nature Center*

and solid waste and approve Brownfields and voluntary cleanups; the Air Quality Control Commission and the Air Pollution Control Division which adopt and implement programs to regulate air pollution and improve air quality; the Colorado Energy Office in the Governor’s Office which promotes effective and efficient production and consumption of energy in the State; the Water Quality Control Commission and Division which adopt and implement standards to protect water quality; and the Radiation Management Program which regulates sources of radiation throughout the State. The Section also represents Colorado’s Natural Resources Trustees in their efforts to ensure any injuries to Colorado’s natural resources are compensated, and that projects initiated with recovered damages are used to replace or restore those damaged resources.

## **NEW FOR 2014:**

- Each year brings additional challenges to states as they try to deal with actions taken under the federal Endangered Species Act. To better address future listing petitions and decisions, the Natural Resources and Environment Section sought and received funding for a dedicated attorney to assist in addressing issues under the Endangered Species Act. At the request of the Governor's Office and DNR, the first order of business for this new attorney was the filing of Colorado's current challenge to the listing of the Gunnison sage grouse as "threatened" by the U.S. Fish and Wildlife Service.
- There is nothing as important in Colorado or to Coloradoans as the protection and development of its water resources. Water plays a vital role in all aspects of life in Colorado and this year the state has for the first time undertaken to develop a comprehensive state water plan to guide its efforts in that regard, with the Section's Water Conservation and Water Rights Units playing a key role in advising on and facilitating the development of the Colorado Water Plan.

## **KEY OUTCOMES:**

- As oil and gas development has increased in Colorado so have the issues with such development. In response to the increase in development, some local jurisdictions sought to prohibit oil and gas activities that were already permitted and strictly regulated at the state level by the Colorado Oil and Gas Conservation Commission, including hydraulic fracturing. In *COGCC v. City of Longmont*, the Section's Resource Conservation Unit successfully argued that state law preempted the City of Longmont's home rule charter provisions banning hydraulic fracturing and other oil and gas activities within the City. The court declared the City charter provisions invalid.
- For years the artists Christo and the late Jeanne-Claude have sought to undertake one of their world-famous art projects within the Arkansas Headwaters Recreation Area. After a lengthy public process, the Colorado Board of Parks and Outdoor Recreation authorized the display, but its decision was immediately challenged in court. In *Rags Over the Arkansas River v. CPW*, the Parks & Wildlife Unit prevailed in the litigation in the Court of Appeals which affirmed the Board's decision to allow for the display. The artwork is expected to draw over 400,000 visitors to the AHRA during its two-week display.

- In what is likely a historic display of cooperation between east and west slope interests, Denver Water and numerous west slope water users entered into the Colorado River Cooperative Agreement. The Water Unit assisted in the negotiation and drafting of the decree that provides for implementation of the agreement, which allows Denver Water to provide water for instream flows in the Fraser River in Grand County for the benefit of endangered species in the Colorado River.
- A consent decree negotiated several years ago by the Hazardous Waste Unit with the U.S. Army and Shell Oil Company provided \$27 million in damages for injuries to Colorado's natural resources at the former Rocky Mountain Arsenal site. Over the past year, the Unit assisted the Natural Resources Trustees' staff and stakeholders in amicably allocating the money to a diverse array of restoration projects, including habitat restoration and undeveloped land preservation. The Trustees approved \$17 million worth of these stakeholder-initiated projects, augmented by matching funds.
- Consistent with the State's leadership role in ensuring that the environment is protected as Colorado's oil and gas resources are developed, and with the assistance of the Air Quality Unit, the Air Quality Control Commission adopted oil and gas rules which included the nation's first methane rules and a progressive emissions control program targeting ozone-causing pollutants.
- The Water Quality Unit successfully represented CDPHE in the judicial challenge to the approval of the Southern Delivery System ("SDS"). SDS is the City of Colorado Springs' proposal to meet its future water needs by pumping water from Pueblo Reservoir to reservoirs outside Colorado Springs through a 90-mile pipeline.

## State Services Section

Collectively, the 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. The legal work of the Section is diverse, ranging from providing advice on transactions and general operations to defending the constitutionality of state laws in both state and federal court. In general, the State Services Section protects children, people at risk, and represents the public at large. The Section 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. This section is made up of 41 attorneys and 11 administrative and legal support staff.

### UNITS OVERVIEW:

- **Human Services Unit** – The Human Services Unit represents the State Department of Human Services in administrative, district, and federal courts in actions involving county findings of child abuse or neglect; the revocation or suspension of child care licenses, its transactional and procurement disputes; and representation of the Division of Youth Corrections, the Mental Health Institutes in Pueblo and at Fort Logan, Division of Vocational Rehabilitation and Food Assistance, and the State Long Term Care Ombudsman and the Child Welfare Ombudsman.
- **Public Utilities Commission Unit** – This Unit is dedicated to providing legal advice and representation to the Public Utilities Commission and their advisory staff members. Areas of representation include electricity, gas, telecommunications, transportation, and other regulated public utility matters. This Unit evaluates the law supporting the public interest in adjudications, rulemakings, and other administrative proceedings and drafts and reviews many of the written decisions constituting the official actions of the Commission. This Unit also represents the Commission in judicial appeals of its decisions and advises on proposed legislation and matters before federal regulatory agencies.

- **Health Care Unit** – The Health Care Unit represents the Colorado Department of Health Care Policy and Financing which administers the Medicaid program, the Children’s Health Plan and Colorado Indigent Care Program. The unit also represents the health programs within the Colorado Department of Public Health and Environment which includes health facilities, emergency medical services, the medical marijuana registry, disease control and epidemiology, vital records, and the state laboratory. Representation of these agencies also includes providing counsel to the Medical Services Board and the State Board of Health.
- **Public Officials Unit** – The Public Officials Unit represents the statewide elected officials as well as the Judicial Department, the Department of Local Affairs, the Department of Military and Veterans Affairs, the State Auditor, the Office of Economic Development and International Trade, the Office of Information Technology, and the License Plate Auction Group. The Unit primarily handles litigation and appeals in complex civil cases that frequently involve legal questions of first impression and public policy matters of statewide or national importance. Other duties include handling escheat and unclaimed property review, drafting formal and informal Attorney General Opinions, and contract reviews for client agencies.
- **Education Unit** – The Education Unit advises all of the state’s public colleges and universities and the community college system on a wide range of state and federal compliance issues, board governance, and transactional matters. In addition, the Unit represents the State Board of Education and the Department of Education on school finance, charter school appeals, general policy questions, and in the prosecution of teacher licensure cases. The Unit provides general legal advice to the Colorado State Charter School Institute, the BEST (Building Excellent Schools Today) Board, and the Department of Higher Education, including the Division of Private Occupational Schools, the Colorado Historical Society, and the Commission on Higher Education. The Unit regularly defends state education laws and the system of public school finance against constitutional challenges.
- **Labor Unit** – The Labor Unit provides legal advice and representation to the Department of Labor and Employment and its eight divisions, and to the Department of Personnel and Administration and its five divisions, and the Board of Assessment and Appeals in the Department of Local Affairs. The Unit represents the State Controller and reviews or provides legal advice on hundreds of state contracts involving expenditures of millions of dollars, and it represents DPA in many administrative and judicial disputes over state purchasing. Enforcement of workers’ compensation insurance statutes and oil and public safety statutes covers hundreds of cases each year, along with general oversight of the classified employment system and state archives.

## **NEW FOR 2014:**

- The General Assembly passed a telecom reform bill deregulating basic telephone service, and authorizing the transfer of \$5 million dollars to the newly-formed Broadband Deployment Board for the provision of broadband networks in unserved areas.
- Senate Bill 14-125 authorizes transportation network companies, most notably Uber and Lyft, to operate under a minimum of Commission-approved rules governing safety and insurance; this legislation makes material changes to the transportation industry.
- The new Colorado Wage Protection Act, which took effect January 1, 2015, provides a new administrative hearing process for workers to represent themselves on important but low dollar wage disputes.

## **KEY OUTCOMES:**

- The PUC Unit successfully defended a judicial appeal of the PUC's decision that it has regulatory authority over electricity services the City of Boulder attempted to provide to customers located outside its city limits. The District Court's favorable decision reaffirms a long-standing rule of law that a municipality has no political authority over residents outside its boundary.
- The Health Care Unit successfully defended CDPHE's decision to issue a public health order to an HIV positive individual who was engaging in behaviors that endangered the public health through the possible spread of HIV.
- After a two week federal trial, the Public Officials Unit successfully defended challenges to 2013 legislation requiring universal background checks and prohibiting the sale and transfer of large capacity magazines.
- In collaboration with attorneys representing the school districts, the Education Unit successfully defended a pilot program allowing up to 500 public school students to attend private schools against state constitutional challenges. The Colorado Supreme Court accepted certiorari and a ruling is expected in 2015.
- During 2014, the Labor Unit opened 61 cases to force employer compliance with mandatory workers' compensation insurance statutes. Of these cases, the unit collected \$182,022 in settlements and fines, and sent \$809,600 in fines to collection.

## Civil Litigation and Employment Law Section

The Civil Litigation and Employment Law Section defends all state agencies, institutions of higher education (except the University of Colorado) and employees sued in state and federal court for personal injuries, property damage, employment discrimination, and constitutional violations. The Section also represents state agencies and institutions of higher education in personnel matters in front of the State Personnel Board and appellate courts, brings administrative cases against private parties on behalf of the Colorado Civil Rights Commission, and advises and represents state agencies and institutions of higher education in workers' compensation matters.

Section attorneys also provide general legal advice and representation to the Colorado Department of Transportation, the Transportation Commission, the Department of Corrections, the State Board of Parole, the Department of Public Safety, Safe2Tell™, the POST Board, the Division of Risk Management, the Civil Rights Division, the Division of Workers' Compensation's Special Funds Unit, and the employees of those agencies. Section attorneys provide advice and training to all state agencies and institutions of higher education on a myriad of employment, workers' compensation, general liability, and general legal issues. The Section has 44 attorneys and 20 support staff.

### UNITS OVERVIEW:

- **Corrections and Public Safety Unit** – The Corrections and Public Safety Unit provides representation and legal advice to the Colorado Department of Corrections, the Parole Board, all divisions of the Department of Public Safety including the Colorado State Patrol, the Colorado Bureau of Investigation, the Division of Criminal Justice, the Division of Fire Prevention and Control, the Division of Homeland Security and Emergency Management, the School Safety Resource Program, and the Safe2Tell Program within the Office of the Attorney General. The unit defends inmate lawsuits involving various issues, including constitutional rights, time computation, prison discipline proceedings, *habeas corpus* petitions, parole and contract-related matters.

- **Employment/Personnel and Civil Rights Unit** – The Employment/Personnel and Civil Rights Unit advises state government agencies regarding classified employees and defends the State and its employees in employment disputes. The Unit represents all agencies and most institutions of higher education in personnel hearings and matters before the State Personnel Board and on appeal. The Unit also provides advice and training to state agencies, institutions of higher education and employees regarding personnel matters.

The Unit also provides legal advice to the Colorado Civil Rights Division within the Department of Regulatory Agencies in conjunction with the Civil Rights Division's investigation of charges of employment, housing and public accommodations discrimination, and prosecutes those cases which have been noticed for hearing by the Colorado Civil Rights Commission. The Unit also provides counsel to the POST Board within the Office of the Attorney General.

- **Employment Tort Unit** – The Employment Tort Unit defends state agencies, institutions of higher education, and employees in state and federal court employment litigation. The attorneys handle cases from inception through appeal. The cases involve claims arising under a myriad of federal and state statutes, including Title VII of the Civil Rights Act, the Americans with Disabilities Act, the Fair Labor Standards Act, The Family Medical Leave Act, the Equal Pay Act, the Age Discrimination in Employment Act, the state whistleblower act, and other employment laws as well as federal civil rights laws and constitutional claims. Unit attorneys also provide advice and risk reduction training to state agencies and institutions of higher education regarding employment law. The Unit advises the State Risk Management Division on questions of coverage, indemnity, settlements, and conflicts.
- **Tort Litigation Unit** – The Tort Litigation Unit defends state agencies, institutions of higher education, and employees in lawsuits seeking damages for personal injury and property damage, and those brought pursuant to federal law (except for employment claims). The Unit also provides day to day advice to the Colorado Office of Risk Management on questions of coverage, indemnity, settlement, and applicability of the Colorado Governmental Immunity Act (CGIA). Members of this Unit aggressively defend the State and seek to minimize the monetary liability of the State in a variety of lawsuits. In addition, the Unit provides most of the conflicts counsel to state regulatory agencies, boards, and commissions.

- **Transportation Unit** – The Transportation Unit acts as a general service law firm to the Colorado Department of Transportation (CDOT) and the Colorado Transportation Commission, with the exception of personnel and tort matters. The Unit also represents the Colorado Bridge Enterprise and the Colorado High Performance Transportation Enterprise, which are government-owned enterprises and divisions within CDOT. The Unit prosecutes all condemnation actions, defends inverse condemnation cases, and administrative actions. The Unit also handles access control, highway beautification, and billboard location disputes, and protests brought under the Procurement Code. The Unit advises CDOT in construction matters and represents CDOT in construction dispute review boards, arbitration and litigation. Members of the Unit review, revise, and approve CDOT contracts, assist in drafting and negotiating contracts, including public-private partnership contracts, and provide legal advice on rulemaking, legislation, and any other legal matters that arise.
- **Workers' Compensation Unit** – The Workers' Compensation Unit defends state agencies, institutions of higher education, and employees in workers' compensation matters. The attorneys manage litigation from inception through hearings and appeals, including fully contested claims, challenges to specific disability and medical benefits, penalty allegations, petitions to review, and cases with subrogation or employment law issues. The attorneys also represent the Subsequent Injury Fund and the Major Medical Insurance Fund in the Division of Workers' Compensation. The attorneys provide day-to-day advice to Risk Management's Workers' Compensation Division, state agencies, and Broadspire, the State's third party administrator, regarding workers' compensation law, liability exposure, and settlements.

#### **NEW FOR 2014:**

- This Section added additional attorney and paralegal positions in the Workers' Compensation and Corrections and Public Safety Units due to increased workloads.
- This Section added the Safe2Tell program and the POST Board as clients.

#### **KEY OUTCOMES:**

- The Corrections and Public Safety Unit opened 378 new litigation cases and 37 advice files. Favorable decisions were obtained in 98% of all state and federal court cases (320 favorable/6 unfavorable) and 95% of all state and federal appellate court matters (37 favorable/2 unfavorable).

- The Corrections and Public Safety Unit assisted with mittimus clarifications in response to the Governor's mandate that the Department of Corrections audit time computation records and mittimuses for inmates who have, or should have been, subjected to mandatory consecutive sentencing. This unit also assisted in the startup of the Aerial Multi-Mission Aircraft in the Department of Public Safety, Division of Fire Prevention, which helps with early detection and control of wild fires.
- The Employment/Personnel and Civil Rights Unit defended 251 new cases before the State Personnel Board and the Colorado Court of Appeals. The Unit won 63% of all mandatory hearing cases and obtained denials of hearings in 50% of all briefed discretionary hearing cases.
- The Employment/Personnel and Civil Rights Unit prosecuted 9 cases that were noticed for hearing by the Civil Rights Commission at the Office of Administrative Courts, and was able to negotiate over \$365,000 in settlement payments to private citizens in employment and fair housing cases. The settlements included provisions requiring that private employers and housing providers receive mandatory discrimination training, policy changes, and discrimination reporting. Of particular interest was *Craig & Mullins v. Masterpiece Cakeshop*, a Civil Rights Commission case. This public accommodation discrimination matter was prosecuted by the Unit and involved a denial of service to gay men at a bakery. An ALJ determined that the bakery violated the Colorado Anti-Discrimination Act and the matter is pending on appeal.
- The Employment Tort Unit successfully handled every matter litigated. With the exception of one matter that resulted in a beneficial settlement, every concluded lawsuit was won on a motion to dismiss, a motion for summary judgment, or with the plaintiff voluntarily withdrawing their complaint after discovery.
- The Tort Litigation Unit completed litigation of property owner claims from the Lower North Fork Wildfire and successfully dismissed claims of approximately 22 insurers who attempted to recover amounts paid on property insurance policies for fire damage. The insurers filed an appeal which is currently pending.
- The Transportation Unit successfully defeated a challenge filed by the TABOR Foundation against the Colorado Bridge Enterprise (CBE) in Denver District Court and on appeal at the Colorado Court of Appeals. Plaintiffs sued seeking injunctive and declaratory relief against the CBE, Colorado Transportation Commission and individual commissioners alleging various violations of TABOR.

- The Transportation Unit helped guide the High Performance Transportation Enterprise through its first commercial bank loan deal in which it was able to obtain a \$25 million loan to fund the construction of tolled peak period lanes on I-70.

## Revenue & Utilities Section

The Revenue & 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. There are thirty attorneys and eight support staff in the Section.

### UNITS OVERVIEW:

- **General Tax and Enforcement (GTE) Unit** – The GTE Unit provides legal advice and litigation services to the Department of Revenue in general tax and tax collection matters, and in marijuana and liquor licensure and regulation. This Unit also represents the Property Tax Administrator and Division of Property Tax within the Department of Local Affairs. The GTE Unit also provides advice and representation to all state clients on bankruptcy matters.



*Solicitor General Daniel D. Domenico argues the Direct Marketing Association v. Brohl case before the United States Supreme Court, sketch courtesy of Todd Crespi*

- **Income Tax & Transportation (ITT) Unit** – The ITT Unit provides legal advice and representation to the Department of Revenue on income tax matters, including issues related to audits and assessments, rulemaking, and legislative matters. Income tax matters are complex and require intensive legal services to assure that taxpayers, including sophisticated national and international corporate taxpayers, pay the amount owed under the law, thereby protecting the interests of the State and all taxpayers. These matters have high dollar amounts at issue for the State. Other attorneys in the ITT Unit advise and represent the Transportation Section Trial Staff of the Public Utilities Commission on issues related to the regulation of taxis, limousines, towing carriers, hazardous materials carriers, movers, and Transportation Network Companies.
- **Motor Vehicle & Enforcement (MVE) Unit** – The MVE Unit provides legal advice and representation to the Division of Motor Vehicles, Motor Vehicle Dealer Board, and the Gaming, Racing, and Lottery Commissions within the Department of Revenue. Unit attorneys provide general counsel advice on rules and open records requests, contracts and procurement issues, and represent the Division in appeals of driver's license revocation cases to the Colorado Court of Appeals and Supreme Court.
- **Public Utilities Commission Litigation (PUC) Unit** – The PUC Unit advises and represents Trial Staff of the Public Utilities Commission on fixed utilities litigation before the PUC, including gas, electric, telephone, and water/sewer. The PUC regulates the rates, charges, services and facilities of public utilities within the State.

#### **NEW FOR 2014:**

- GTE Unit attorneys advised the Marijuana Enforcement Division on implementing the mandates of House Bills 14-1122 (marijuana packaging requirements) and 14-1366 (marking edible retail marijuana products).
- Following the passage of Senate Bill 14-125, the Public Utilities Commission has oversight over Transportation Network Companies (TNCs) such as Uber and Lyft. PUC Litigation Unit attorneys advised PUC Staff in developing rules for TNCs and addressing novel issues presented by TNCs.
- PUC Litigation Unit attorneys advised PUC Staff in implementing House Bills 14-1327, 14-1328, 14-1329, 14-1330, and 14-1331 (telecom reform legislation) with respect to the Colorado High Cost Support Mechanism, a fund designed to support the provision of affordable telephone service to rural Colorado.

## KEY OUTCOMES:

- Section attorneys filed briefs and appeared with the Solicitor General for his argument before the United States Supreme Court in the *Direct Marketing Association v. Brohl* case stemming from a challenge to Colorado's 2010 law imposing sales and use tax reporting requirements on non-collecting internet retailers.
- Section attorneys defended against multiple lawsuits challenging various aspects of marijuana business regulation, including challenges to retail marijuana advertising regulations, seizure of marijuana plants, marijuana taxation, summary suspension of marijuana businesses, driving blood limit requirements, and the entire regulatory and taxation system.
- Attorneys representing the Department of Revenue prevailed in the vast majority of the House Bill 11-1300 conservation easement income tax credit appeals.

<b>Status of Conservation Easement Tax Credit District Court Cases, AG's Office (Dec. 31, 2014) <sup>1</sup></b>				
	Region 1	Region 2	Region 3	Total
Cases Filed	38	121	12	171
Cases Closed/ Settled in Principle	22	121	12	155
Remaining Cases	16	0	0	16

- Section attorneys successfully settled a rate case with Public Service Company of Colorado. The net customer impact is a rate increase of \$41.5 million. The settlement requires transparency from the utility regarding management of certain of its assets.
- Attorneys from the Section advised the Division of Motor Vehicles in adopting rules and establishing procedures for implementing Senate Bill 13-251, providing for the issuance of driver's licenses or identification cards to Colorado residents who are temporarily lawfully present or who cannot demonstrate lawful presence.

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<sup>1</sup>The Department of Law tracks and reports the remaining cases pursuant to section 39-22-522.5(12), C.R.S. differently than does the Department of Revenue. The Department of Law calculates the remaining open cases as cases actively in litigation from commencement of a lawsuit through phase 2 of a district court case as set forth under section 39-22-522.5, C.R.S., and any appeal of the cases.

## Business and Licensing Section

The six units of the Business and Licensing (“B&L”) Section provide 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.

### **Department of Regulatory Agencies**

#### **Division of Professions and Occupations**

- Medical Board
- Board of Pharmacy
- Prescription Drug Monitoring Program
- Healthcare Professions Profile Program
- Board of Nursing
- Nurse-Physician Advisory Task Force for Colorado Healthcare (“NPATCH”)
- Dental Board
- Surgical Assistants/Surgical Technologists
- Nursing Home Administrators
- Naturopathic Doctors
- Direct Entry Midwives
- Audiology
- Hearing Aid Providers
- Physical Therapists
- Athletic Trainers
- Division of Financial Services
- Civil Rights Commission
- State Personnel Board
- Acupuncturists
- Chiropractors
- Marriage and Family Therapists
- Professional Counselors
- Psychologists
- Social Workers
- Registered Psychotherapists
- Respiratory Therapists
- Optometry
- Podiatry
- Addiction Counselors
- Veterinarians
- Occupational Therapists
- Massage Therapists
- Board of Accountancy
- Board of Licensure for Architects
- Professional Engineers and Professional Land Surveyors
- State Electrical Board
- Board of Landscape Architects
- Passenger Tramway Safety Board
- Examining Board of Plumbers
- Office of Barber and Cosmetology Licensure
- Office of Funeral Home and Crematory Registration
- Office of Outfitters Registration
- Private Investigators Licensure Program

## **Division of Insurance**

This division oversees traditional insurance producers and companies as well as the bail bond business, preneed funeral contracts and public adjusters.

## **Division of Real Estate**

The Division of Real Estate regulates professional licensees and related programs, including real estate brokers, mortgage loan originators, real estate appraisers, appraiser management companies, subdivision developers, community association managers, conservation easements holders, conservation easement tax credits, and the HOA Information Office.

## **Division of Securities**

The Division of Securities regulates professional conduct in connection with the offer and sale of securities, and licensed securities professionals (including broker-dealers and investment advisers).

## **Divisions of Banking and Financial Services**

The Colorado Division of Banking, Banking Board, and Banking Commissioner regulate Colorado chartered banks. The Division of Financial Services oversees the examination and supervision of state-chartered credit unions and state-chartered savings and loan associations.

## **Department of Agriculture**

Section attorneys represent the Colorado Department of Agriculture and the Commissioner of Agriculture including: the Animals Division, the Colorado State Board of Livestock Inspection, the Conservation Services Division, the Inspection and Consumer Services Division, the Plants Division, the Markets Division, the Colorado State Fair and several other marketing-related boards associated with the Department.

## **Independent Ethics Commission**

The Independent Ethics Commission (IEC) is a constitutionally created commission charged with the implementation of Article XXIX of the Colorado Constitution. The purpose of the IEC is to give advice and guidance on ethics issues arising under the Colorado Constitution and other applicable standards and to hear complaints, issue findings, and assess penalties and sanctions where appropriate. The Commission has jurisdiction over all State executive and legislative branch elected officials and employees, and local officials and employees, unless the county or municipality is a home-rule entity with its own ethics code.

## **Conflicts Counsel**

Additionally, Section attorneys represent certain client agencies as conflicts counsel. These include: the Mined Land Reclamation Board, Civil Rights Commission, State Personnel Board, and the Board of Assessment Appeals and the Property Tax Administrator within the Department of Local Affairs.

### **NEW FOR 2014:**

- SB 13-221 created a program to facilitate review of claims for conservation easement tax credits. Beginning January 1, 2014, landowners seeking these income tax credits must apply for a tax credit certificate with the Division of Real Estate. The Conservation Easement Oversight Commission (“CEOC”) is empowered to determine whether a given conservation easement donation is a qualified conservation contribution under the Internal Revenue Code. If the Director determines that the appraisal is credible and the CEOC determines that the donation is a qualified conservation contribution, then the Department of Revenue cannot disallow the tax credit on either of those grounds.
- Section attorneys have been working with the Division of Professions and Occupations as they formulate policies concerning the implementation of telemedicine in the health care field. The broader implementation of telemedicine will create a number of regulatory questions in the coming years due to cross-border licensing and supervision issues.
- Attorneys assisted with implementing new requirements for all Colorado licensed prescribers to register with the Colorado Prescription Drug Monitoring Program.
- The passage of HB 13-123 has resulted in a significant number of requests for “collateral relief” from the consequences of conviction on licensure in the state of Colorado. Section attorneys have worked with the appropriate DORA programs to ensure (where appropriate) the discretion of individual programs remains intact to consider the circumstances of conviction and other relevant factors when determining whether or not to issue a professional license or take disciplinary action.
- Following the passage of HB14-1328, the Broadband Deployment Board was created to facilitate access to broadband service to unserved areas of the State. The Board is charged with the duty to award money from the newly created “broadband fund,” based on criteria the Board is charged with developing, for new projects expanding broadband networks into unserved areas of Colorado.

- Many programs underwent sunset review for 2014, including the Colorado Dental Board. When a program goes through sunset review, section attorneys will work closely with the program to ensure that the new statutes are being implemented properly and assist with rulemaking as appropriate.
- The Quad Regulator Policy for Prescribing and Dispensing Opioids was adopted by the Medical, Dental, Nursing and Pharmacy Boards in 2014. This was accomplished under the leadership of the Division of Professions and Occupations, in collaboration with the Nurse-Physician Advisory Task Force for Colorado Healthcare with advice from attorneys in the Attorney General's Office. Through the policy, the various Boards developed collaborative policies concerning providers prescribing or dispensing opioids to ensure that the same guidelines are in place. It is expected that these policies will help mitigate the over-prescribing, misuse, and abuse of opioids.

## KEY OUTCOMES

- B&L attorneys represented the Colorado Securities Commissioner in *Rome v. Providence Financial Services, Inc. et al.* a case against Perry Sawano and a second individual alleging that the defendants engaged in a scheme to defraud investors through their Ponzi scheme utilizing forged documents and bogus investments causing losses of over \$6 million. Sawano developed a series of 'alternative investments' through separate vehicles that he and others formed, including RMC Financial, LLC, Delta Real Estate Fund, Ltd., Aspen Ridge Investments, Inc. Colorado Income Properties, and Sierra Fund. The fraud dictated a large number of documents be forged including fictitious bank statements. Perry Sawano is now barred from engaging in any regulated securities activities within the state of Colorado and the State obtained a judgment for \$6,103,448.
- Section attorneys represented the Division of Insurance in bringing an action against Homeland HealthCare and a number of other parties after an investigation by the Division revealed that the insurance producers made false statements and that there were over 1,100 insurance policies sold by non-licensed insurance producers affiliated with Homeland HealthCare. As a part of the settlement, the Section was able to obtain a stipulation and final agency order that required a five year compliance period, a comprehensive corrective action and reporting plan, and a \$500,000 civil penalty, with \$250,000 stayed upon strict compliance with the plan.

In addition to the important work Department of Law employees do on behalf of the State of Colorado, our employees are active in their communities and devote significant amounts of time to a broad variety of organizations. Whether through teaching or speaking on their areas of professional expertise, providing pro bono legal services to charitable organizations and those with limited means, or volunteering time to schools, bar association activities, other community groups, or military reserve duty, Department of Law employees are committed to public service.

### TEACHING AND SPEAKING ACTIVITIES

Department employees proudly assume the responsibility of serving as a unique resource to educate, inform, and assist stakeholders and constituencies, both inside and outside of Colorado, including the legal community, law enforcement, business leaders, students, and other government officials. Throughout 2014, our employees taught courses to hundreds of individuals on a wide variety of topics throughout Colorado, the United States, and beyond.

For example:

- Our attorneys and investigators partnered with the Conference of Western Attorneys General in November 2014 to teach various legal advocacy and investigation-related programs to 39 Mexican prosecutors and investigators.
- One attorney prepared and taught 25 separate courses in 2014 to well over 800 American and international students and was published by the professional periodical, “The Prosecutor” in the two-part series entitled, “The Reality of Evolving Standards and the Death Penalty.”
- An investigator served as the President of the Colorado Auto Theft Investigator’s Association and was in charge of training over 600 investigators and insurance industry professionals. The investigator and a unit attorney instructed investigators throughout the State on the new Chop Shop Activity and Insurance Fraud laws enacted earlier in 2014, as well as on investigative techniques in support of prosecuting these diverse auto theft related crimes.
- Attorneys conducted more than 15 training sessions across the State, educating managers and human resources professionals from nearly every state agency on the State Personnel System.
- An attorney presented to the Colorado Airport Operators Association on the formation and foundation of the Division of Aeronautics and the Discretionary Grant Program.

- An attorney presented on a panel at the 2014 Public Health Law Conference put on by the Network for Public Health Law, the American Society of Law, Medicine & Ethics, and the Robert Wood Johnson Foundation, resulting in a published article.
- Attorneys have presented at continuing legal education seminars regarding a wide variety of issues, including marijuana regulation, bankruptcy matters, administrative law, as well as water law and endangered species issues.
- Attorneys spoke at National Association of Attorneys General events on human trafficking, veterans, and consumer protection issues.

## **PRO BONO ACTIVITIES**

In 2014, the Department of Law hosted monthly clinics through the Post Decree Clinic Family Law Program in coordination with Metro Volunteer Lawyers, alternating months in Arapahoe and Adams County district courts. Our attorneys provided assistance on child custody and parenting time issues for low income families in need.

Department of Law attorneys also regularly volunteered their time through a variety of other groups, including the Colorado Lawyers' Committee, Legal Aid Foundation, Legal Nights in Denver and El Centro, as well as through broad participation in judging moot and mock trial competitions held at high schools and the University of Denver's Sturm College of Law and the University of Colorado Law School, and bar association committees. Our attorneys also serve as members of the Local Rules Committee of the U.S. Bankruptcy Court for the District of Colorado and other state rules committees, as well as on the Colorado Supreme Court Hearing Board, Board of Law Examiners Character and Fitness Committee, and the Chief Justice's Commission on Professionalism.

## **PROFESSIONAL AWARDS, RECOGNITION, AND LEADERSHIP**

Department of Law employees receive awards and are recognized for their professional work and leadership in a variety of settings. For example:

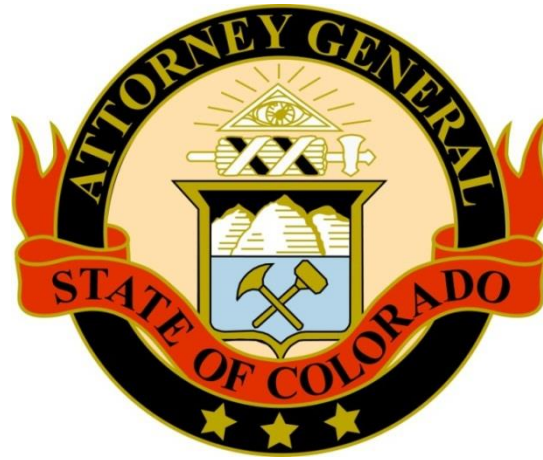
- An attorney received an award from the Office of the Inspector General at the U.S. Department of Housing and Urban Development in recognition of her role in the National Mortgage Settlement and in investigating loss mitigation efforts on Fair Housing Act loans.

- An attorney received the 2014 Faculty of the Year Award from the National Association of Attorneys General Training and Research Institute (NAGTRI) and has continued as a national trainer for NAGTRI and NAAG on human trafficking. This same attorney also taught human trafficking related courses for the Colorado District Attorneys Council, the Colorado Women's Bar Association, the Mexican Consulate, and students at Bradley University in Illinois.
- An attorney served as President of the National Association of State Charity Officials (NASCO) Board.
- Two attorneys won the prestigious Coalition Against Insurance Fraud Prosecutor of the Year Award for their work on a complex insurance fraud prosecution.
- The head of DOL's Safe2Tell™ program was a finalist for the Colorado Springs Athena Award, presented to select women in Colorado Springs for their professional excellence, community service, and active mentoring on professional excellence and leadership skills. She was also named as a 2014 Woman of Influence by the Colorado Springs Business Journal.
- An attorney served as Chairman of the Arapahoe County Citizens' Review Panel, a group appointed by the Board of County Commissioners to hear complaints against the Arapahoe County Department of Social Services, Child Protective Services Unit.

## **OTHER COMMUNITY ACTIVITIES**

Department of Law employees volunteer their time serving on a wide range of community boards, including:

- Mentoring, volunteering, and fundraising through and on behalf of Big Brothers Big Sisters, Colorado Scholarship Coalition, Colorado Youth at Risk, Combat Veterans Cowboy Up, Denver Kids, Inc., Denver Rescue Mission, Habitat for Humanity, Mission Wear, Project Angel Heart, Project Safeguard, and the Wheels of Justice Team annual Courage Classic, a 3-day bicycle ride to benefit Children's Hospital Colorado; and
- Serving as board members for Boettcher Foundation Alumni, City Park Jazz, Citizens Advisory Board for the partnership between St. Joseph Hospital and National Jewish Health, Colorado Open Lands, Colorado Ovarian Cancer Alliance, Denver Dumb Friends League, Denver Kids Young Professionals, Denver Park People, Denver Women's Commission, Live by Living, and University of Colorado's Presidents Leadership Class Alumni Club Board.



**COLORADO DEPARTMENT OF LAW**

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