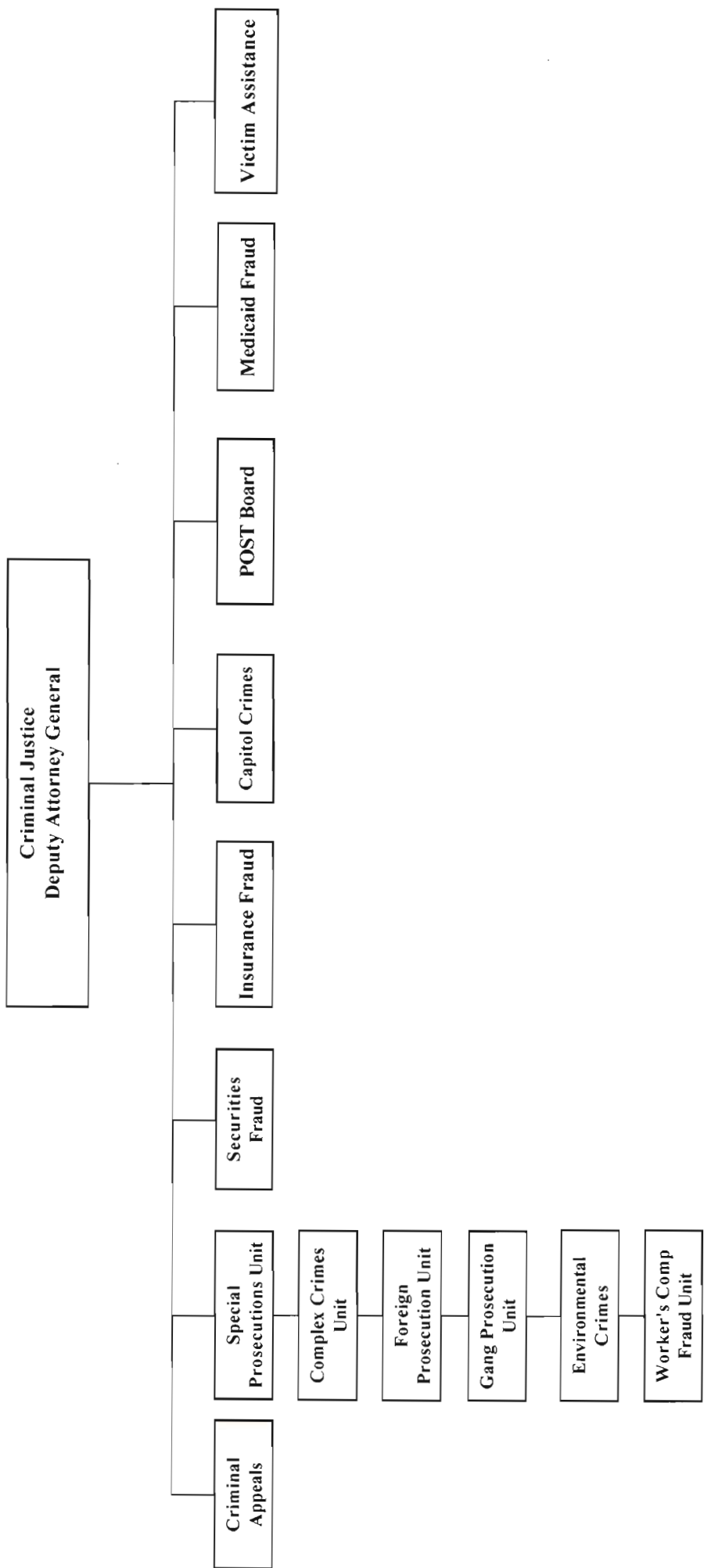


**Criminal Justice & Appellate Section**





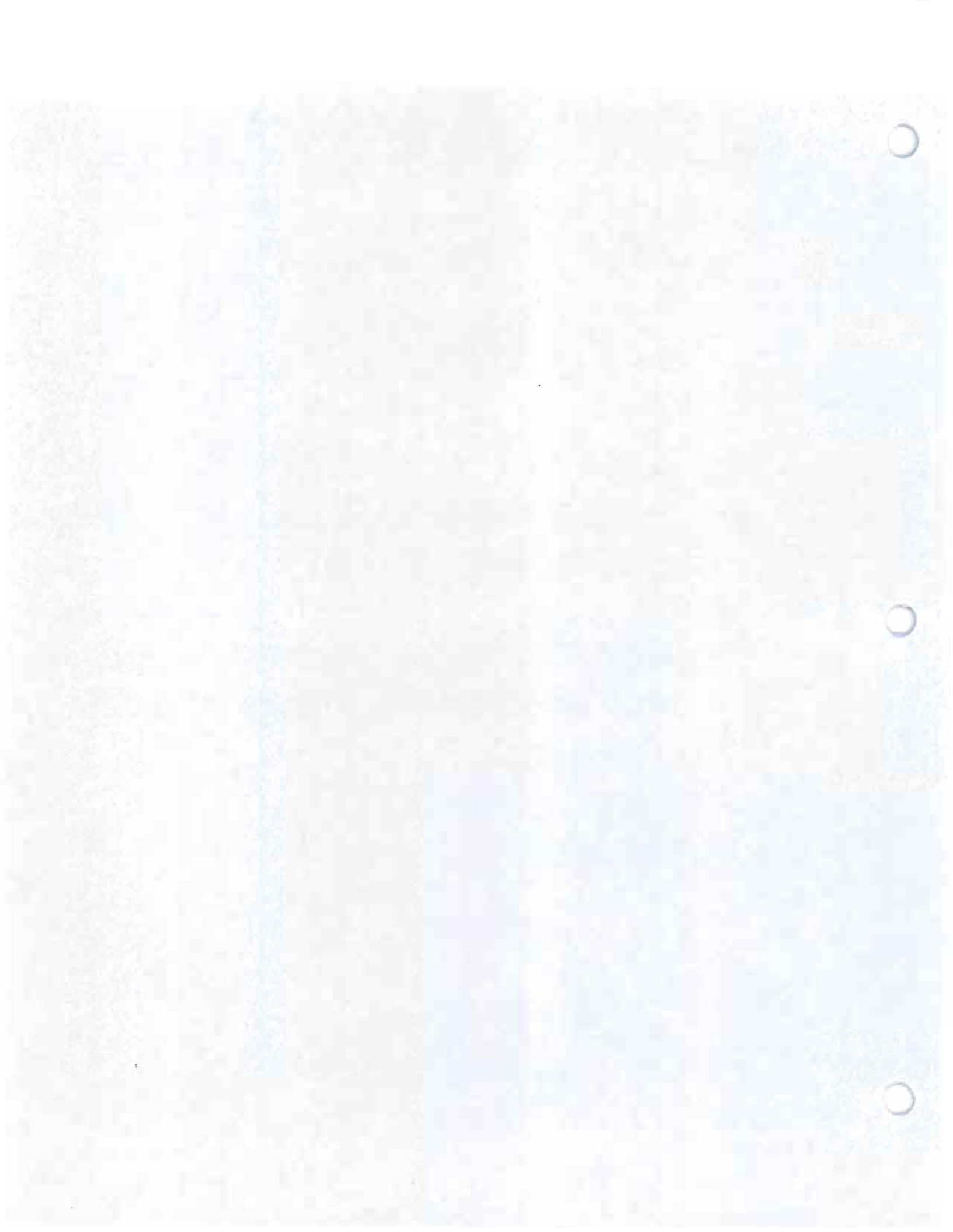
# **FY09-10 Reconciliation of Request**

## **Criminal Justice & Appellate**

### **(New Format)**

- A. SP Unit**
- B. Insurance Fraud Unit**
- C. Securities Fraud Unit**
- D. Appellate**
- E. Medicaid Fraud Grant**
- F. Capital Crimes Prosecutions**
- G. POST Board**
- H. Victim's Assistance**
- I. CJ&A Indirect**





DEPARTMENT OF LAW

FY 2009-10 RECONCILIATION OF DEPARTMENT REQUEST

(3) Criminal Justice and Appellate

Long Bill Line Item	Total Funds	FTE	General Fund	Cash Funds	Reappropriated Funds	Federal Funds
<b>(A) Special Prosecution Unit</b>						
Personal Services						
FY 2008-09 Long Bill Appropriation (HB 08-1375)	\$1,141,542	12.8	\$945,320	\$196,222	\$0	\$0
Prior Year Salary Survey	\$30,810	0.0	\$25,011	\$5,799	\$0	\$0
Prior Year Performance-based Pay	\$13,155	0.0	\$10,882	\$2,273	\$0	\$0
Vacancy Savings Reduction	\$0	0.0	\$0	\$0	\$0	\$0
<b>FY 09-10 Base Request</b>	<b>\$1,185,507</b>	<b>12.8</b>	<b>\$981,213</b>	<b>\$204,294</b>	<b>\$0</b>	<b>\$0</b>
Operating Expenses						
FY 2008-09 Long Bill Appropriation (HB 08-1375)	\$101,874	0.0	\$84,363	\$17,511	\$0	\$0
<b>FY 09-10 Base Request</b>	<b>\$101,874</b>	<b>0.0</b>	<b>\$84,363</b>	<b>\$17,511</b>	<b>\$0</b>	<b>\$0</b>
<b>FY 2009-10 Base Request - Special Prosecution Unit</b>	<b>\$1,287,381</b>	<b>12.8</b>	<b>\$1,065,576</b>	<b>\$221,805</b>	<b>\$0</b>	<b>\$0</b>
Decision Item Requests						
FY09-10 DI - #1 Consolidation of SP Unit	\$1,537,759	17.2	\$519,950	\$1,017,809		
FY09-10 DI - #2 Additional FTE for SP	\$213,326	2.0	\$142,275	\$71,051		
FY09-10 NP- #2 Vehicle Operating Increase	\$1,361		\$1,361			
<b>FY 2009-10 November 1st Request - Special Prosecution Unit</b>	<b>\$3,039,827</b>	<b>32.0</b>	<b>\$1,729,162</b>	<b>\$1,310,665</b>	<b>\$0</b>	<b>\$0</b>
<b>FY 2008-09 Previous Year Request - Special Prosecution Unit</b>	<b>\$1,243,416</b>	<b>12.8</b>	<b>\$1,029,683</b>	<b>\$213,733</b>	<b>\$0</b>	<b>\$0</b>

DEPARTMENT OF LAW

FY 2009-10 RECONCILIATION OF DEPARTMENT REQUEST

(3) Criminal Justice and Appellate

Long Bill Line Item	Total Funds	FTE	General Fund	Cash Funds	Reappropriated Funds	Federal Funds
<b>(B) Insurance Fraud Unit</b>						
<b>Personal Services</b>						
FY 2008-09 Long Bill Appropriation (HB 08-1375)	\$583,679	7.6	\$0	\$0	\$583,679	\$0
Prior Year Salary Survey	\$16,071	0.0	\$0	\$0	\$16,071	\$0
Prior Year Performance-based Pay	\$6,289	0.0	\$0	\$0	\$6,289	\$0
Vacancy Savings Reduction	\$0	0.0	\$0	\$0	\$0	\$0
<b>FY 09-10 Base Request</b>	<b>\$606,039</b>	<b>7.6</b>	<b>\$0</b>	<b>\$0</b>	<b>\$606,039</b>	<b>\$0</b>
<b>Operating Expenses</b>						
FY 2008-09 Long Bill Appropriation (HB 08-1375)	\$36,296	0.0	\$0	\$0	\$36,296	\$0
<b>FY 09-10 Base Request</b>	<b>\$36,296</b>	<b>0.0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$36,296</b>	<b>\$0</b>
<b>FY 2009-10 Base Request - Insurance Fraud Unit</b>	<b>\$642,335</b>	<b>7.6</b>	<b>\$0</b>	<b>\$0</b>	<b>\$642,335</b>	<b>\$0</b>
<b>Decision Item Requests</b>						
FY09-10 NP- #2 Vehicle Operating Increase	\$544		\$0	\$0	\$544	\$0
FY09-10 DI - #1 Consolidation of SP Unit	(\$642,879)	(7.6)	\$0	\$0	(\$642,879)	\$0
<b>FY 2009-10 November 1st Request - Insurance Fraud Unit</b>	<b>\$0</b>	<b>0.0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>FY 2008-09 Previous Year Request - Insurance Fraud Unit</b>	<b>\$619,975</b>	<b>7.6</b>	<b>\$0</b>	<b>\$0</b>	<b>\$619,975</b>	<b>\$0</b>

DEPARTMENT OF LAW

FY 2009-10 RECONCILIATION OF DEPARTMENT REQUEST

(3) Criminal Justice and Appellate

Long Bill Line Item	Total Funds	FTE	General Fund	Cash Funds	Reappropriated Funds	Federal Funds
<b>(C) Securities Fraud Unit</b>						
<b>Personal Services</b>						
FY 2008-09 Long Bill Appropriation (HB 08-1375)	\$466,710	5.6	\$118,549	\$0	\$348,161	\$0
Prior Year Salary Survey	\$13,968	0.0	\$4,152	\$0	\$9,816	\$0
Prior Year Performance-based Pay	\$3,355	0.0	\$1,791	\$0	\$3,564	\$0
Vacancy Savings Reduction	\$0	0.0	\$0	\$0	\$0	\$0
<b>FY 09-10 Base Request</b>	<b>\$486,033</b>	<b>5.6</b>	<b>\$124,492</b>	<b>\$0</b>	<b>\$361,541</b>	<b>\$0</b>
<b>Operating Expenses</b>						
FY 2008-09 Long Bill Appropriation (HB 08-1375)	\$17,583	0.0	\$4,466	\$0	\$13,117	\$0
<b>FY 09-10 Base Request</b>	<b>\$17,583</b>	<b>0.0</b>	<b>\$4,466</b>	<b>\$0</b>	<b>\$13,117</b>	<b>\$0</b>
<b>FY 2009-10 Base Request - Securities Fraud Unit</b>	<b>\$503,616</b>	<b>5.6</b>	<b>\$128,958</b>	<b>\$0</b>	<b>\$374,658</b>	<b>\$0</b>
<b>Decision Item Requests</b>						
FY09-10 NP- #2 Vehicle Operating Increase	\$272		\$0	\$0	\$272	
FY09-10 DI - #1 Consolidation of SP Unit	(\$503,888)	(5.6)	(\$128,958)	\$0	(\$374,930)	
<b>FY 2009-10 November 1st Request - Securities Fraud Unit</b>	<b>\$0</b>	<b>0.0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>FY 2008-09 Previous Year Request - Securities Fraud Unit</b>	<b>\$484,293</b>	<b>5.6</b>	<b>\$123,015</b>	<b>\$0</b>	<b>\$361,278</b>	<b>\$0</b>

DEPARTMENT OF LAW

FY 2009-10 RECONCILIATION OF DEPARTMENT REQUEST

(3) Criminal Justice and Appellate

Long Bill Line Item	Total Funds	FTE	General Fund	Cash Funds	Reappropriated Funds	Federal Funds
<b>(D) Appellate Unit</b>						
Personal Services						
FY 2008-09 Long Bill Appropriation (HB 08-1375)	\$2,311,191	30.0	\$2,311,191	\$0	\$0	\$0
Prior Year Salary Survey	\$80,097	0.0	\$80,097	\$0	\$0	\$0
Prior Year Performance-based Pay	\$25,328	0.0	\$25,328	\$0	\$0	\$0
Vacancy Savings Reduction	\$0	0.0	\$0	\$0	\$0	\$0
<b>FY 09-10 Base Request</b>	<b>\$2,416,616</b>	<b>30.0</b>	<b>\$2,416,616</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Operating Expenses						
FY 2008-09 Long Bill Appropriation (HB 08-1375)	\$125,868	0.0	\$125,868	\$0	\$0	\$0
<b>FY 09-10 Base Request</b>	<b>\$125,868</b>	<b>0.0</b>	<b>\$125,868</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>FY 2009-10 Base Request - Appellate Unit</b>	<b>\$2,542,484</b>	<b>30.0</b>	<b>\$2,542,484</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Decision Item Requests						
FY09-10 NP - #3 DPA Postage Increase	\$304		\$304	\$0	\$0	\$0
Special Bill Annualization						
HB 07-1054 Annualization "Increase Judges"	\$259,545	3.0	\$259,545	\$0	\$0	\$0
<b>FY 2009-10 November 1st Request - Appellate Unit</b>	<b>\$2,802,333</b>	<b>33.0</b>	<b>\$2,802,333</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>FY 2008-09 Previous Year Request - Appellate Unit</b>	<b>\$2,437,059</b>	<b>30.0</b>	<b>\$2,437,059</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>



DEPARTMENT OF LAW  
 FY 2009-10 RECONCILIATION OF DEPARTMENT REQUEST  
 (3) Criminal Justice and Appellate

Long Bill Line Item	Total Funds	FTE	General Fund	Cash Funds	Reappropriated Funds	Federal Funds
<b>(E) Medicaid Fraud Unit</b>						
<b>Personal Services</b>						
FY 2008-09 Long Bill Appropriation (HB 08-1375)	\$1,273,125	14.0	\$318,281	\$0	\$0	\$954,844
Prior Year Salary Survey	\$25,538	0.0	\$1,593	\$0	\$0	\$23,945
Prior Year Performance-based Pay	\$12,520	0.0	\$3,130	\$0	\$0	\$9,390
Vacancy Savings Reduction	\$0	0.0	\$0	\$0	\$0	\$0
<b>FY 09-10 Base Request</b>	<b>\$1,311,183</b>	<b>14.0</b>	<b>\$323,004</b>	<b>\$0</b>	<b>\$0</b>	<b>\$988,179</b>
<b>Operating Expenses</b>						
FY 2008-09 Long Bill Appropriation (HB 08-1375)	\$57,683	0.0	\$14,421	\$0	\$0	\$43,262
<b>FY 09-10 Base Request</b>	<b>\$57,683</b>	<b>0.0</b>	<b>\$14,421</b>	<b>\$0</b>	<b>\$0</b>	<b>\$43,262</b>
<b>Fund Remix (return to 25/75 funding split)</b>	<b>\$0</b>		<b>\$4,850</b>	<b>\$0</b>	<b>\$0</b>	<b>(\$4,850)</b>
<b>FY 2009-10 November 1st Request - Medicaid Fraud Unit</b>	<b>\$1,368,866</b>	<b>14.0</b>	<b>\$342,275</b>	<b>\$0</b>	<b>\$0</b>	<b>\$1,026,591</b>
<b>FY 2008-09 Previous Year Request - Medicaid Fraud Unit</b>	<b>\$1,330,808</b>	<b>14.0</b>	<b>\$332,702</b>	<b>\$0</b>	<b>\$0</b>	<b>\$998,106</b>

DEPARTMENT OF LAW

FY 2009-10 RECONCILIATION OF DEPARTMENT REQUEST

(3) Criminal Justice and Appellate

Long Bill Line Item	Total Funds	FTE	General Fund	Cash Funds	Reappropriated Funds	Federal Funds
(F) Capital Crimes Prosecution Unit						
Personal Services						
FY 2008-09 Long Bill Appropriation (HB 08-1375)	\$343,179	4.0	\$343,179	\$0	\$0	\$0
Prior Year Salary Survey	\$9,883	0.0	\$9,883	\$0	\$0	\$0
Prior Year Performance-based Pay	\$3,920	0.0	\$3,920	\$0	\$0	\$0
Vacancy Savings Reduction	\$0	0.0	\$0	\$0	\$0	\$0
FY 09-10 Base Request	\$356,982	4.0	\$356,982	\$0	\$0	\$0
Operating Expenses						
FY 2008-09 Long Bill Appropriation (HB 08-1375)	\$33,465	0.0	\$33,465	\$0	\$0	\$0
FY 09-10 Base Request	\$33,465	0.0	\$33,465	\$0	\$0	\$0
FY 2009-10 Base Request - Capital Crime Prosecution Unit	\$390,447	4.0	\$390,447	\$0	\$0	\$0
Decision Item Requests						
FY09-10 NP- #2 Vehicle Operating Increase	\$544		\$544	\$0	\$0	\$0
FY09-10 DI - #1 Consolidation of SP Unit	(\$390,991)	(4.0)	(\$390,991)	\$0	\$0	\$0
FY 2009-10 November 1st Request - Capital Crimes Unit	\$0	0.0	\$0	\$0	\$0	\$0
FY 2008-09 Previous Year Request - Capital Crime Prosecution Unit	\$376,644	4.0	\$376,644	\$0	\$0	\$0

DEPARTMENT OF LAW

FY 2009-10 RECONCILIATION OF DEPARTMENT REQUEST

(3) Criminal Justice and Appellate

Long Bill Line Item	Total Funds	FTE	General Fund	Cash Funds	Reappropriated Funds	Federal Funds
<b>(G) Peace Officers Standards and Training Board</b>						
<b>Personal Services</b>						
FY 2008-09 Long Bill Appropriation (HB 08-1375)	\$415,400	6.0	\$0	\$415,400	\$0	\$0
Prior Year Salary Survey	\$15,320	0.0	\$0	\$15,320	\$0	\$0
Prior Year Performance-based Pay	\$4,434	0.0	\$0	\$4,434	\$0	\$0
Vacancy Savings Reduction	\$0	0.0	\$0	\$0	\$0	\$0
<b>FY 09-10 Base Request</b>	<b>\$435,154</b>	<b>6.0</b>	<b>\$0</b>	<b>\$435,154</b>	<b>\$0</b>	<b>\$0</b>
<b>Operating Expenses</b>						
FY 2008-09 Long Bill Appropriation (HB 08-1375)	\$41,332	0.0	\$0	\$41,332	\$0	\$0
<b>FY 09-10 Base Request</b>	<b>\$41,332</b>	<b>0.0</b>	<b>\$0</b>	<b>\$41,332</b>	<b>\$0</b>	<b>\$0</b>
<b>POST Training Grant</b>						
FY 09-10 Base Request	\$720,000	0.0	\$0	\$720,000	\$0	\$0
<b>FY 09-10 Base Request</b>	<b>\$720,000</b>	<b>0.0</b>	<b>\$0</b>	<b>\$720,000</b>	<b>\$0</b>	<b>\$0</b>
<b>FY 2009-10 Base Request - POST</b>	<b>\$1,196,486</b>	<b>0.0</b>	<b>\$0</b>	<b>\$1,196,486</b>	<b>\$0</b>	<b>\$0</b>
<b>Decision Items and Special Bills</b>						
HB 08-1397 Special Bill FY 08-09 Appropriation	\$81,207		\$81,207	\$0	\$0	\$0
HB 08-1397 Annualization "DNA Bill"	\$16,293		\$16,293	\$0	\$0	\$0
FY09-10 NP- #3 - DPA Postage Increase	\$489		\$0	\$489	\$0	\$0
<b>FY 2009-10 November 1st Request - Post Board</b>	<b>\$1,294,475</b>	<b>6.0</b>	<b>\$97,500</b>	<b>\$1,196,975</b>	<b>\$0</b>	<b>\$0</b>
<b>FY 2008-09 Previous Year Request - POST</b>	<b>\$1,176,732</b>	<b>6.0</b>	<b>\$0</b>	<b>\$1,176,732</b>	<b>\$0</b>	<b>\$0</b>

DEPARTMENT OF LAW

FY 2009-10 RECONCILIATION OF DEPARTMENT REQUEST

(3) Criminal Justice and Appellate

Long Bill Line Item	Total Funds	FTE	General Fund	Cash Funds	Reappropriated Funds	Federal Funds
(H) Victims Assistance Unit						
Personal Services						
FY 2008-09 Long Bill Appropriation (HB 08-1375)	\$72,043	1.0	\$0	\$0	\$72,043	\$0
Prior Year Salary Survey	\$2,960	0.0	\$2,960	\$0	\$0	\$0
Prior Year Performance-based Pay	\$845	0.0	\$845	\$0	\$0	\$0
Vacancy Savings Reduction	\$0	0.0	\$0	\$0	\$0	\$0
FY 09-10 Base Request	\$75,848	1.0	\$3,805	\$0	\$72,043	\$0
Operating Expenses						
FY 2008-09 Long Bill Appropriation (HB 08-1375)	\$106	0.0	\$0	\$0	\$106	\$0
FY 09-10 Base Request	\$106	0.0	\$0	\$0	\$106	\$0
FY 2009-10 Base Request - Victims Assistance Unit	\$75,954	1.0	\$3,805	\$0	\$72,149	\$0
Decision Items and Special Bills						
FY09-10 NP- #3 - DPA Postage Increase	\$132		\$132	\$0	\$0	\$0
Refinance the Line	\$0		(\$3,607)	\$0	\$3,607	\$0
FY 2009-10 November 1st Request - Victim Assistance	\$76,086	0.0	\$330	\$0	\$75,756	\$0
FY 2008-09 Previous Year Request - Victims Assistance Unit	\$72,149	1.0	\$0	\$0	\$72,149	\$0

DEPARTMENT OF LAW

FY 2009-10 RECONCILIATION OF DEPARTMENT REQUEST

(3) Criminal Justice and Appellate

Long Bill Line Item	Total Funds	FTE	General Fund	Cash Funds	Reappropriated Funds	Federal Funds
(I) Indirect Cost Assessment						
FY 2008-09 Long Bill Appropriation (HB 08-1375)	\$247,395	0.0	\$0	\$106,744	\$140,651	\$0
FY 2009-10 November 1st Request - Indirect Cost Assessment	\$247,395	0.0	\$0	\$106,744	\$140,651	\$0
FY 2008-09 Previous Year Request - Indirect Cost Assessment	\$247,395	0.0	\$0	\$104,275	\$137,398	\$0
(S) Criminal Justice and Appellate						
FY 2008-09 Total Appropriation (Long Bill plus Special Bills)	\$7,988,471	81.0	\$4,299,103	\$1,494,740	\$1,190,800	\$998,106
FY 2009-10 Base Request	\$8,828,982	90.6	\$4,971,600	\$2,614,384	\$216,407	\$1,026,591

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# Narrative Criminal Justice





1. The first step is to identify the problem.

2. Next, we need to gather information.

3. Then, we should analyze the data.

4. Finally, we can implement the solution.

5. The last step is to evaluate the results.



## **I) BACKGROUND INFORMATION: CRIMINAL JUSTICE UNIT.**

The Criminal Justice Section consists of a total of 15 attorneys, 23 investigators, 8 support staff and two administrative professionals. Colorado statutes provide that the Attorney General's Office has criminal jurisdiction to: 1) Represent the state on appeals of all felony convictions, 2) To pursue trial level prosecutions of certain offenses, 3) To oversee certification and training of peace officers, and 4) Provide victim services for Department of Law cases. We also provide all legal counsel for the Department of Public Safety, Colorado Bureau of Investigation, Colorado State Patrol, Department of Criminal Justice, and the newly formed Office of Preparedness, Security, and Fire Safety.

**Special Prosecution Unit:** This unit has six areas of prosecution: Environmental Crimes, Complex Crimes, Gang Prosecutions, Worker's Compensation Fraud, Capital Crimes and Foreign Prosecutions (murder fugitives in Mexico.)

**Securities and Insurance Fraud Unit:** This unit was recently consolidated to improve prosecution efficiency. The two areas of fraud prosecution are: Securities Fraud and Insurance Fraud.

**Medicaid Fraud Control Unit:** The State of Colorado spends \$1.9 billion a year on its Medicaid program serving over 292,000 recipients. This Unit investigates: 1) Providers who fraudulently divert Medicaid Funds, and 2) Allegations of patient abuse (physical, sexual, and financial) in which the victims are Medicaid recipients. **The Medicaid Unit secured a grant to educate and train service law enforcement/ prosecutors regarding elder abuse investigations and prosecutions.**

**Capital Crimes Unit:** The Capital Crimes Unit ("CCU") was created by the Legislature in fiscal year 1994-1995 to assist District Attorneys by providing additional investigative and prosecutorial resources in an effort to more effectively analyze and implement the death penalty for offenders who truly deserve it given the commission of especially aggravated and brutal homicides. In addition to assisting in the prosecution of cases determined by the District Attorney to warrant filing of the death penalty, the Unit also provides investigative assistance concerning aggravated homicides and cold case homicides throughout the state.

**Victim Services:** It is often a complex and drawn out process as a criminal prosecution works its way through the justice system. Victims of serious crimes have a real need to know what is happening with their cases and when it will be over. The Attorney General Victim Service Coordinator assists over 1200 victims of felonies each year. The Coordinator also works with the other victim services providers to insure the best services possible at every step of the proceedings.

**P.O.S.T. Board and Staff:** The Peace Officers' Standards and Training Board is responsible for: 1) Basic officer training and certification standards and tests, 2) Inspections of the 40 academies, 3) Review and updates of the course curriculums, and 4) Revocation and denial of individual officer certification.

**Department of Public Safety:** Department of Public Safety includes the State Patrol, Colorado Bureau of Investigation and other state agencies. One designated attorney provides legal services to the 1300 employees of the Department of Public Safety. This work includes everything from rulemaking and contract review to counsel on discipline or termination of employees.

# Narrative

# Special Prosecutions





## **D) BACKGROUND INFORMATION: SPECIAL PROSECUTION SECTION.**

The Attorney General's trial prosecution efforts are focused in seven areas: 1) Workers' Compensation Fraud, 2) Complex Crimes, 3) Environmental Crimes, 4) Gang Prosecution, and 5) Foreign Prosecutions. Of these duties, the "Special Prosecutions Unit" (hereinafter SPU) dealt with all five areas in FY 08: Complex Crimes, Environmental Crimes, Gang and Organized Criminal Enterprise Prosecutions, Foreign Prosecutions, and Worker's Compensation Fraud. The SPU is also involved in several outreach programs associated with mitigating gang activity, preventing school violence and responding to child abductions.

In FY 08 the SPU consisted of 12.8 FTE: five full-time attorneys, five investigators and one legal assistant, one program assistant and .8 of the Deputy AG for Criminal Justice.

This past fiscal year has been marked by several personnel changes to both the management and line attorney levels. Accordingly, exact caseload statistics are unavailable as several people have transitioned out of the office.

The best review of the Special Prosecutions Line Item is provided by an individual review of each of four subject areas:

### **1. Complex Crimes:**

The Complex Crimes Unit prosecutes cases that: 1) Are referred to us because of our specialized knowledge or experience or 2) Are multi-jurisdictional cases investigated through the use of the state grand jury and local District Attorneys requested we continue to prosecute the cases.

This unit derives its authority to investigate and prosecute from three sources: a) statutory authority granted directly to the Attorney General; b) appointment by a local District Attorney to act as a Special Deputy District Attorney; and c) gubernatorial order.

Complex crimes matters required the efforts of four attorneys and three investigators. Several areas of expertise include racketeering cases, domestic terrorism, identity fraud, large check fraud schemes, methamphetamine rings, mortgage fraud and tax fraud.

One of the investigators and one of the prosecutors allocate a portion of their time to gang prosecutions as needed. The remaining complex crime prosecutors focused on the financial and narcotic crimes associated with the gang activities and organized criminal enterprises.

## **2. Environmental Crimes Unit**

The primary function of the Environmental Crimes Unit is to investigate and prosecute and assure remediation for environmental crimes occurring in the State of Colorado. The unit also provides investigative and prosecutorial expertise and support to statewide law enforcement efforts against entities committing environmental crimes in the state. The unit also coordinates a state/federal task force for the purpose of engendering an interrelated effort to contend with environmental crimes affecting Colorado. Members of the unit also work with the Colorado Department of Public Health and Environment and the United States Environmental Protection Agency to increase awareness and recognition of environmental crimes through training programs directed at local regulators, law enforcement, and other agencies intimately related to the management of Colorado's resources.

The unit derives its authority from statutory authority granted directly to the Attorney General and special appointment by district attorneys. The Unit consists of one Attorney General Prosecutor, a Special Assistant Attorney General as needed on loan from the Environmental Protection Agency, an Attorney General Investigator, and a criminal investigator on loan from the Environmental Protection Agency's Criminal Investigations Division. All costs associated with the EPA Attorney and Investigator are borne by the EPA. The unit investigates and prosecutes environmental crimes regardless of media (i.e. hazardous waste, hazardous substances, water and air) using existing environmental statutes and other crimes enumerated in the criminal code when applicable.

## **3. Gang Prosecution Unit**

Gangs are a continuing problem in Colorado. The Gang Prosecutions Subunit ("GPU") began in 2000 with a mission to decrease the impact gangs have on the community. Since the inception of the unit, we have indicted over 61 gang members on over 100 felony charges. The majority gang members have been indicted on racketeering related charges. These prosecutions have all resulted in felony convictions and dozens of years in prison sentences. The GPU works to accomplish that goal through collaborative efforts with other agencies. The GPU prosecutes gang-related multi-jurisdictional crimes. Since the GPU started, many gang members have been successfully indicted and convicted under the Colorado Organized Crime Control Act ("COCCA").

The COCCA laws are similar to federal racketeering laws. Racketeering cases are complex, and demand a lot of resources to adequately investigate and prosecute. Investigations often requires months of collaborative work with numerous agencies before sufficient evidence exists to prosecute these cases. The complexity of these large, multi-jurisdictional cases demand prosecution by experienced attorneys.

In addition to investigation and prosecution, the GPU should be involved with community outreach. Currently, an attorney from the GPU is a legal advisor to the Colorado Gang Advisory Board ("COG"). The other COG board members are representatives from the Colorado Bureau of Investigations and Colorado law

enforcement agencies. COG created and maintains a gang database that is used by law enforcement statewide. The GPU also provides educational outreach and training to prosecutors, police officers, school officials, mental health professionals, law enforcement commanders and corrections officials. Specifically, Investigator Gary Clyman continued to do law enforcement training and instruction teaching the Gang segment at two local POST training academies as well as the Terrorism block of instruction at three academies. Investigator Clyman teaches counter-terrorism courses for two federally funded (USDOJ) programs.

During most of a recent fiscal year a full time investigator was assigned to the Metro Gang Task Force (MGTF) to work a multi-agency investigation concerning a gang-motivated drug trafficking organization. This required a daily presence of the investigator at the MGTF off-site location in Aurora. The assignment included daily moving surveillance of targets in the metro Denver and Colorado Springs area, participation in planning and operation of undercover drug transactions, work in the listening post during the wiretap phase, interviewing subjects, search warrants, and informant development and management. While the specific investigation in the metro Denver and Colorado Springs area terminated, the relationship between the GPU and MGTF continues.

#### **4. Foreign Prosecutions**

Each year fugitives flee Colorado after committing homicides. There are presently 180 active arrest warrants for fugitives for Colorado murders. A number of these fugitives are reported to flee to Mexico every year. A review of CBI's database demonstrates that out of the 180 active murder warrants, 40 of the fugitives are believed to be Mexican citizens residing in Mexico.

There are two avenues available to states when attempting to prosecute fugitives that have fled to Mexico. First, the state may attempt to extradite the fugitive back to the United States for prosecution. Second, is the option to prosecute the fugitive in Mexico under Article IV of the Mexican Federal Penal Code. Extradition treaties exist between Mexico and the U.S. However, the Government of Mexico has been reluctant to extradite Mexican nationals back to the United States. There have been limited extraditions of Mexican nationals for serious drug offenses and certain aggravated murders.

The other option available in prosecuting fugitives in Mexico is prosecution in Mexico under Article IV of the Mexican Penal Code. This option, provided by the government of Mexico, is to try their citizens in Mexico for crimes committed in the U.S. If convicted, the offenders serve their sentence in a Mexican prison. In 2001, the General Assembly granted funding for a bilingual investigator at the Attorney General's Office to be the coordinator for Colorado Article IV prosecutions. Mexico's Article IV requires the case be submitted by either the State or Federal Attorney General. The FPU investigator works both with the Mexican Attorney General's Office (PGR), and Colorado law enforcement, to facilitate appropriate Article IV filings and prosecutions of Colorado cases.

## 5. Worker's Compensation

The primary function of the Workers' Compensation Fraud Unit is to provide investigative and prosecutorial expertise for statewide law enforcement efforts against employees and employers who perpetrate workers' compensation fraud on the Colorado Compensation Insurance Authority d/b/a Pinnacol Assurance. Cases are acted upon after the Special Investigation Unit at Pinnacol completes an initial investigation of possibly criminal behavior and refers the case to the Attorney General's Office for potential prosecution. The Workers' Compensation Fraud Unit reviews the case, performs additional investigation where necessary, and files appropriate criminal charges if warranted.

There are various types of workers' compensation fraud, including individuals who falsely claim injuries, individuals who are actually working while collecting benefits, individuals who are malingering in their injuries, subcontractors who falsely document having the required workers' compensation insurance and businesses which misrepresent the scope and nature of their business operations to avoid higher insurance premiums.

## II) PRIOR YEAR LEGISLATION

**HB 1082** – Sealing of Criminal Justice Records. (Rep. Ferrandino and Sen Bacon). Lowers time limit for allowing sealing of criminal justice records and creates a right to seal conviction records related to several crimes. May require hearings if sealing is objected to by the prosecutor in cases where an OAG prosecutor is the prosecutor of record.

**HB 1076** – Fees for Copies of Criminal Justice Records. (Rep. Ferrandino and Sen. Gordon). Amends fees that can be charged under Public Records Act. Provides that new rules should not apply to discovery materials already covered by C.R.Crim.P. 16. Should not result in significant impact to our section.

**HB 1397** – Disposition of Evidence in Criminal Cases. (Rep Jahn and Rep. King, Sen. Kopp and Sen. Gordon). Creates a duty upon law enforcement agencies to preserve evidence that may contain DNA and sets procedures and court proceedings to handle requests to allow the destruction of evidence. This legislation will require several more steps be taken procedurally in every case to ensure that no evidence is inadvertently destroyed without court approval. Prosecutors will likely be required to take additional steps and file additional motions to comply. POST is required to have a curriculum for training on the proper retention and collection techniques related to DNA evidence. A one time appropriation of \$81,000 was allotted to cover the initial cost of the development of this curriculum by POST, but no money is allotted to institute the training of peace officers on an ongoing basis. This funding will not be sufficient to provide ongoing training for peace officers throughout the state in upcoming years and the intent of the legislation will not be met without such funding.



**SB 205** – New Trial for Destroying Evidence. (Sen. Gordon and Sen. Mitchell, Rep. Jahn and Rep. King). Provides for new procedures regarding a defendant's remedies in the event of the destruction of evidence previously ordered preserved by the court attributed to law enforcement negligence. May result in significant hearings in the event that the significant pre-conditions are met and this issue is ever raised.

### **III) HOT ISSUES:**

1) Criminal Justice Section budgetary line item constraints.

The current restrictions on the criminal enforcement section imposed by the funding restrictions are limiting the unit's ability to handle cases and are an inefficient use of taxpayer dollars. There needs to be flexibility within the various units of special prosecution, insurance fraud, and securities fraud and capital crimes to allow cross-utilization of resources and personnel when necessary to handle difficult cases.

2) Lack of crime analyst/auditor.

In many of the cases handled by this section a significant need arises for the services of a financial crime analyst. This is especially true in insurance and securities cases. Consequently, over the years the section has hired numerous experts to analyze and audit financial records at a significant cost to the budget. Adding an in house analyst/auditor would be a highly efficient use of funding and provide for more expeditious case processing and resolution.

3) Investigation of the Peggy Hettrick homicide by Order of the Governor.

Last winter, Governor Ritter ordered the Criminal Justice Section to undertake the investigation of the 1987 murder of Peggy Hettrick. In the wake of last year's developments in that case, Defendant Timothy Masters was released from prison in early 2008. This office is now tasked with a renewed investigation of that murder. Apart from the afore-mentioned limitations placed upon the section by line item budgeting constraints, this investigation is a highly intensive effort that is using significant amounts of office resources and personnel time.

4) Investigation of Conservation Easement abuse by Order of the Governor.

Governor Ritter also ordered this section to undertake an investigation into the possibility of criminal conduct in the utilization of conservation easements in Colorado. While administrative actions have been taken against various individuals where appropriate, the task for this office is to determine whether or not there is criminal culpability in any of scenarios referred to this office for investigation. This matter is currently a topic of an ongoing investigation in the Statewide Grand Jury.

#### **IV) WORKLOAD MEASURE:**

### **WORKLOAD INDICATORS**

#### **1. Complex Crimes**

Objective: To utilize the Statewide Grand Jury to a greater extent and obtain at least 10 felony indictments.

Workload Measure		FY 07 Actual	FY 08 Actual	FY 09 Estimate	FY 10 Request
Grand Jury investigations initiated in FY. (individuals)		29	66		
Indictments obtained in FY (individuals)		29	52		

Objective: To open 40 new investigation files, file 25 new cases in court and obtain at least 15 felony convictions.

Workload Measure		FY 07 Actual	FY 08 Actual	FY 09 Estimate	FY 10 Request
Total new investigations opened (individual)		68	99		
Total new cases filed (individuals)		40	93		
Felony convictions obtained		38	57		
Misdemeanor convictions obtained		2	17		
Cases Closed		42	74		

Objective: to obtain restitution, fines and cost recoveries in appropriate cases.

Workload Measure		FY 07 Actual	FY 08 Actual	FY 09 Estimate	FY 10 Request
Fines, costs and restitution ordered.			\$587,800		

Objective: To participate in multi-jurisdictional case-driven task forces and information exchanging work groups.

Workload Measure		FY 07 Actual	FY 08 Actual	FY 09 Estimate	FY 10 Request
Intergovernmental Cooperation		25	20		

Objective: To continue in multi-jurisdiction case-driven task forces and information exchanging work groups.

Workload Measure		FY 07 Actual	FY 08 Actual	FY 09 Estimate	FY 10 Request
Training sessions given.		12	13		

## 2. Environmental Crimes Unit

Objective: Maintain the effort of the Environmental Crimes Prosecution Unit to work in collaborative effort with local law enforcement, local emergency response personnel, District Attorneys, the Colorado Department of Public Health and Environment and the US Environmental Protection Agency.

Workload Measure		FY 07 Actual	FY 08 Actual	FY 09 Estimate	FY 10 Request
Draft proposal to secure federal funding or support of a cooperative criminal enforcement effort to combat environmental crimes within the borders of the State of Colorado		50%	50%		

Objective: To enforce compliance with existing environmental laws and regulations through investigation and prosecution of environmental crimes.

Workload Measure		FY 07 Actual	FY 08 Actual	FY 09 Estimate	FY 10 Request
New investigations opened		15	11		
New cases filed		8	6		
Felony convictions obtained		6	2		
Cases closed		9	5		
Jury trials		0	0		
Court trials		0	0		

Objective: To increase the State of Colorado's participation in cohesive state and federal effort to combat environmental crimes.

Workload Measure		FY 07 Actual	FY 08 Actual	FY 09 Estimate	FY 10 Request
Increase membership participation in state/federal task forces and unified state environmental programs		2	2		

Objective: To increase awareness of environmental criminal activity within the State of Colorado by conducting statewide training.

Workload Measure		FY 07 Actual	FY 08 Actual	FY 09 Estimate	FY 10 Request
Conduct local/state/federal awareness training to entities concerned with Colorado's environment		2	2		

### 3. Gang Prosecution Unit

Objective: To prosecute gang members, with the State Grand Jury, for multi-jurisdictional criminal activities.

Workload Measure		FY 07 Actual	FY 08 Actual	FY 09 Estimate	FY 10 Request
Gang members investigated			43		
Gang members indicted			43		
Felony convictions obtained for gang members (29 of the 43 are not JeffCo cases, and are not counted in this statistic)			14		
Number of years Department of Corrections			82		
Trials			2		

### 4. Foreign Prosecution

Workload Measure		FY 07 Actual	FY 08 Actual	FY 09 Estimate	FY 10 Request
Active Cases		8	11	13	
Article IV cases filed in Mexico		1	2	2	
Extraditions/assists		1	2		

## 5. Worker's Compensation

Objective: To utilize the state grand jury, search warrants, audits and other criminal investigative tools to investigate potential worker's compensation fraud cases including, but not limited to: false statement to obtain worker's compensation benefits, forgery, theft, perjury and offering a false instrument for recording.

Workload Measure		FY 07 Actual	FY 08 Actual	FY 09 Estimate	FY 10 Request
Conduct investigations and increase the number of cases referred	Target	55	60		
	Actual	46	62		
To decrease the number of cases declined	Target	6	6		
	Actual	20	2		

Objective: To vigorously prosecute defendants under applicable Colorado statutes and obtain criminal convictions, jail sentences, restitution, fines and penalties.

Workload Measure		FY 07 Actual	FY 08 Actual	FY 09 Estimate	FY 10 Request
To increase the number of active filed cases	Target	22	25		
	Actual	18	19		
To obtain orders for restitution cost savings and fines	Target	15	20		
	Actual	12	15		
To obtain orders for restitution cost savings and fines	Target	\$250,000	\$300,000		
	Actual	\$242,939	\$263,612		
To bring at least one case to trial	Target	2	2		
	Actual	1	2		

Objective: To reduce the loss of revenues to the State Compensation Insurance Authority resulting from fraud by employers through the deterrent effect of prosecuting violators.

Workload Measure		FY 07 Actual	FY 08 Actual	FY 09 Estimate	FY 10 Request
To increase the number of cases of fraud by employers	Target	5	6		
	Actual	5	7		

Objective: To reduce the victimization of employees who may be injured while working for non-complying employers and who consequently do not receive benefits they would be entitled to through the deterrent effect of prosecuting violators.

Workload Measure		FY 07 Actual	FY 08 Actual	FY 09 Estimate	FY 10 Request
To increase the number of cases of intentional false representation of employers	Target	5	6		
	Actual	4	6		

Objectives: To create a more equitable business environment for law-abiding employers who are injured as a result of the unfair competition created by those employers whose business costs do not include the payment of premiums.

Workload Measure		FY 07 Actual	FY 08 Actual	FY 09 Estimate	FY 10 Request
To increase the number of cases of false certificate of insurance cases	Target	5	6		
	Actual	5	6		

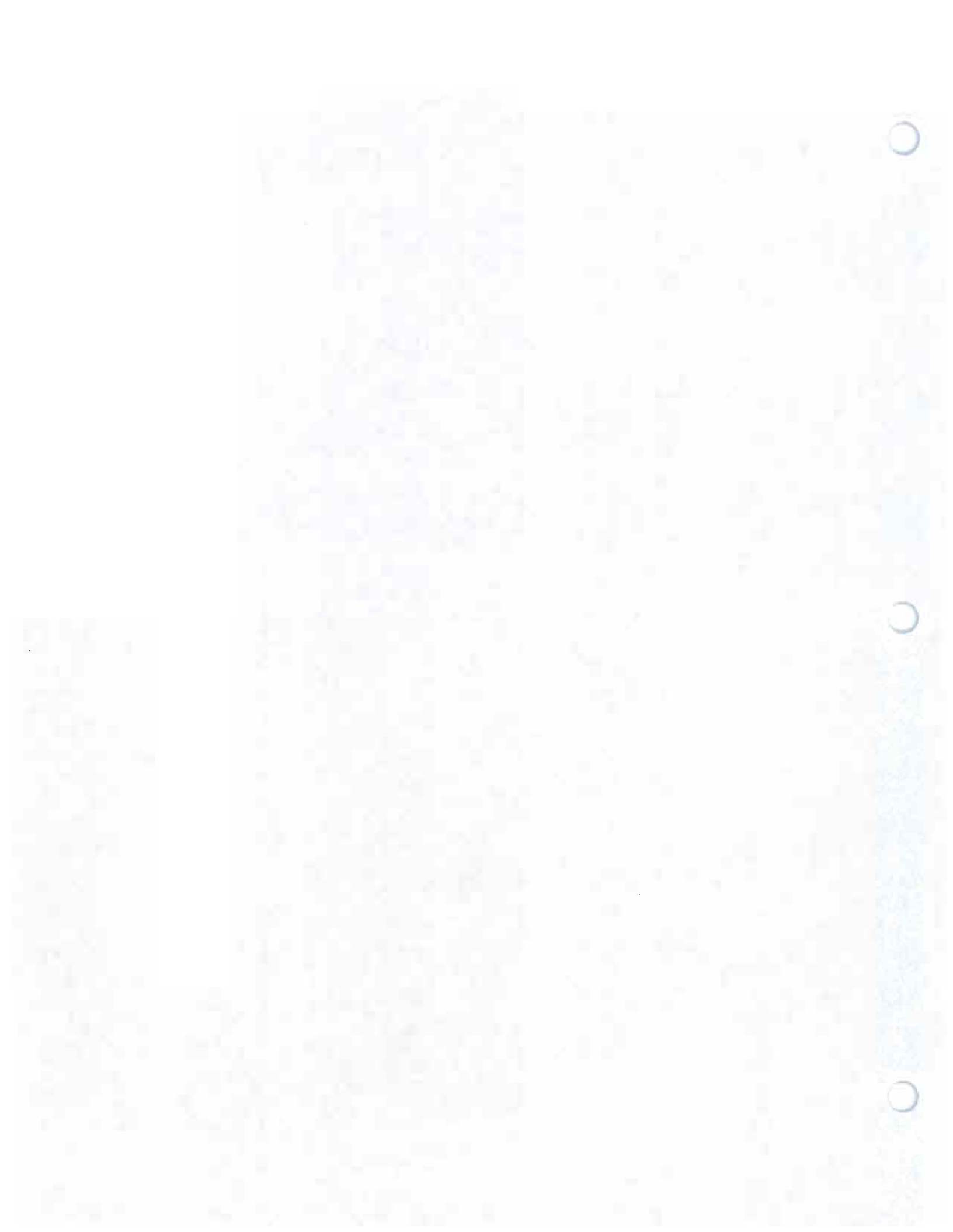
Workload Measure		FY 07 Actual	FY 08 Actual	FY 09 Estimate	FY 10 Request
Number of case referrals	Target	55/60	60/65		
	Actual	46	29*		
Number of active investigations increased	Target	48	52		
	Actual	46	62		
Number of filed cases increased	Target	20	22		
	Actual	18	19		

\*Instead of straight deferrals, cases are not staffed prior to referral to achieve better quality cases for prosecution and to reduce declinations. This has resulted in a significant reduction in the number of cases referred to us by Pinnacol Assurance.



**FY 09-10**  
**Budget**  
**Schedules 2, 3 and 4**  
**CJ & A - Special Prosecutions**





**SCHEDULE 2 - PROGRAM SUMMARY**

Department of Law Item	Actual FY 07		Actual FY 08		Approp FY 09		Estimate FY 09		Request FY 10	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>SPECIAL PROSECUTIONS UNIT</b>	1,177,843	11.2	1,310,029	12.1	1,243,416	12.8	1,421,323	12.8	3,039,827	32.0
General Fund	881,823		1,114,357		1,029,683		1,180,133		1,729,162	
General Fund Exempt	-		-		-		-		-	
Cash Funds	296,020		195,672		213,733		241,190		1,310,665	
Reappropriated Funds	-		-		-		-		-	

(A)

(B)

(C)

**SCHEDULE 3 - PROGRAM DETAIL**

Department of Law Item	SPECIAL PROSECUTIONS UNIT									
	Actual FY 07		Actual FY 08		Approp. FY 09		Estimate FY 09		Request FY 10	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>I. POSITION DETAIL</b>										
Deputy Attorney General	82,463	0.7	94,022	0.8			98,122	0.8	98,122	0.8
First Assistant Attorney General	85,154	0.9	74,961	0.8			102,024	1.0	102,024	1.0
Senior Assistant Attorney General							366,612	4.0	366,612	4.0
Assistant Attorney General II	327,761	4.0	340,844	3.9			328,932	4.0	328,932	4.0
Criminal Investigator II	243,084	3.0	287,858	3.7			78,744.0	1.0	78,744.0	1.0
Criminal Investigator III	69,888	1.0	75,936	1.0			43,104	1.0	43,104	1.0
Legal Assistant I	39,216	1.0	34,998	0.9			47,616	1.0	47,616	1.0
Program Assistant I	26,234	0.6	45,288	1.0			1,065,154	12.8	1,065,154	12.8
<b>TOTAL POSITION DETAIL</b>	<b>873,800</b>	<b>11.2</b>	<b>953,907</b>	<b>12.1</b>			<b>1,065,154</b>	<b>12.8</b>	<b>1,065,154</b>	<b>12.8</b>
<b>(I.A.) CONTINUATION FTE SALARY COSTS</b>										
(Permanent FTE by Position) Continuation Salary Subtotal	<b>873,800</b>	<b>11.2</b>	<b>953,907</b>	<b>12.1</b>						
<b>(I.B.) OTHER PERSONAL SERVICES</b>										
PERA on Continuation Subtotal	87,531		85,857				108,113		108,113	
Medicare on Continuation Subtotal	9,999		11,989				15,445		15,445	
Non-Base Building Performance Awards							2,631			
Part-Time/Temporary Salaries	11,315		10,473				5,069			
Contractual Services	3,891		16,323							
Leave										
Overtime										
Unemployment Compensation			2,683							
Other	1,641		11,453							
<b>SUBTOTAL</b>	<b>118,315</b>	<b>11.2</b>	<b>138,777</b>	<b>12.1</b>			<b>131,258</b>	<b>12.8</b>	<b>123,558</b>	<b>12.8</b>
<b>(I.C.) PERSONAL SERVICES SUBTOTAL=</b>										
<b>A+B</b>	<b>992,114</b>		<b>1,092,684</b>				<b>1,196,411</b>		<b>1,188,711</b>	
<b>(I.D.) POTS EXPENDITURES</b>										
Health/Life Dental	45,623		41,979				49,838			
Salary Survey	[44,808]		[36,182]				[30,810]			
Performance Awards			[16,459]				[16,444]			
Short Term Disability	992		1,202				1,209			
SB 04.257 A.E.D.	6,235		11,170				14,622			

**SCHEDULE 3 - PROGRAM DETAIL**

**Department of Law**

**SPECIAL PROSECUTIONS UNIT**

Item	Actual FY 07		Actual FY 08		Approp FY 09		Estimate FY 09		Request FY 10	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
SB 06.235 S.A.E.D. Other [ ] Indicates a Non-add			2,123 1,177				7,653			
<b>(I.E.) BASE PERSONAL SERVICES TOTAL=</b>										
C+D										
General Fund	1,044,964	11.2	1,150,335	12.1			1,269,733	12.8	1,188,711	12.8
Cash Funds	856,715		963,341				1,058,232		1,188,711	
Reappropriated Funds	188,249		186,994				211,501		-	
<b>(I.F.) DIFFERENCE= II-I.E.</b>									(3,204)	
<b>(I.G.) REQUEST YEAR DECISION ITEMS</b>										
General Fund										
Cash Funds										
Reappropriated Funds										
<b>II. PERSONAL SERVICES REQUEST</b> <b>(AGGREGATE ADJUSTMENTS TO THE</b> <b>BASE APPROPRIATION</b>										
Previous Year Long Bill									1,141,542	
Salary Survey-Classified									15,602	
PBP - Classified									6,167	
Salary Survey Exempt									15,208	
PBP - Exempt									6,988	
OSPB .2% Base Reduction									-	
<b>SPECIAL BILLS:</b>										
Subtotal									1,185,507	
<b>II. PERSONAL SERVICE REQUEST</b>										
<b>TOTAL</b>										
General Fund	1,044,964	11.2	1,150,335	12.1			1,269,733	12.8	1,188,711	12.8
Cash Funds	856,715		963,341				1,058,232		984,417	
Reappropriated Funds	188,249		186,994				211,501		204,294	
Federal Funds	-		-				-		-	

**SCHEDULE 3 - OPERATING PROGRAM DETAIL**

Department of Law	Actual FY 07				Actual FY 08		Approp FY 09		Estimate FY 09		Request FY 10	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>OPERATING EXPENSES</b>												
1930 - Litigation	4,281		1,423						6,464		2,529	
2170 - Waste Disposal Services	116											
2220 - Building Grounds Maintenance	7											
2230 - Equipment Contract Maintenance	242		23						100		100	
2231 - ADP Equip Maint/Repair Services	151		278						320		320	
2232 - Software Upgrades	2,373		2,919						3,200		3,200	
2240 - Motor Veh Maint/Repair Svcs												
2251 - Lease Motor Pool Vehicle	4,820		2,691						3,200		3,200	
2252 - Motor Pool Mileage Charge	9,628		7,163						8,000		6,496	
2253 - Equipment Rental	58		58						60		60	
2254 - Rental of Motor Vehicles			136						150		150	
2255 - Rental of Buildings	39,598		46,645						4,600		4,600	
2258 - Parking Fees	4,585		4,560									
2559 - Parking Fee Reimbursement	20											
2510 - In State Travel	2		511						1,000		1,000	
2511 - In State Common Carrier Fares	(514)											
2512 - IS Personal Travel Per Diem	6,124		3,801						3,800		3,800	
2513 - IS Personal Vehicle Reimbursement	347		455						500		500	
2530 - Out of State Travel	62		1,360						1,360		1,360	
2531 - OS Common Carrier Fares	1,374		5,000						7,500		7,000	
2532 - OS Personal Travel Per Diem	673		6,435						9,000		8,000	
2550 - Out of Country Travel			81						325		325	
2551 - Out of Country Common Carrier Fares			895						1,250		1,250	
2552 - OC Pers Travel Reimbursement			1,604						2,200		2,000	
2630 - Telephone	11,194		11,365						1,250		12,500	
2631 - Comm Svcs from Outside Sources	1,248		2,537						3,000		3,000	
2641 - Other ADP Billings - Purchase Service	3,919		7,738						8,000		8,000	
2660 - Insurance	1,729		1,532									
2680 - Contract Printing	9,858		4,107						5,500		5,500	
2710 - Purchase Medical Services			460						460		460	
2820 - Other Purchased Services	3,461		1,131						2,000		2,000	
2830 - Office Moving/Purchased Services	341											
3112 - Automotive Supplies	163											
3115 - DP Supplies	1,373		1,071						1,100		1,100	
3116 - Purchase/Leased Software	105		1,238						1,400		1,400	
3117 - Educational	405		509						1,100		1,200	

**SCHEDULE 3 - OPERATING PROGRAM DETAIL**

Department of Law	SPECIAL PROSECUTIONS UNIT									
	Actual FY 07		Actual FY 08		Approp FY 09		Estimate FY 09		Request FY 10	
Item	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
3120 - Books & Subscriptions	2061.3		2806.9		3000.0		3000.0		3000.0	
3121 - Office Supplies	2,236		3,152		3,500		3,500		3,500	
3122 - Microfilming/Photo. Supplies										
3123 - Postage	2,610		3,260		3,500		3,500		3,700	
3126 - Repair & Maintenance/Supplies	4									
3128 - Non-Capitalized Equipment	1,269		9,788							
3131 - Non-Capitalized Building Mat'l's	7,550		4,365							
3132 - Non-Cap Office Furn/Office Systems	350		3,365							
3140 - Non-Capitalized IT - PC's	1,815		1,177							
3141 - Non Capitalized IT Servers			62							
3143 - Non-Capitalized IT - Other	415		4,954							
3146 - Non Capitalized IT										
4140 - Dues & Memberships	3,212		3,242		4,000		4,000		4,000	
4180 - Official Functions	197		254		300		300		300	
4220 - Registration Fees	1,717		2,676		2,800		2,800		2,800	
6212 - IT Servers - Direct Purchase			297		320		320		320	
6214 - IT Other - Direct Purchase	1,701									
<b>Operating Expense Subtotal:</b>	132,879		157,125		94,259		94,259		98,670	
<b>OPERATING EXPENSE TOTAL:</b>	<b>132,879</b>		<b>157,125</b>		<b>94,259</b>		<b>94,259</b>		<b>98,670</b>	
General Fund	25,108		151,016		78,149		78,149		81,159	
General Funds Exempt										
Cash Funds	107,771		6,109		16,110		16,110		17,511	
Reappropriated Funds										
<b>Potted Operating Expenses</b>										
Workers' Compensation					2,168		2,168			
Vehicle Leased Expense					5,543		5,543			
Capital Complex Lease Space					38,346		38,346			
Lease Space					3,138		3,138			
IT Asset Maintenance					6,658		6,658			
ADP Capital Outlay									1,478	
Communication Service Payments									<b>57,331</b>	
<b>Total</b>									43,752	
General Fund									13,579	
Cash Funds										



**SCHEDULE 3 - OPERATING PROGRAM DETAIL**

Department of Law Item	SPECIAL PROSECUTIONS UNIT									
	Actual FY 07 Total Funds	FTE	Actual FY 08 Total Funds	FTE	Approp FY 09 Total Funds	FTE	Estimate FY 09 Total Funds	FTE	Request FY 10 Total Funds	FTE
<b>ROLLFORWARDS</b>										
General Fund			2,569							
Cash Funds			2,569							
Reappropriated Funds			-							
<b>FY10 DECISION ITEM REQUESTS</b>										
<b>NP #2 Operating Vehicle Increase</b>										
General Fund									1,361	
Cash Funds									1,361	
Reappropriated Funds										
<b>Dec Item # 1 - Consolidate SP Unit</b>										17.2
General Fund									1,537,759	
Cash Funds									519,950	
Reappropriated Funds									1,017,809	
<b>Dec Item # 2 SP FTE</b>										2.0
General Fund									213,326	
Cash Funds									142,275	
Reappropriated Funds									71,051	
<b>REFINANCING THE LINE ITEM</b>										
General Fund										
General Fund Exempt										
Cash Funds										
Cash Funds Exempt										
<b>TOTAL SPECIAL PROSECUTIONS UNIT</b>										
General Fund	1,177,843	11.2	1,310,029	12.1	1,243,416	12.8	1,421,323	12.8	3,039,827	32.0
General Fund Exempt	881,823		1,114,357		1,029,683		1,180,133		1,729,162	
Cash Funds	296,020		195,672		213,733		241,190		1,310,665	
Reappropriated Funds	-		-		-		-		-	
<b>RECONCILIATION OF FUNDS</b>										
Long Bill Appropriation	1,065,815	11.8	1,194,091	12.8			1,243,416	12.8		
Special Bills										

**SCHEDULE 3 - OPERATING PROGRAM DETAIL**

Department of Law Item	Actual FY 07		Actual FY 08		Approp FY 09		Estimate FY 09		SPECIAL PROSECUTIONS UNIT Request FY 10	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
Salary POTS	44,808		52,642				47,254			
Health/Life/Dental	39,356		42,265				49,838			
Short Term Disability	1,055		1,185				1,209			
SB 04.257 A.E.D.	6,931		11,484				14,622			
SB 06.235 S.A.E.D.			2,075				7,653			
Worker's Compensation	1,931		1,854				2,168			
Capital Complex Lease Space	35,155		40,440				38,346			
Lease Space	1,755		3,387				3,138			
Vehicle Lease Allocation	7,128		2,690				5,543			
IT Asset Maintenance	3,956		3,770				6,658			
ADP Capital Outlay Allocation			10,624				-			
Communication Service Payments	1,295		1,486				1,478			
Roll Forward from Previous FY			2,569				-			
Rollforward to Subsequent FY	(2,570)									
Overexpenditure/(Reversion)	(28,771)		(60,533)	(0.7)						
Lapsed Appropriation Cash Fund										
Lapsed Appropriation Cash Fund Exempt										
<b>TOTAL RECONCILIATION</b>	1,177,844	11.8	1,310,029	12.1			1,421,323	12.8		
<b>GRAND TOTAL</b>	1,177,843	11.2	1,310,029	12.1	1,243,416	12.8	1,421,323	12.8	3,039,827	32.0
General Fund	881,823		1,114,357		1,029,683		1,180,133		1,729,162	
General Fund Exempt	-		-		-		-		-	
Cash Funds	296,020		195,672		213,733		241,190		1,310,665	
Reappropriated Funds			-		-		-		-	
Federal Funds			-		-		-		-	

**SCHEDULE 4 - SOURCE OF FINANCING - DIRECT REVENUES**

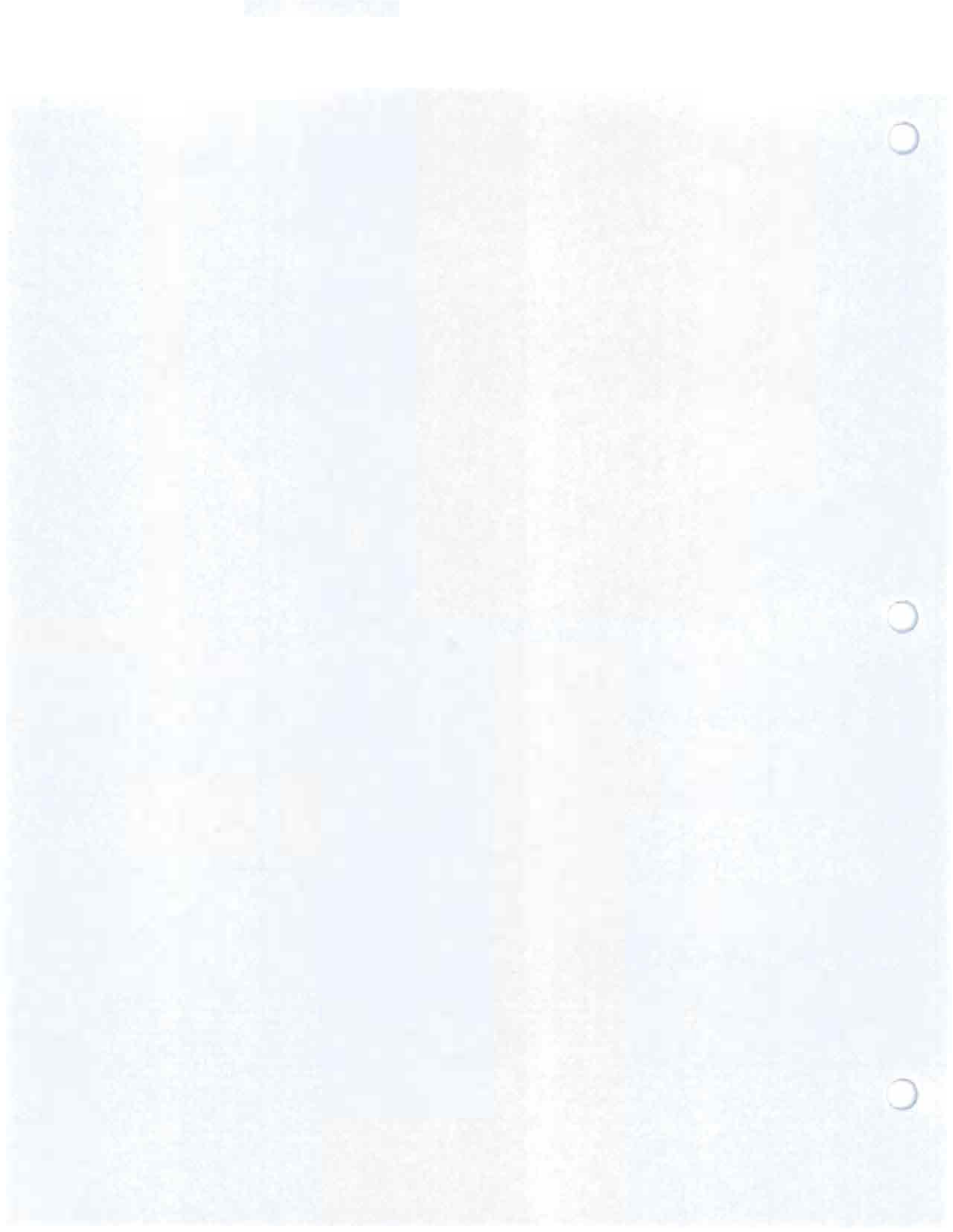
Department of Law Item	Fund Number	SPECIAL PROSECUTIONS UNIT				
		Actual FY 2007	Actual FY 2008	Approp FY 2009	Estimate FY 2009	Request FY 2010
<b>Schedule 3 Total</b>						
General Funds		1,177,843	1,310,029	1,243,416	1,421,323	3,039,827
General Funds Exempt Cash Funds		881,823	1,114,357	1,029,683	1,180,133	1,729,162
Reappropriated Funds		296,020	195,672	213,733	241,190	1,310,665
		-	-	-	-	-
<b>Cash Funds</b>						
State Compensation Insurance Authority		296,020	195,672	213,733	241,190	293,672
DORA Division of Securities CF						374,658
DORA Division of Insurance CF						642,335
<b>Reappropriated Funds</b>						
Special Prosecution Custodial		-	-	-	-	-
DORA Division of Insurance Cash Fund		-	-	-	-	-
DORA Division of Securities		-	-	-	-	-



# Narrative

# Insurance Fraud





## **D) BACKGROUND INFORMATION: INSURANCE FRAUD UNIT.**

The Insurance Fraud Unit, comprised of 7.5 FTE positions which are funded by an industry assessment through the Division of Insurance of the Colorado Department of Regulatory Agencies. The Insurance Fraud Unit provides investigative and prosecutorial resources for combating insurance fraud statewide. The general goals of the Insurance Fraud Program are: (a) to utilize the State Grand Jury, search warrants, and other criminal investigative tools to investigate potential insurance fraud cases; (b) to vigorously prosecute defendants under applicable Colorado statutes and obtain criminal convictions, incarceration of offenders where appropriate, to seek restitution, fines, and penalties; and, (c) to protect consumers and to minimize losses through the deterrent effect of prosecuting violators.

The cases handled by the Unit embrace the entire spectrum of insurance fraud, including, but not limited to, insurance agent fraud; claimant fraud; bail bondsman violations; workers compensation fraud; and false claims of casualty and property loss.

## **II) PRIOR YEAR LEGISLATION**

The Insurance Fraud Unit did not sponsor or promote any legislation in FY 2007-2008. However, in the prior year, Senate Bill 06-38, raised the annual fee on each regulated insurance entity in this state from \$120 to \$425 which allowed the unit to add three investigators and a paralegal.

## **III) HOT ISSUES**

Major fraud cases: In the past fiscal year, considerable publicity was given to one of the Unit's prosecutions involving Acen Phillips, CEO of American Church United, who obtained a life insurance policy for his employees at ACU through American International Group, Inc. (AIG) Insurance Company. Mr. Phillips began adding parishioners and other individuals not associated to ACU to the policy. Mr. Phillips backdated policies for individuals that were deceased and did not have a life insurance policy with AIG in order to receive benefits for ACU and other organizations he was associated with at that time. Moreover, Mr. Phillips would alter the original policy by changing the percentage of benefits each party would receive so that ACU or other organizations could receive a greater portion of the benefits than originally entitled. On June 5, 2008, Mr. Phillips pled guilty to theft by receiving, a class three felony, and was ordered to pay \$500,000.00 in restitution.

Another significant fraud case involved Michael Bauman, owner of AMB Family Construction, and his employee, Shawn Harmer, were indicted for intentionally causing damage to roofs. Bauman and Harmer inspected roofs in Larimer and Weld Counties after hailstorms, and broke shingles to give the appearance that the shingles had been damaged by hail. Claims for hail damage were then filed with the insurer, State Farm. Bauman and Harmer were charged in Larimer County District Court with 17 felony counts, including Theft, Criminal Attempt-Theft, Criminal Mischief, and Criminal

Conspiracy. Both defendants are expected to enter pleas and be ordered to pay restitution.

Potential upcoming trends may include an increase in cases relating to the intentional destruction of insured property. With the troubled housing market and economy, the Unit expects to see an increase in cases involving people destroying homes or automobiles in which their debt of ownership is greater than the value of the property. This type of intentional destruction can be prosecuted as theft from the insurance companies.

**IV) WORKLOAD MEASURE:**

**WORKLOAD INDICATORS**

Workload Measures		Actual FY07	Actual FY08	Estimate FY09	Request FY10
Measure 1.1 Criminal Investigation Opened	Target	60	60	60	60
	Actual	82	51		
Measure 1.2. Criminal Cases Filed	Target	30	30	30	30
	Actual	25	14		
Measure 1.3 Jury trials	Target	1	2	2	2
	Actual	0	1		
Measure 1.4 Convictions Obtained	Target	20	25	22	22
	Actual	11	20		
Measure 1.4 Restitution Ordered	Target	\$400,000	\$400,000	\$450,000	\$450,000
	Actual	\$145,584	\$836,649		
Measure 1.6 Publicize convictions obtained	Target	5	5	5	5
	Actual	0	2		

Statistics kept by the Unit indicate that the workload of Unit is changing in some degree toward a trend of investigating and prosecuting fewer, but larger, or more significant cases. This trend is recognized in both the “Convictions Obtained” the “Restitution Ordered” measure in the above table.

The three additional investigators assigned to the Unit have allowed the Unit to take on both the investigation and prosecution of more complex cases.



## PERFORMANCE MEASURES

### 1. Complex and/or multi-jurisdictional fraud investigations and prosecutions

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

Performance Measure	Outcome	FY 07 Actual	FY 08 Actual	FY 09 Estimate	FY 10 Request
Investigate multi-jurisdictional insurance fraud cases in the grand jury, and obtain indictment where appropriate	Target	3	3	4	4
	Actual	13	6		
Restitution actually collected pursuant to court order	Target	\$100,000	\$100,000	\$100,000	\$100,000
	Actual	\$27,243.62	\$101.838		

*Strategy:* The Unit receives referrals from numerous sources. Fraud referrals often require substantial investigation, and some investigations take months or years. Many of the fraud referrals, once investigated, do not result in criminal charges. This is due to various reasons including lack of provable criminal intent, and inconsistencies or vagueness of applicable rules.

The Unit endeavors to be as quick and responsive as possible in receiving referrals, opening investigations, and bringing cases through the court system. When cases are not appropriate for investigation, the Unit refers them promptly to other agencies and/or delivers information or assistance to the referring entity or person to assure that their concerns may be addressed.

*Evaluation of Prior Year Performance:* The Unit opened fewer investigations and filed fewer criminal cases in the past year, but obtained more convictions and higher restitution orders than the previous year. This fluctuation is in part due to the cyclical nature of criminal prosecution. Investigations often take longer than the prosecution portion of a case, however, when cases get set for trial, it can take years to come to

resolution. Many of the continuances and delays are outside of the prosecutors' control, but add to the workload of both attorneys and investigators and staff.

*Key Workload Indicators:* Workload indicators are consistent with the results in the Performance Measure table. Indicators show that the Unit has the ability to handle both routine cases and the more complex cases, that are highly demanding of employee time.

## 2. Case openings, assignments, and processing

*Objective:* To quickly process referrals once they are received in Unit and, after initial review, continue the procedure of assigning the responsibility of each case to a team of at least one investigator and one prosecutor, and holding periodic status meetings and preparing reports on each case.

Performance Measure	Outcome	FY 07 Actual	FY 08 Actual	FY 09 Estimate	FY 10 Request
Assign an investigator and attorney at the time of case opening	Target	60	60	60	60
	Actual	82	51		
Update case status reports monthly and provide reports to Division of Insurance	Target	12	12	12	12
	Actual	12	12		

*Strategy:* : As the Unit's case load has varied in simple to more complex cases, it has become increasingly important for the Unit to promptly assign cases to the respective investigators and attorneys, and to monitor and assess the progress of each case on at least a quarterly basis.

*Evaluation of Prior Year Performance:* Assignments and monitoring have proceeded according to the standards set, and this has assisted the Unit in keeping its cases progressing satisfactorily.

*Key Workload Indicators:* Workload indicators are consistent with the results in the Performance Measure table, and reflect an increasing overall Unit caseload.

**FY 09-10**  
**Budget**  
**Schedules 2, 3 and 4**  
**CJ & A - Insurance Fraud**





SCHEDULE 2 - PROGRAM SUMMARY

INSURANCE FRAUD

Department of Law Item	Actual FY 07		Actual FY 08		Approp FY 09		Estimate FY 09		Request FY 10	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
Insurance Fraud	556,151	5.9	675,468	7.3	619,975	7.6	743,845	7.6	0	0.0
General Fund			2,442		-		-		-	
General Fund Exempt			-		-		-		-	
Cash Funds			-		-		-		-	
Reappropriated Funds	556,151		673,026		619,975		743,845		0	

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**SCHEDULE 3 - PROGRAM DETAIL**

Department of Law

**INSURANCE FRAUD**

Item	Actual FY 07		Actual FY 08		Approp FY 09		Estimate FY 09		Request FY 10	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>I. POSITION DETAIL</b>										
Deputy Attorney General	10,308	0.1	11,753	0.1			12,265	0.1	12,265	0.1
Senior Assistant Attorney General							179,676	2.0	179,676	2.0
Assistant Attorney General II	128,389	1.5	170,422	1.9			285,312	4.0	285,312	4.0
Criminal Investigator II	206,311	3.1	253,207	3.8			18,864	0.5	18,864	0.5
Administrative Assistant III	19,127	0.5	23,564	0.7			44,160	1.0	44,160	1.0
Legal Assistant I	25,841	0.6	38,581	0.9			540,277	7.6	540,277	7.6
<b>TOTAL POSITION DETAIL</b>	<b>389,977</b>	<b>5.9</b>	<b>497,528</b>	<b>7.3</b>			<b>540,277</b>	<b>7.6</b>	<b>540,277</b>	<b>7.6</b>
<b>(I.A.) CONTINUATION FTE SALARY COSTS</b>										
(Permanent FTE by Position)										
Continuation Salary Subtotal	<b>389,977</b>	<b>5.9</b>	<b>497,528</b>	<b>7.3</b>					<b>540,277</b>	<b>7.6</b>
<b>(I.B.) OTHER PERSONAL SERVICES</b>										
PERA on Continuation Subtotal	37,865		36,931				54,838		54,838	
Medicare on Continuation Subtotal	4,032		5,521				7,834		7,834	
Non-Base building Performance Award			-				1,258			
Part-Time/Temporary Salaries	2,340		5,133						33,227	
Professional Contractual Services			572							
Purchased Services- Professional	2,929		11,745							
Termination/Retirement Payouts	694		59,903						95,899	
Other:	47,861									
<b>SUBTOTAL</b>	<b>437,838</b>	<b>5.9</b>	<b>557,431</b>	<b>7.3</b>			<b>604,207</b>	<b>7.6</b>	<b>636,176</b>	<b>7.6</b>
<b>(I.C.) PERSONAL SERVICES SUBTOTAL=A+B</b>										
Reappropriated Funds										
<b>(I.D.) POTS EXPENDITURES</b>										
Health/Life Dental	22,971		32,548				42,973			
Salary Survey	[6,176]		[20,232]				[16,071]			
Performance Awards			[6,475]				[7,861]			
Short Term Disability	420		638				696			
SB 04.257 A.E.D.	2,989		5,741				8,570			
SB 06.235 S.A.E.D.			1,193				4,018			
Other			1,497							

[ ] Indicates a Non-add

SCHEDULE 3 - PROGRAM DETAIL

Department of Law	Item	Actual FY 07		Actual FY 08		Approp FY 09		Estimate FY 09		INSURANCE FRAUD	
		Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
	(I.E.) BASE PERSONAL SERVICES TOTAL=										
	C+D	464,217	5.9	599,049	7.3			660,464	7.6	636,176	7.6
	CFE	464,217		599,049						(30,137)	
	(I.F.) DIFFERENCE= II-I.E.										
	II. PERSONAL SERVICES REQUEST										
	(AGGREGATE ADJUSTMENTS TO THE BASE										
	APPROPRIATION)										
	Previous Year Long Bill										
	SPECIAL BILLS:										
	Salary Survey-Classified									583,679	
	PBP - Classified									10,058	
	Salary Survey Exempt									3,925	
	PBP - Exempt									6,013	
	OSP .2% Base Reduction									2,364	
	Subtotal -									606,039	
	II. PERSONAL SERVICES REQUEST	464,217	5.9	599,049	7.3			660,464	7.6	636,176	7.6
	TOTAL										
	General Fund										
	Cash Funds										
	Reappropriated Funds										
	Federal Funds	464,217		599,049				660,464		636,176	



**SCHEDULE 3 - OPERATING PROGRAM DETAIL**

Department of Law	INSURANCE FRAUD					
	Actual FY 07	Actual FY 08	Approp FY 09	Estimate FY 09	Request FY 10	
Item	Total Funds	Total Funds	Total Funds	Total Funds	Total Funds	FTE
<b>OPERATING EXPENSES</b>						
1930 - Litigation	3,516	3,588		1,000	-	
2220 - Building Grounds Maintenance	8					
2230 - Equipment Contract Maintenance	11	71		100	75	
2231 - ADP Equip Maint/Repair Services	138	467		500	400	
2232 - Software Upgrades	1,629	5,074		3,500	250	
2240 - Motor Veh Maint/Repair Svcs		35		50	-	
2251 - Rental/Lease Motor Pool Veh	1,719	5,446		5,000	-	
2252 - Motor Pool Mileage Charge	3,838	6,150		4,625	-	
2253 - Equipment Rental	7	7		15	-	
2255 - Rental of Buildings	7,752	24,011				
2258 - Parking Fees	1,140	3,420		3,500	1,500	
2510 - In State Travel		5		20	-	
2512 - IS Personal Travel Per Diem	348	895		900	-	
2513 - IS Personal Vehicle Reimbursement	20	400		400	-	
2522 - IS/Non-Emp-Pers Per Diem		60		50	-	
2530 - Out of State Travel	240	21		100	-	
2531 - OS Common Carrier Fares	531	623		1,100	-	
2532 - OS Personal Travel Per Diem	420	1,092		1,000	-	
2630 - Telephone	1,468	1,746		1,800	1,500	
2631 - Comm Svcs from Outside Sources	2,264	2,871		2,800	-	
2641 - Other ADP Billings - Purchase Services	1,994	297		2,000	-	
2660 - Insurance	381	1,091		-	-	
2680 - Contract Printing	790	1,144		1,200	34	
2820 - Other Purchased Services	1,451	97		110	100	
2830 - Office Moving/Purchased Services	3,935					
3112 - Automotive Supplies	270					
3115 - DP Supplies	1,077	(90)		100	-	
3116 - Purchase/Leased Software	609	1,723		1,900	-	
3117 - Educational	651	491		500	-	
3120 - Books & Subscriptions	1,454	1,580		1,580	500	
3121 - Office Supplies	1,507	792		850		
3122 - Microfilming/Photo. Supplies	182					
3123 - Postage	408	807		1,000	400	
3126 - Repair & Maintenance/Supplies	4					
3128 - Non-Capitalized Equipment	14,361	1,423				
4151 - Interest Late Payments	3					
3131 - Non-Capitalized Building	18,627	3,455				

**SCHEDULE 3 - OPERATING PROGRAM DETAIL**

Department of Law	Item	Actual FY 07		Actual FY 08		Approp FY 09		Estimate FY 09		INSURANCE FRAUD	
		Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
	3132 - Non-Capitalized IT	4,101		1,278							
	3140 - Non-Cap IT-PCs	10,289		1,177							
	3141 - Non-Capitalized IT Srv.			189							
	3143 - Non-Capitalized IT Other	1,994		1,584							
	4140 - Dues & Memberships	786		2,090				2,200		800	
	4180 - Official Functions	48		47				50		50	
	4220 - Registration Fees	252		363				550		550	
	6214 - IT Other - Direct Purchase	1,712				902		1,200			
	6212 - IT Serv - Direct Purch					76,419		39,700		6,159	
	Operating Expense Subtotal:	91,934		76,419				39,700		6,159	
	<b>OPERATING EXPENSE TOTAL:</b>	<b>91,934</b>		<b>76,419</b>				<b>39,700</b>		<b>6,159</b>	
	General Fund										
	General Funds Exempt										
	Cash Funds										
	Reappropriated Funds	91,934		76,419				39,700		6,159	
	<b>Potted Operating Expenses</b>										
	Workers' Compensation							1,325			
	Leased Vehicle Expense							5,446			
	Capital Complex Lease Space							23,406			
	IT Asset Maintenance							12,322			
	Communication Service Payments							1,182			
	ADP Capital Outlay							43,681			
	<b>Total</b>										
	<b>DECISION ITEM REQUESTS</b>										
	<b>NP #2 Operating Vehicle Increase</b>										
	General Fund									544	
	Cash Funds										
	Reappropriated Funds									544	
	<b>FY10 Dec Item #1 - Consolidate SP Unit</b>										
	General Fund										
	Cash Funds										
	Reappropriated Funds									(642,879)	(7.6)
										(642,879)	

SCHEDULE 3 - OPERATING PROGRAM DETAIL

Department of Law Item	INSURANCE FRAUD									
	Actual FY 07 Total Funds	FTE	Actual FY 08 Total Funds	FTE	Approp FY 09 Total Funds	FTE	Estimate FY 09 Total Funds	FTE	Request FY 10 Total Funds	FTE
<b>TOTAL INSURANCE FRAUD</b>	556,151	5.9	675,468	7.3	619,975		743,845	7.6	0	0.0
General Fund										
General Fund Exempt										
Cash Funds	556,151		675,468		619,975		743,845		0	
Reappropriated Funds										
Federal Funds										
<b>RECONCILIATION OF FUNDS</b>										
Long Bill Appropriation	240,245	2.6	594,563	7.6			619,975	7.6		
Special Bills-SB06-038	379,950	5.0								
Salary POTS	6,176		26,707				23,932			
Health/Life/Dental	15,028		17,479				42,973			
Short Term Disability	221		642				696			
SB 04.257 A.E.D.	1,457		4,805				8,570			
SB 06.235 S.A.E.D.			2,067				4,018			
Worker's Compensation	426		1,092				1,325			
Capital Complex Leased Space Allocation	7,746		24,011				23,406			
Vehicle Lease Allocation	174		5,446				5,446			
IT Asset Maintenance	4,115		11,460				12,322			
Communication Service Payments	431		372				1,182			
ADP Capital Outlay Allocation							-			
Rollforward to Subsequent FY										
Rollforward from Previous FY										
Overexpenditure/(Reversion)	(99,819)	(1.7)	(13,176)	(0.3)						
Lapsed Appropriation Cash Funds Exempt	556,150	5.9	675,468	7.3			743,845	7.6		
<b>TOTAL RECONCILIATION</b>										
<b>GRAND TOTAL</b>	556,151	5.9	675,468	7.3	619,975	7.6	743,845	7.6	0	0.0
General Fund	-		2,442		-		-		-	
General Fund Exempt	-		-		-		-		-	
Cash Funds	-		-		-		-		-	
Reappropriated Funds	556,151		673,026		619,975		743,845		0	
Federal Funds										

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**SCHEDULE 4 - SOURCE OF FINANCING - DIRECT REVENUES**

Department of Law	Item	Fund Number	INSURANCE FRAUD				
			Actual FY 2007	Actual FY 2008	Approp FY 2009	Estimate FY 2009	Request FY 2010
	<b>Schedule 3 Total</b>		556,151	675,468	619,975	743,845	0
	General Funds		-	2,442	-	-	-
	General Funds Exempt		-	-	-	-	-
	Cash Funds		-	-	-	-	-
	Reappropriated Funds		556,151	673,026	619,975	743,845	0
	<b>Reappropriated Funds</b>						
	DORA, Division of Insurance CF		556,151	673,026	619,975	743,845	0

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# Narrative

# Securities Fraud







## **I) BACKGROUND INFORMATION: SECURITIES FRAUD UNIT.**

The Securities Fraud Unit, comprised of 5.5 FTE positions, 3.5 of which are funded by an industry assessment through the Division of Securities of the Colorado Department of Regulatory Agencies. As the Attorney General's Office has original jurisdiction to prosecute crime relating to securities, the Securities Fraud Unit provides investigative and prosecutorial resources for combating securities fraud statewide. The general goals of the Securities Fraud Program are: (a) to utilize the State Grand Jury, search warrants, and other criminal investigative tools to investigate potential Securities fraud cases; (b) to vigorously prosecute defendants under applicable Colorado statutes and obtain criminal convictions, incarceration of offenders where appropriate, to seek restitution, fines, and penalties; and, (c) to protect consumers and to minimize losses through the deterrent effect of prosecuting violators.

The cases handled by the Unit generally involve the prosecution of individuals who solicit and receive investor money for investment schemes that are not regulated. Often times these schemes target groups of people such as the elderly or church members who either know or know of the person soliciting their money.

## **II) PRIOR YEAR LEGISLATION**

The Securities Fraud Unit did not sponsor or promote any legislation in FY 2007-2008.

## **III) HOT ISSUES**

### Major fraud cases

Robert Bryant collected nearly 10 million dollars from investors from January 2004 through March 2006. Investors, who believed their money was being used to purchase various California properties, were assured that their money was secured by deeds of trust. No deeds ever existed. Bryant, originally indicted in February 2007 on fifty counts of securities fraud and one count of theft, pleaded guilty to 2 counts of Securities Fraud (F3) on October 1, 2007. He was sentenced on January 25, 2008 in Douglas County to four years in the Department of Corrections (prison) on each count (concurrent) and restitution of more than \$8.8 million to 50 victims.

Mark Blakemore promised investors 4% interest per month on 9-month debentures on money allegedly secured by an unnamed world-class bank. During the period from August 2005 through February 2006, Blakemore solicited almost \$2 million from a number of Colorado investors; none of that money was ever invested as represented, but was used by Blakemore for his personal use. In November 2007, Blakemore pleaded guilty to one count of Theft and one count Securities Fraud – both Class 3 felonies. He was sentenced in Denver District Court on December 31, 2007, to 9 years in the Department of Corrections and more than \$1.8 million restitution to 11 victims.

Doug Scott was indicted by the statewide grand jury in May 2006 on one count of Securities Fraud and one count of Theft. The charges relate to Scott's involvement in the

“XL Capital Partners” (“XLC”) hedge fund investment scheme and Scott’s personal use of funds obtained through that operation. Scott personally profited from his efforts to secure investor monies for XLC’s “Vision Fund” by receiving fees of up to 35% on “margined” accounts; however, he never told investors that he was receiving such fees or that he needed a license to act as a sales representative of the Vision Fund. Scott was found guilty by jury of both Class-3 Felony counts against him on January 11, 2008. He was sentenced in El Paso County on March 7, 2008 to 15 years’ probation and nearly \$1.8 million restitution to more than 120 victims.

With the current economic problems and volatility in the stock market, the Unit expects to see more fraud in the non-regulated investment world. When traditional investments fair poorly, wealthy investors often seek investments outside of the traditional, regulated markets, which often leads to fraud due to a lack of oversight.

This Unit is especially in need of a financial auditor to aid in both the investigation and prosecution of securities fraud. Securities Fraud cases often arise out of millions of dollars being misappropriated and the addition of a financial auditor would aid the detection and prosecution of these cases.

#### **IV) WORKLOAD MEASURE:**

##### **WORKLOAD INDICATORS**

Workload Measures		Actual FY07	Actual FY08	Estimate FY09	Request FY10
Measure 1.1 Criminal Investigation Opened	Target	16	18	18	18
	Actual	22	11		
Measure 1.2. Criminal Cases Filed	Target	9	12	12	12
	Actual	11	6		
Measure 1.3 Jury trials	Target	2	2	2	2
	Actual	0	2		
Measure 14. Convictions Obtained	Target	8	8	12	12
	Actual	9	10		
Measure 1.5. Restitution Ordered	Target	\$2,000,000	\$2,000,000	\$2,500,000	\$3,000,000
	Actual	\$6,095,854	\$12,664,705		
Measure 1.6. Media items published	Target	4	4	5	5
	Actual	14	31		

Statistics kept by the Unit indicate that the workload of the Unit is changing in some degree toward a trend of investigating and prosecuting fewer, but larger, or more significant cases. This trend is recognized in both the “Convictions Obtained” the “Restitution Ordered” measure in the above table.

## PERFORMANCE MEASURES

### 1. Complex and/or multi-jurisdictional fraud investigations and prosecutions

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

Performance Measures		Actual FY07	Actual FY08	Estimate FY09	Request FY10
<b>Measure 1.1</b> Investigate multi-jurisdictional Securities fraud cases in the grand jury, and obtain indictment where appropriate.	<b>Target</b>	5	8	8	8
	<b>Actual</b>	7	4		
<b>Measure 1.2.</b> Restitution actually collected pursuant to court order	<b>Target</b>	\$100,000	\$100,000	100,000	100,000
	<b>Actual</b>	\$231,879.30	\$165,952		

*Strategy:* The Unit receives referrals from numerous sources. The Division of Securities refers approximately 40% of the Units cases to our office. Private attorneys, law enforcement and private citizens also refer cases to the Unit. Fraud referrals often require substantial investigation, and some investigations take months or years. Many of the fraud referrals, once investigated, do not result in criminal charges. This is due to various reasons including lack of provable criminal intent, and inconsistencies or uncooperative victims and witnesses.

*Evaluation of Prior Year Performance:* The Unit opened fewer investigations and filed fewer criminal cases in the past year, but obtained one more conviction and more than doubled the restitution orders than the previous year. The unit had two jury trials during the year, which took a lot of both attorney and staff time. This fluctuation is in part due to the cyclical nature of criminal prosecution. Investigations often take longer than the prosecution portion of a case; however, when cases get set for trial, it can take years to come to resolution. Many of the continuances and delays are outside of the prosecutors’ control, but add to the workload of both attorneys and investigators and staff.

*Key Workload Indicators:* Workload indicators are consistent with the results in the Performance Measure table. Indicators show that the Unit has the ability to handle

both routine cases and the more complex cases, that are highly demanding of employee time.

## 2. Case openings, assignments, and processing

*Objective:* To quickly process referrals once they are received in Unit and, after initial review, continue the procedure of assigning the responsibility of each case to a team of at least one investigator and one prosecutor, and holding periodic status meetings and preparing reports on each case.

Performance Measures		Actual FY07	Actual FY08	Estimate FY09	Request FY10
Measure 2.1 Assign an investigator and attorney at the time of case opening	Target	16	18	20	20
	Actual	22	11		
Measure 2.2 Update case status reports monthly and provide reports to Division of Securities	Target	12	12	12	12
	Actual	12	12		

*Strategy:* As the Unit's case load and referrals is often fluctuating, monthly reports are created and sent to the Division of Securities and the Unit meets routinely to discuss ongoing investigations and cases to ensure cases keep moving forward.

*Evaluation of Prior Year Performance:* Assignments and monitoring have proceeded according to the standards set, and this has assisted the Unit in keeping its cases progressing satisfactorily.

*Key Workload Indicators:* Workload indicators are consistent with the results in the Performance Measure table.

**FY 09-10**  
**Budget**  
**Schedules 2, 3 and 4**  
**CJ & A - Securities Fraud**





**SCHEDULE 2 - PROGRAM SUMMARY**

Department of Law

**SECURITIES FRAUD**

Item	Actual FY 07		Actual FY 08		Approp FY 09		Estimate FY 09		Request FY 10	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>SECURITIES FRAUD</b>	494,071	5.3	529,070	5.4	484,293	5.6	568,705	5.6	-	0.0
General Fund	129,950		131,440		123,015		123,040		-	
General Fund Exempt	-		-		-		-		-	
Cash Funds	-		-		-		-		-	
Reappropriated Funds	364,121		397,630		361,278		445,665		-	

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**SCHEDULE 3 - PROGRAM DETAIL**

**Department of Law**

**SECURITIES FRAUD**

Item	Actual FY 07		Actual FY 08		Approp FY 09		Estimate FY 09		Request FY 10	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>I. POSITION DETAIL</b>										
Deputy Attorney General	10,308	0.1	11,752	0.1			12,265	0.1	12,265	0.1
First Assistant Attorney General	90,916	1.0	105,156	1.0			109,140	1.0	109,140	1.0
Senior Assistant Attorney General							92,556	1.0	92,556	1.0
Assistant Attorney General II	83,553	1.0	89,230	1.0						
Legal Assistant II	50,772	1.0	53,052	1.0			55,776	1.0	55,776	1.0
Criminal Investigator II	121,878	1.8	138,797	2.0			144,720	2.0	144,720	2.0
Administrative Assistant III	15,098	0.4	8,772	0.3			18,864	0.5	18,864	0.5
<b>TOTAL POSITION DETAIL</b>	<b>372,524</b>	<b>5.3</b>	<b>406,759</b>	<b>5.4</b>			<b>433,321</b>	<b>5.6</b>	<b>433,321</b>	<b>5.6</b>
<b>(I.A.) CONTINUATION FTE SALARY COSTS</b>										
(Permanent FTE by Position)										
Continuation Salary Subtotal	<b>372,524</b>	<b>5.3</b>	<b>406,759</b>	<b>5.4</b>			<b>433,321</b>	<b>5.6</b>	<b>433,321</b>	<b>5.6</b>
<b>(I.B.) OTHER PERSONAL SERVICES</b>										
PERA on Continuation Subtotal	35,001		39,902				43,982		43,982	
Medicare on Continuation Subtotal	5,009		5,684				6,283		6,283	
Non-Base building Performance Award			-				1,071		2,446	
Part Time/Temporary Salaries										
Contractual Services	8,398		5,256							
Leave	176									
Other:	457		575							
<b>SUBTOTAL</b>	<b>49,042</b>		<b>51,417</b>				<b>51,336</b>		<b>52,711</b>	
<b>(I.C.) PERSONAL SERVICES SUBTOTAL=</b>										
A+B	<b>421,566</b>	<b>5.3</b>	<b>458,176</b>	<b>5.4</b>			<b>484,657</b>	<b>5.6</b>	<b>486,032</b>	<b>5.6</b>
<b>(I.D.) POTS EXPENDITURES</b>										
Health/Life Dental	14,452		20,611				26,432			
Salary Survey	[12,168]		[16,298]				[16,298]			
Performance Awards			[5,290]				[4,232]			
Short Term Disability	407		527				374			
SB 04.257 A.E.D.	2,546		4,639				6,418			
SB 06.235 S.A.E.D.			906				3,183			
Other			579							
[ ] Indicates a Non-add										

**SCHEDULE 3 - PROGRAM DETAIL**

Department of Law

**SECURITIES FRAUD**

Item	Actual FY 07		Actual FY 08		Approp FY 09		Estimate FY 09		Request FY 10	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
(I.E.) BASE PERSONAL SERVICES TOTAL= C+D C+D	438,972	5.3	485,438	5.4			521,064	5.6	486,032	5.6
(I.F.) DIFFERENCE= I-I.E.										(0)
(I.G.) REQUEST YEAR DECISION ITEMS										
General Fund										
Cash-Funds										
Reappropriated Funds										
(II.G) PERSONAL SERVICES REQUEST (AGGREGATE ADJUSTMENTS TO THE BASE APPROPRIATION										
Previous Year Long Bill										466,709
Salary Survey-Classified										7,245
PBP - Classified										2,710
Salary Survey Exempt										6,723
PBP - Exempt										2,645
OSPB .2% Base Reduction										-
SPECIAL BILLS:										
Subtotal -										486,032
<b>II. PERSONAL SERVICES REQUEST TOTAL</b>	<b>438,972</b>	<b>5.3</b>	<b>485,438</b>	<b>5.4</b>			<b>521,064</b>	<b>5.6</b>	<b>486,032</b>	<b>5.6</b>
General Fund	121,878		111,855				111,855		124,492	
Cash Funds										
Reappropriated Funds	317,094		373,583				409,209		361,540	

SCHEDULE 3 - OPERATING PROGRAM DETAIL

Department of Law	SECURITIES FRAUD									
	Actual FY 07		Actual FY 08		Approp FY 09		Estimate FY 09		Request FY 10	
Item	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>OPERATING EXPENSES</b>										
1930 - Litigation	789		896				453		189	
2220 - Building Grounds Maintenance	11									
2230 - Equipment Contract Maintenance	15		34				35		35	
2231 - IT Hardware Maint/Repairs Servs	212		221				200		200	
2232 - Software Upgrades	2,246		2,404				1,250		1,250	
2251 - Lease Motor Pool Vehicle	654		2,407				1,500		1,500	
2252 - Motor Pool Mileage Charge	400		2,643				2,700		2,700	
2253 - Equipment Rental	14		7				15		15	
2255 - Rental of Buildings	16,692		17,692				-		-	
2258 - Parking Fees	2,910		1,140				1,250		900	
2512 - IS Personal Travel Per Diem	218		884				900		750	
2513 - IS Personal Vehicle Reimbursement	55		118				200		100	
2530 - Out of State Travel	163									
2531 - OS Common Carrier Fares	409									
2532 - OS Personal Travel Per Diem	1,477									
2630 - Telephone	2,526		2,675				2,750		2,750	
2631 - Comm Svcs from Outside Sources	1,616		1,645				1,700		750	
2641 - Other ADP Billings - Purchase Service	101		203				225		225	
2660 - Insurance	820		767				-		-	
2680 - Contract Printing	319		924				1,000		1,000	
2820 - Other Purchased Services			96				100		100	
3115 - DP Supplies	1,890		128				125		125	
3116 - Purchase/Leased Software	151		343				345		345	
3117 - Educational	202		245				250		200	
3120 - Books & Subscriptions	808		1,061				1,100		750	
3121 - Office Supplies	416		1,087				1,200		900	
3123 - Postage	416		499				500		450	
3128 - Non-Capitalized Equipment	81		75				-		-	
3131 - Noncapitalized Bldg Mat'l	6,347		1,293				-		-	
3132 - Noncapitalized Furn/Office Syst.	1,876		1,144				-		-	
3140 - Noncapitalized IT - PC's	5,019		90				-		-	
3141 - Noncapitalized IT - Servers			472				-		-	
3143 - Noncapitalized Other	546									
3146 - Noncapitalized IT - Purch Server			1,400				1,400		1,400	
4140 - Dues and Memberships	1,340									
4180 - Official Functions			613				700		550	
4220 - Registration Fees	1,115									

**SCHEDULE 3 - OPERATING PROGRAM DETAIL**

Department of Law item:	Actual FY 07		Actual FY 08		Approp FY 09		Estimate FY 09		SECURITIES FRAUD Request FY 10	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
6212 - IT Servers - Direct Purchase	3,243		427				400		400	
6214- IT Other- Direct Purchase	55,100		43,633				20,298		17,584	
<b>Operating Expense Subtotal:</b>	<b>55,100</b>		<b>43,633</b>				<b>20,298</b>		<b>17,584</b>	
<b>OPERATING EXPENSE TOTAL:</b>	<b>8,072</b>		<b>19,585</b>				<b>4,933</b>		<b>4,466</b>	
General Fund										
General Funds Exempt										
Cash Funds										
Reappropriated Funds	47,028		24,048				15,365		13,118	
<b>Potted Operating Expenses</b>										
Workers' Compensation							964			
Leased Vehicle Expense							2,407			
Capital Complex Lease Space							17,038			
IT Asset Maintenance							6,343			
ADP Capital Outlay							591			
Communication Service Payments							<b>27,343</b>			
<b>Total</b>							<b>6,252</b>			
General Fund							21,091			
Reappropriated Funds										
<b>FY 10 DECISION ITEMS</b>										
<b>NP #2 Operating Vehicle Increase</b>										
General Fund									272	
Cash Funds										
Reappropriated Funds									272	
<b>Dec Item #1 - Consolidate SP Unit</b>										
General Fund									<b>(503,888)</b>	
Cash Funds									<b>(128,958)</b>	
Reappropriated Funds									<b>(374,930)</b>	
<b>TOTAL SECURITIES FRAUD</b>										
General Fund	<b>494,071</b>	<b>5.3</b>	<b>529,070</b>	<b>5.4</b>	<b>484,293</b>	<b>5.6</b>	<b>568,705</b>	<b>5.6</b>	-	-
General Fund Exempt	129,950		131,440		123,015		123,040		-	-
Cash Funds									-	-
Reappropriated Funds	364,121		397,630		361,278		445,665		-	-

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SCHEDULE 3 - OPERATING PROGRAM DETAIL

Department of Law Item	Actual FY 07		Actual FY 08		Approp FY 09		Estimate FY 09		SECURITIES FRAUD Request FY 10	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>RECONCILIATION OF FUNDS</b>										
Long Bill Appropriation (Supplemental)	448,472	5.6	463,762	5.6			484,293	5.6		
Salary POTS	17,483		21,588				20,662			
Health/Life/Dental	12,168		16,542				26,432			
Short Term Disability	441		503				374			
SB 04.257 A.E.D.	2,927		6,071				6,418			
SB 06.235 S.A.E.D.			961				3,183			
Worker's Compensation	919		793				964			
Capital Complex Lease Space	16,684		17,692				17,038			
Vehicle Lease Allocation	1,015		2,407				2,407			
IT Asset Maintenance	5,697		5,429				6,343			
ADP Capital Outlay Allocation	431		743				591			
Communication Service Payments							-			
Rollforward to Subsequent FY										
Rollforward from Previous FY										
Overexpenditure/(Reversion)	(12,166)	(0.3)	(7,421)	(0.2)						
Lapsed Appropriation Cash Funds Exempt	494,071	5.3	529,070	5.4			568,705	5.6		
<b>TOTAL RECONCILIATION</b>										
<b>GRAND TOTAL</b>	<b>494,071</b>	<b>5.3</b>	<b>529,070</b>	<b>5.4</b>	<b>484,293</b>	<b>5.6</b>	<b>568,705</b>	<b>5.6</b>	<b>-</b>	<b>0.0</b>
General Fund	129,950		131,440		123,015		123,040		-	
General Fund Exempt	-		-		-		-		-	
Cash Funds	-		-		-		-		-	
Reappropriated Funds	364,121		397,630		361,278		445,665		-	
Federal Funds										

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**SCHEDULE 4 - SOURCE OF FINANCING - DIRECT REVENUES**

Department of Law Item	Fund Number	SECURITIES FRAUD				
		Actual FY 2007	Actual FY 2008	Approp. FY 2009	Estimate FY 2009	Request FY 2010
<b>Schedule 3 Total</b>		494,071	529,070	484,293	568,705	-
General Funds		129,950	131,440	123,015	123,040	-
General Funds Exempt Cash Funds		-	-	-	-	-
Reappropriated Funds		364,121	397,630	361,278	445,665	-
<b>Reappropriated Funds</b>		364,121	397,630	361,278	445,665	-
Dept of Reg Agencies, Division of Securities						

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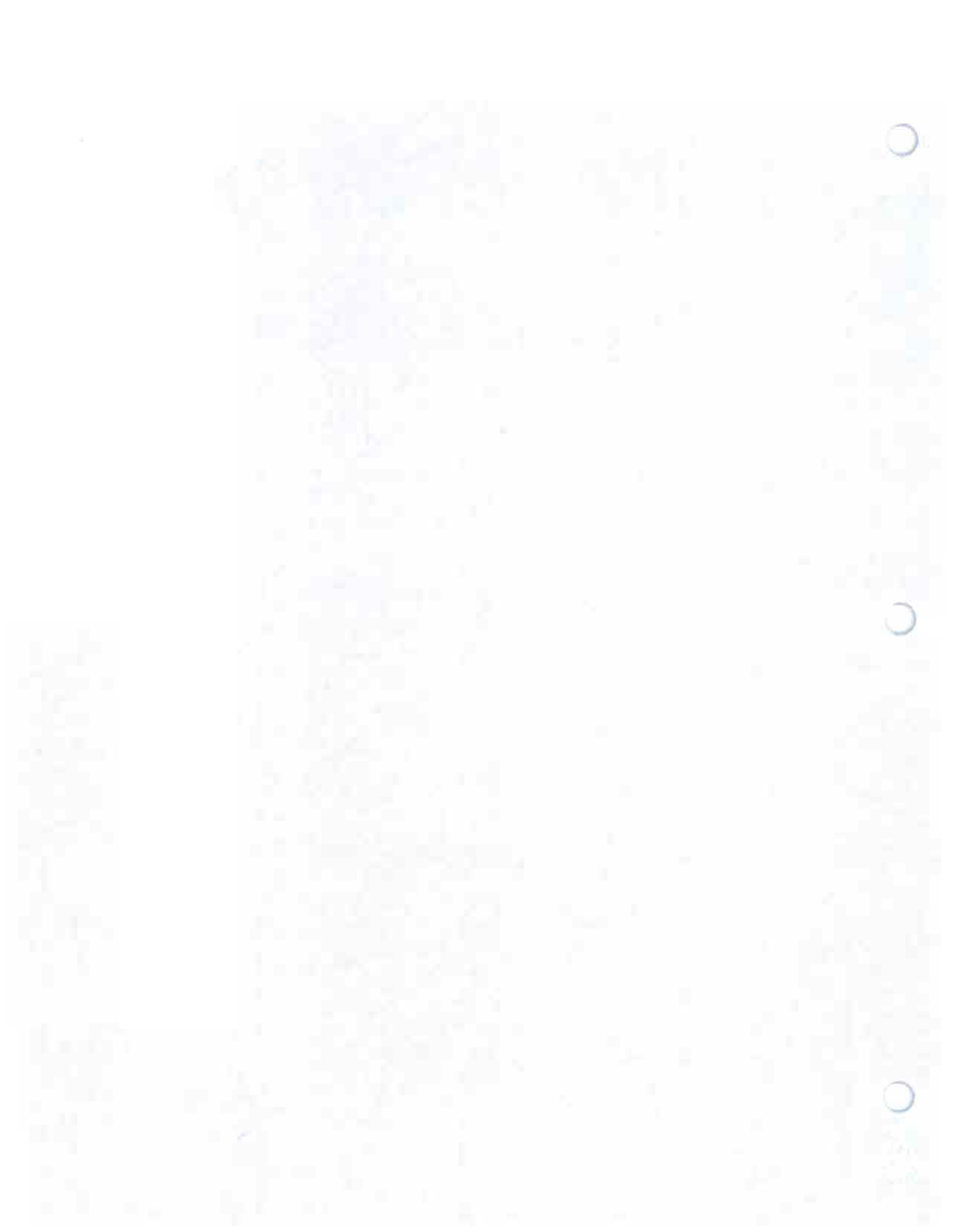
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# **Narrative Appellate**





## **D) BACKGROUND INFORMATION: APPELLATE UNIT**

**Structure:** The Appellate Division consists of a total of 29 attorneys (27 attorney FTE), and 3 support staff. It is a general fund unit headed by an Assistant Solicitor General.

**Primary duties.** The Appellate Division represents the prosecution when defendants challenge their felony convictions before the state appellate courts or the federal courts.

A case is officially “activated” in the Appellate Division when the Division receives an opening brief from the defense, or an order to show cause from the federal district court. In FY 2008, the Division activated 979 new appeals. These were filed by the State Public Defender (36%), private attorneys (30%), and pro se defendants (34%).

Most of the cases handled by the Appellate Division are in the Colorado Court of Appeals; the remainder are in the Colorado Supreme Court and the federal courts. For each case, an Appellate Division attorney must review the trial court record and the brief filed by the defense, do legal research into the defendant’s claims, and file a response. In some cases, the Appellate attorney will be filing the first (or opening) brief rather than a response. Last fiscal year, Appellate Division attorneys filed 865 briefs. On some appeals, the attorney must also argue the case before an appellate court; appellate attorneys did 112 such arguments in FY 2008.

In order to do the best job possible, appellate and trial prosecutors must keep current on ongoing developments in criminal law and procedure. Division attorneys condense the critical principles embodied in each published case, and classify and incorporate them into a digest that is transmitted weekly to the division’s attorneys and to the Offices of the State’s District Attorneys. This digest is available to state prosecutors through a web site posting that is updated monthly.

**Critical issues.** For the most part, the Division responds to appeals that are brought on behalf of convicted criminals and therefore cannot control the size of its caseload. It must provide effective and ethical representation in every case and handle whatever issues are presented in as timely a manner as possible. At times, however, it must take the offensive and seek certiorari review in the Supreme Court when (1) the court of appeals issues an opinion that appears to be contrary to established law and/or would have an adverse impact on law enforcement; or (2) conflicting decisions from the court of appeals emphasize the need for clarification in particular areas of the law.

The outcome of any given case may significantly affect how law enforcement authorities conduct searches and arrests; influence criminal trials and sentencing hearings throughout the state; or impact the state’s Department of Corrections, and probation, parole, and county Community Corrections programs. As such, each case must be given thorough and careful attention.

**II) PRIOR YEAR LEGISLATION:**

None

**III) HOT ISSUES:**

Appellate’s biggest challenge has always been how to keep pace with an unpredictable incoming caseload, while also trying to make inroads into the existing pending caseload. While the courts have traditionally recognized the difficulties posed by our workload and been generous in granting extra time to file our briefs, that era may be coming to an end. The additional judges added to the Court of Appeals have positively impacted the Court’s workload, and the Court has indicated that it wants to reduce the amount of time it takes for cases to pass through the appellate system. As such, Appellate will be required to do an even more delicate balancing act between processing appeals quickly while giving those appeals the attention they deserve. It is expected that the case load will continue to increase: the many judges added by the legislature at the trial court level will likely generate more criminal trials, and in turn more appeals. We can expect to see continuing pressure by the Courts for a faster turnaround on our appeals.

**IV) WORKLOAD MEASURE:**

Work on these appeals involves additional activities that vary by case, including monitoring case files; writing and responding to motions; conducting legal research; filing supplemental pleadings such as petitions for rehearing and petitions for certiorari; and preparing for and orally arguing the merits of the appeal before an appellate court(s). As a workload measure, the most quantifiable indicator may be “Cases Resolved,” which reflects the total of the number of briefs filed and the cases decided by the Court of Appeals via its expedited docket (which resolves simple cases without the need for an AG response).

Workload Measure		FY 07 Actual	FY 08 Actual	FY 09 Estimate	FY10 Request
Cases resolved (i.e. total of briefs filed and cases decided via expedited docket)		1019	964	1100	1200

## V.) CORE OBJECTIVES AND PERFORMANCE MEASURES

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

Performance Measure	Outcome	FY 07 Actual	FY 08 Actual	FY 09 Estimate	FY 10 Request
Percentage of cases with a successful outcome on appeal		91.2%	90%	91%	91%



**FY 09-10**  
**Budget**  
**Schedules 2, 3 and 4**  
**CJ & A - Appellate**







SCHEDULE 2 - PROGRAM SUMMARY

Department of Law

APPELLATE UNIT

Item	Actual FY 07		Actual FY 08		Approp. FY 09		Estimate FY 09		Request FY 10	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
APPELLATE UNIT	2,369,667	26.2	2,523,613	26.4	2,437,059	30.0	2,841,883	30.0	2,802,333	33.0
General Fund	2,369,667		2,523,613		2,437,059		2,841,883		2,802,333	
General Fund Exempt	-		-		-		-		-	
Cash Funds	-		-		-		-		-	
Reappropriated Funds	-		-		-		-		-	

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**SCHEDULE 3 - PROGRAM DETAIL**

Department of Law

APPELLATE UNIT

Item	Actual FY 07		Actual FY 08		Approp FY 09		Estimate FY 09		Request FY10	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>I. POSITION DETAIL</b>										
Deputy Attorney General	106,344	1.0	113,004	1.0			122,016	1.0	122,016	1.0
First Assistant Attorney General	273,491	3.0	291,640	3.0			301,176	3.0	301,176	3.0
Senior Assistant Attorney General							252,384	3.0	252,384	3.0
Assistant Attorney General II	221,868	3.0	240,678	3.0			1,386,194	20.0	1,386,194	20.0
Assistant Attorney General I	1,117,414	16.4	1,176,544	16.7			49,260	1.0	49,260	1.0
Program Assistant I	42,356	1.0	47,860	1.0			68,244	2.0	68,244	2.0
Administrative Assistant II	54,266	1.8	50,479	1.6						
Administrative Assistant I										
<b>TOTAL POSITION DETAIL</b>	<b>1,815,739</b>	<b>26.2</b>	<b>1,920,206</b>	<b>26.4</b>			<b>2,179,274</b>	<b>30.0</b>	<b>2,179,274</b>	<b>30.0</b>
<b>(I.A.) CONTINUATION FTE SALARY COSTS</b>										
(Permanent FTE by Position)										
Continuation Salary Subtotal	<b>1,815,739</b>	<b>26.2</b>	<b>1,920,206</b>	<b>26.4</b>			<b>2,179,274</b>	<b>30.0</b>	<b>2,179,274</b>	<b>30.0</b>
<b>(I.B.) OTHER PERSONAL SERVICES</b>										
PERA on Continuation Subtotal	175,391		188,879				221,196		221,196	
Medicare on Continuation Subtotal	24,035		25,677				31,599		31,599	
Non-Base building Performance Award							5,065			
Part-Time/Temporary Salaries	2,488		-							
Contractual Services	1,666		20,000							
Leave	6,731		3,050							
Overtime										
Other	2,527		-							
<b>SUBTOTAL</b>	<b>212,838</b>	<b>26.2</b>	<b>237,607</b>	<b>26.4</b>			<b>257,861</b>	<b>30.0</b>	<b>252,796</b>	<b>30.0</b>
<b>(I.C.) PERSONAL SERVICES</b>										
<b>SUBTOTAL = A+B</b>	<b>2,028,577</b>	<b>26.2</b>	<b>2,157,813</b>	<b>26.4</b>			<b>2,437,135</b>	<b>30.0</b>	<b>2,432,070</b>	<b>30.0</b>
Difference										
<b>(I.D.) POTS EXPENDITURES</b>										
Health/Life Dental	119,993		124,596				167,462		167,462	
Salary Survey	[131,306]		[86,896]				[80,097]		[80,097]	
Performance Awards			[39,102]				[31,660]		[31,660]	
Short Term Disability	2,089		2,466				2,598		2,598	
SB 04.257 A.E.D.	12,352		21,588				30,480		30,480	

**SCHEDULE 3 - PROGRAM DETAIL**

Department of Law

APPELLATE UNIT

Item	Actual FY 07		Actual FY 08		Approp FY 09		Estimate FY 09		Request FY10	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
SB 06.235 S.A.E.D. Other [ ] Indicates a Non-add			3,893 9,700		14,601					
<b>(I.E.) BASE PERSONAL SERVICES TOTAL=</b> C+D	<b>2,163,010</b>	<b>26.2</b>	<b>2,320,057</b>	<b>26.4</b>	<b>2,652,276</b>	<b>30.0</b>	<b>2,432,070</b>	<b>30.0</b>	<b>2,432,070</b>	<b>30.0</b>
<b>(I.F.) DIFFERENCE= II-I.E.</b>							(15,454)			
<b>(I.G.) REQUEST YEAR DECISION ITEMS</b>										
General Fund										
Cash Funds										
Reappropriated Funds										
<b>II. PERSONAL SERVICES REQUEST</b> <b>(AGGREGATE ADJUSTMENTS TO THE</b> <b>BASE APPROPRIATION)</b>										
Previous Year Long Bill									2,311,191	30.0
Supplemental									4,526	
Salary Survey-Classified									1,392	
PBP - Classified									75,571	
Salary Survey Exempt									23,936	
PBP - Exempt									-	
OSPB .2% Base Reduction									2,416,616	
Subtotal	<b>2,163,010</b>	<b>26.2</b>	<b>2,320,057</b>	<b>26.4</b>	<b>2,652,276</b>	<b>30.0</b>	<b>2,432,070</b>	<b>30.0</b>	<b>2,432,070</b>	<b>30.0</b>
<b>II. PERSONAL SERVICES REQUEST TOTAL</b>	<b>2,163,010</b>	<b>26.2</b>	<b>2,320,057</b>	<b>26.4</b>	<b>2,652,276</b>	<b>30.0</b>	<b>2,432,070</b>	<b>30.0</b>	<b>2,432,070</b>	<b>30.0</b>
General Fund										
Cash Funds										
Reappropriated Funds										

**SCHEDULE 3 - OPERATING PROGRAM DETAIL**

Department of Law	Actual FY 07				Actual FY 08		Approp FY 09		Estimate FY 09		APPELLATE UNIT Request FY10	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>OPERATING EXPENSES</b>												
1930 - Litigation	1,702		2,127				14,581				13,314	
2220 - Building Grounds Maintenance							230				230	
2230 - Bldg Maintenance/Repair Svcs	400		1,150				100				100	
2231 - ADP Equip Maint/Repair Services	78,495		89,508				400				400	
2255 - Rental of Buildings	10						25				25	
2559 - Parking Fee Reimbursement	1,483		3,055				3,500				3,500	
2512 - IS Personal Travel Per Diem	366		691				700				700	
2513 - IS Personal Vehicle Reimbursement	88		21				125				125	
2530 - Out of State Travel	162		143				250				250	
2531 - OS Common Carrier Fares	149		357				475				475	
2532 - OS Personal Travel Per Diem	15,763		16,249				18,500				18,500	
2630 - Telephone	299		190				320				320	
2631 - Comm Svcs from Outside Sources	34,505		25,083				30,000				30,000	
2641 - Other ADP Billings - Purchase Services	3,809		3,910				15,000				15,000	
2660 - Insurance	12,912		13,575				3,000				3,000	
2680 - Contract Printing	140		3,190				750				750	
2820 - Other Purchased Services	640						2,400				2,400	
2830 - Office Moving/Purchased Services	1,310		1,999				3,000				3,000	
3115 - DP Supplies			205				4,200				4,200	
3116 - Purchase/Leased Software	1,691		1,748				3,500				3,500	
3120 - Books & Subscriptions	3,743		4,004									
3121 - Office Supplies	2,957		3,079									
3123 - Postage	498		48									
3128 - Non-Capitalized Equipment	20,356		21,249									
3131 - Non-Capitalized Building Materials	3,757		434									
3132 - Non-Cap Office Furn/Office Systems	5,629		4,092									
3143 - Non-Capitalized IT Other	6,796		5,624									
4140 - Dues & Memberships	82		36				8,000				8,000	
4180 - Official Functions	1,060		1,789				125				125	
4220 - Registration Fees	3,000						2,500				2,500	
6224 - Other Furn & Fixtures- Direct Purchase												
Operating Expense Subtotal:	206,657		203,556				111,681				110,414	

**SCHEDULE 3 - OPERATING PROGRAM DETAIL**

Department of Law	Item	Actual FY 07		Actual FY 08		Approp FY 09		Estimate FY 09		APPELLATE UNIT Request, FY10	
		Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>OPERATING EXPENSE TOTAL:</b>											
	General Fund	206,657		203,556				111,681		110,414	
	General Funds Exempt	206,657		203,556				111,681		110,414	
	Reappropriated Funds							-			
<b>Rollforwards</b>								-			
	General Fund Exempt							-			
<b>Special Bills</b>											
	HB07-1054 Increasing Judges										
	General Fund									259,545	3.0
										259,545	
<b>Potted Operating Expenses</b>											
	Workers' Compensation							5,048			
	Leased Vehicle Expense							64,269			
	Capital Complex Lease Space							1,022			
	Lease Space							7,587			
	IT Asset Maintenance										
	ADP Capital Outlay										
	<b>Total</b>							<b>77,926</b>			
	General Fund							77,926			
	General Fund Exempt										
	Cash Funds										
	Reappropriated Funds										
<b>FY10 DECISION ITEMS</b>											
	FY10 - NP #3 DPA Central Services Postage Inc										
	General Fund									304	
	Cash Funds									304	
	Cash Funds Exempt										
<b>TOTAL APPELLATE UNIT</b>											
	General Fund	2,369,667	26.2	2,523,613	26.4	2,437,059	30.0	2,841,883	30.0	2,802,333	33.0
	General Fund Exempt	2,369,667		2,523,613		2,437,059		2,841,883		2,802,333	
	Cash Funds										
	Reappropriated Funds										

**SCHEDULE 3 - OPERATING PROGRAM DETAIL**

Department of Law Item	Actual FY 07		Actual FY 08		Approp FY 09		Estimate FY 09		APPELLATE UNIT Request FY10	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
	<b>RECONCILIATION OF FUNDS</b>									
Long Bill Appropriation	1,987,284	27.0	2,177,260	28.0			2,437,059	30.0		
<i>HB06-1028 Additional Judges</i>	75,300	1.0								
Salary POTS	131,306		125,998				111,757			
Health/Life/Dental	104,604		140,684				167,462			
Short Term Disability	2,040		2,406				2,598			
SB 04.257 A.E.D.	13,591		23,515				30,480			
SB 06.235 S.A.E.D.			4,083				14,601			
Worker's Compensation	4,257		3,856				5,048			
Capital Complex Lease Space	77,461		88,462				64,269			
Lease Space	1,243		1,045				1,022			
Vehicle Lease Allocation							-			
IT Asset Maintenance							7,587			
Building Wiring and Security Upgrade							-			
ADP Capital Outlay Allocation							-			
Rollforward from Previous FY year	9,800									
Rollforward to Subsequent FY	(37,218)	(1.8)	(28,508)	(1.6)						
Overexpenditure/(Reversions)			(15,188)							
Lapsed Appropriation Cash Fund	2,369,668	26.2	2,523,613	26.4			2,841,883			
<b>TOTAL RECONCILIATION</b>										
<b>GRAND TOTAL</b>	<b>2,369,667</b>	<b>26.2</b>	<b>2,523,613</b>	<b>26.4</b>	<b>2,437,059</b>	<b>30.0</b>	<b>2,841,883</b>	<b>30.0</b>	<b>2,802,333</b>	<b>33.0</b>
General Fund	2,369,667		2,523,613		2,437,059		2,841,883		2,802,333	
General Fund Exempt	-		-		-		-		-	
Cash Funds	-		-		-		-		-	
Reappropriated Funds	-		-		-		-		-	
Federal Funds										





**SCHEDULE 4 - SOURCE OF FINANCING - DIRECT REVENUES**

Department of Law Item	Fund Number	APPELLATE UNIT				
		Actual FY 2007	Actual FY 2008	Approp FY 2009	Estimate FY 2009	Request FY 2010
Schedule 3 Total		2,369,667	2,523,613	2,437,059	2,841,883	2,802,333
General Funds		2,369,667	2,523,613	2,437,059	2,841,883	2,802,333
General Funds Exempt		-	-	-	-	-
Cash Funds		-	-	-	-	-
Reappropriated Funds		-	-	-	-	-



# **Narrative**

# **Medicaid Fraud**



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## **I) BACKGROUND INFORMATION: MEDICAID FRAUD UNIT**

The Medicaid Fraud Control Unit (“MFCU”), comprised of 14 FTE positions, promotes the financial integrity of the state’s Medicaid program and the safety of patients in Medicaid funded facilities. The MFCU investigates and prosecutes financial fraud by providers against the Medicaid program and patient abuse in Medicaid-funded facilities throughout the state. By law, the Unit is separate from and independent of the state agency (Department of Health Care Policy and Financing) that administers Colorado’s Medicaid program. By federal law and state Executive Order, the Unit has statewide investigation and prosecution authority, which occurs with the cooperation and assistance of the 22 local District Attorneys across the state.

The Colorado Medical Assistance Program (Medicaid) provides medical assistance to the poor and needy in Colorado, paying approximately \$3 billion each fiscal year to over 10,000 participating Colorado Medicaid providers (such as nursing homes, doctors, psychiatrists, psychologists and mental health therapists, dentists, pharmacies, laboratories, hospitals, clinics and durable medical equipment companies) on behalf of approximately 388,068 recipients. Accordingly, Medicaid is one of the two largest items in the current Colorado state budget.

Colorado Medicaid is jointly funded by the federal and state governments at a 50/50 split. The MFCU receives 75% of its funding from the federal government, but in most cases a full 50% of the monies recovered by the Unit are returned to the state. Over the last three years, the MFCU has returned **\$7,134,368.24** in restitution and other recoveries to the Medicaid program in Colorado (**\$1,004,832.72** in 2006; **\$2,600,599.00** in 2007; and **\$3,528,936.52** in 2008). Recoveries are accomplished through criminal restitution orders, repayment demands against providers, and participation with other state MFCU’s in civil and criminal litigation, termed “global” cases, over alleged fraud against state Medicaid programs nationwide.

A large majority of health care providers deliver reasonable and honest services, and bill appropriately. While estimates of fraud, waste and abuse are reported nationally at **10%** or more, it has been estimated at **1.8%** in Colorado<sup>1</sup>. Recognizing that any amount is too much, it is the goal of the MFCU to effectively investigate, prosecute and to recover overpayments. Modern Medicaid fraud is typically a complex, multi-party (and sometimes multistate) white-collar crime which requires sophisticated investigative and prosecution personnel, who are well-trained and experienced in the white-collar crime arena.

## **II) PRIOR YEAR LEGISLATION**

The MFCU did not sponsor or promote any legislation in FY 2007-2008. Health care legislation that has been discussed recently that would likely affect the MFCU if passed

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<sup>1</sup> “Medicaid Fraud and Abuse Programs Performance Audit,” Office of the Colorado State Auditor (prepared by Clifton Gunderson, LLP, July 1999)

in the future years would include any bills that would affect the submission of Medicaid claims and any bills that grant authority to “whistleblowers” to file lawsuits against entities allegedly submitting false claims to the State (*qui tam* statutes).

The implementation of recent federal programs has the potential to affect the operations of the MFCU. Such programs include the Deficit Reduction Act of 2005 (Publ. L. 109-171 (2006)), whose implementation will expand the federal and state analysis of Medicaid claims with the goal of identifying more fraud, and the Centers for Medicare and Medicaid Services (CMS) Medicare / Medicaid data sharing project (known as “Medi-Medi”), recently expanded to Colorado. As federal funding is being distributed to these programs, the MFCU is likely to receive a greater number of referrals of criminal activity from the state Medicaid agency and from private contractors.

### **III) HOT ISSUES**

Major fraud cases: In the past fiscal year, considerable publicity was given to an MFCU investigation of a wheelchair company that resulted in the indictment of four employees for billing fraud. The case resulted in four convictions, with prison sentences of 10 years for the company’s owner, and 5 years for the manager.

Growing funding for health care fraud investigation: The federal legislation noted above represents only some of the ways in which both the federal and the State governments are paying increasing attention to the problem of fraud against the government in the health care arena. As fraud-fighting programs grow, the MFCU expects to see further growth in the number of cases referred for criminal investigation. The CMS has predicted that the growth in Medicaid spending will outpace the growth of the economy in the United States in the next decade (CMS Press Release, October 17, 2008).

Global cases: Through their national association, the MFCU’s throughout the country have enjoyed considerable success participating in *qui tam* litigation against companies who are alleged to have participated in complex schemes to defraud the state and federal governments under the Medicaid programs. Allegations against the companies, typically pharmaceutical and medical device companies, center around off-label marketing, incorrect price reporting, and kickback practices.

Initiatives and directions: The MFCU has begun initiatives to combat certain types of frauds that are prominent in Colorado. These frauds include overbilling in home health and Home and Community Based Services (HCBS), upcoding of services by physicians and other professionals, and expense reporting in nursing home cost reports.

New positions: The MFCU is taking full advantage of three positions that are new for FY 07-08: An additional Criminal Investigator position, a Nurse Investigator, and a Paralegal.

#### IV) WORKLOAD MEASURE:

#### WORKLOAD INDICATORS

Workload Measures		FY 07 Actual	FY 08 Actual	FY 09 Estimate	FY 10 Request
Measure 1.1 Criminal Investigation Opened	Target	45	45	45	45
	Actual	41	52		
Measure 1.2. Criminal Investigations Pending	Target	55	55	55	55
	Actual	31	67		
Measure 1.3. Criminal Cases Filed	Target	12	12	12	12
	Actual	6	3		
Measure 1.4. Convictions	Target	12	12	12	12
	Actual	11	2		
Measure 1.8. Total fines / Costs / Restitution Recovered	Target	450,000	450,000	450,000	450,000
	Actual	2,600,599	3,528,936		
Measure 1.9. Medicaid program exclusions (Providers / years)	Target	12/60	12/60	12/60	12/60
	Actual	7/35	13/181		
Measure 1.10. Cases closed	Target	45	45	45	45
	Actual	35	42		
Measure 1.11. Patient Incident Reviews	Target	1,000	1,000	1,000	1,000
	Actual	3,213	2,977		
Measure 1.12. Intergovernmental Cooperation	Target	22	22	22	22
	Actual	13	8		

Statistics kept by the MFCU indicate that the workload of the MFCU is increasing gradually but steadily over the fiscal years.

This chart includes measures from prior years' crosswalks. For this year, Measures 1.5, 1.6, and 1.7 were relocated into rows in the Performance Measures section.

# PERFORMANCE MEASURES

## 1. Fraud investigations and prosecutions

*Objective: To conduct a statewide program for investigating and prosecuting violations of applicable state laws pertaining to fraud in the administration of the Medicaid program, the provision of medical assistance, or the activities of providers of medical assistance under the State Medicaid plan.*

Performance Measure	Outcome	FY 07 Actual		FY 08 Actual		FY 09 Estimate		FY 10 Request	
		Incidents	Change	Incidents	Change	Incidents	Change	Incidents	Change
1.1 Open fraud investigations with substantial potential for criminal prosecution.	Benchmark	35		35		35		35	
	Actual	35	<1>	45	10				
1.2 Identify, collect overpayments or refer the matter to appropriate state agency for collection.	Benchmark	\$450,000		\$450,000		\$450,000		\$450,000	
	Actual	\$2,600,599	1,595,767	\$3,528,936	\$928,337				
1.3 To prosecute and convict providers who violate the criminal law by defrauding the Medicaid program.	Benchmark	9		9		9		9	
	Actual	9	<1>	2	<7>				
* Probation sentences (years)	Benchmark	10		10		10		10	
	Actual	17	<1>	5	<12>				
* Jail / prison sentences (days)	Benchmark	180		180		180		180	
	Actual	1893	329	3710	1817				
* Useful public service (hours)	Benchmark	800		800		800		800	
	Actual	600	86	80	<520>				

*Strategy:* The Unit receives referrals from numerous sources. Fraud referrals often require substantial investigation, and some investigations take months or years. Many of the fraud referrals, once investigated, do not result in criminal charges. This



is due to various reasons including lack of provable criminal intent, and inconsistencies or vagueness of applicable rules.

The Unit endeavors to be as quick and responsive as possible in receiving referrals, opening investigations, and bringing cases through the court system. When cases are not appropriate for investigation, the Unit refers them promptly to other agencies and/or delivers information or assistance to the referring entity or person to assure that their concerns may be addressed.

*Evaluation of Prior Year Performance:* The MFCU had a lower-than-average number of criminal convictions in FY08, possibly due to the turnover of the Director position, and the prosecution of an enormously document- and witness-intensive fraud case that took the attention of a majority of the Unit’s personnel. Collections of overpayments, by contrast, were at a very high level, as were the days of incarceration to which defendants were sentenced. The Unit was successful in opening and handling a rising number of new cases.

*Key Workload Indicators:* Workload indicators are consistent with the results in the Performance Measure table, and reflect an increasing Unit caseload even during the pendency of the intensive fraud case referenced above. Indicators show that the Unit has the ability to handle both routine cases and those that are highly demanding of employee time.

## 2. Abuse Investigations and Prosecutions

*Objective:* To review complaints alleging abuse of patients in health care facilities receiving payments under the State Medicaid plan and in board and care facilities regardless of funding; and complaints of the misappropriation of patients’ private funds in such facilities.

Performance Measure	Outcome	FY 07 Actual		FY 08 Actual		FY 09 Estimate		FY 10 Request	
		Incidents	Change	Incidents	Change	Incidents	Change	Incidents	Change
2.1 Open abuse investigations with a substantial potential for criminal prosecution or refer to appropriate government agency	Benchmark	10		10		10		10	
	Actual	6	5	7	1				
2.2 Criminally prosecute and convict those who violate the criminal law, particularly the “Wrongs to At-risk Adults” statute.	Benchmark	3		3		3		3	
	Actual	2	1	0	<2>				

*Strategy:* The Unit investigates thousands of occurrences of injury, endangerment, and wrongdoing in nursing homes and other facilities. These cases can be investigated and prosecuted by the Unit, but a substantially greater number are tracked through the system as they are prosecuted by other agencies. As with fraud referrals, the Unit endeavors to be as quick and responsive as possible. Abuse cases are coordinated with the local agency and assistance is given as needed. In rare cases, a local agency will not accept an abuse case but the Unit is able to prosecute it independently.

*Evaluation of Prior Year Performance:* The Unit did not independently gain any criminal convictions this year for physical or sexual abuse cases. As mentioned, these cases are typically prosecuted by the local agencies, with the MFCU providing assistance as needed. This year, the Unit reviewed 2,977 allegations of abuse and other incidents in long-term care facilities.

*Key Workload Indicators:* Workload indicators are consistent with the results in the Performance Measure table, and reflect an increasing overall Unit caseload. The indicators do not demonstrate the number of cases for which the Unit provided expert assistance or consultation.

### 3. Case openings, assignments, and processing

*Objective:* Process cases quickly in Unit and, where applicable, in court system by continuing the procedure of assigning the responsibility of each case to a team of at least one investigator and one prosecutor, and holding periodic status meetings and preparing reports on each case.

Performance Measure	Outcome	FY 07 Actual		FY 08 Actual		FY 09 Estimate		FY 10 Request	
		Incidents	Change	Incidents	Change	Incidents	Change	Incidents	Change
3.1 Assign an investigator and attorney at the time of case opening.	Benchmark	45		45		45		45	
	Actual	41		52	11				
3.2 Update case status report monthly and do case review of each case at least quarterly.	Benchmark	12/4		12/4		12/4		12/4	
	Actual	12/4		12/4					

*Strategy:* As the Unit's case load has increased steadily, it has become increasingly important for the Unit to promptly assign cases to the respective investigators and attorneys, and to monitor and assess the progress of each case on at least a quarterly basis.

*Evaluation of Prior Year Performance:* Assignments and monitoring have proceeded according to the standards set, and this has assisted the Unit in keeping its cases progressing satisfactorily.

*Key Workload Indicators:* Workload indicators are consistent with the results in the Performance Measure table, and reflect an increasing overall Unit caseload.



**FY 09-10**  
**Budget**  
**Schedules 2, 3 and 4**  
**CJ & A - Medicaid Fraud**





SCHEDULE 2 - PR RAM SUMMARY

Department of Law Item	Actual FY 07		Actual FY 08		Approp FY 09		Estimate FY 09		MEDICAID FRAUD GRANT Request FY10	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
MEDICAID FRAUD CONTROL GRANT	1,119,854	11.2	1,295,108	12.4	1,330,808	14.0	1,534,153	14.0	1,368,867	14.0
General Fund	279,964		319,403		332,703		383,538		342,276	
General Fund Exempt	-		-		-		-		-	
Cash Funds	-		-		-		-		-	
Reappropriated Funds	-		-		-		-		-	
Federal Funds	839,891		975,705		998,105		1,150,615		1,026,591	

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**SCHEDULE 3 - PROGRAM DETAIL**

Department of Law Item	Actual FY 07		Actual FY 08		Approp FY 09		Estimate FY 09		Request FY 10	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>I. POSITION DETAIL</b>										
First Assistant Attorney General	98,511.0	1.0	95,964	0.9			106,452	1.0	106,452	1.0
Senior Assistant Attorney General							98,736	1.0	98,736	1.0
Assistant Attorney General II	79,729	1.0	94,031	1.0			99,036	1.0	99,036	1.0
Criminal Investigator III	91,500	1.0	95,508	1.0			550,764	7.0	550,764	7.0
Criminal Investigator II	431,736	6.0	501,638	6.5			71,856	1.0	71,856	1.0
Auditor IV	87,248	1.0	63,218	0.92						
Program Assistant I	42,585	1.2					75,072	1.0	75,072	1.0
Health Professional IV	-		68,555	1.7			87,384	2.0	87,384	2.0
Legal Assistant I										
<b>TOTAL POSITION DETAIL</b>	<b>831,309</b>	<b>11.2</b>	<b>948,581</b>	<b>12.4</b>			<b>1,089,300</b>	<b>14.0</b>	<b>1,089,300</b>	<b>14.0</b>
<b>(I.A.) CONTINUATION FTE SALARY COSTS</b>										
(Permanent FTE by position) Continuation Salary Subtotal	<b>831,309</b>	<b>11.2</b>	<b>948,581</b>	<b>12.4</b>			<b>1,089,300</b>	<b>14.0</b>	<b>1,089,300</b>	<b>14.0</b>
<b>(I.B.) OTHER PERSONAL SERVICES</b>										
PERA on Continuation Subtotal	85,861		93,400				110,564		110,564	
Medicare on Continuation Subtotal	12,277		13,335				15,795		15,795	
Non-Base building Performance Award							2,504			
Part-Time/Temporary Salaries	8,265		4,954				945		1,400	
Professional Contractual Services	3,521		117				65,000		99,125	
Leave Payouts	20,661									
Overtime			579							
Other	785									
<b>SUBTOTAL</b>	<b>131,369</b>	<b>11.2</b>	<b>112,385</b>	<b>12.4</b>			<b>194,808</b>	<b>14.0</b>	<b>226,884</b>	<b>14.0</b>
<b>(I.C.) PERSONAL SERVICES SUBTOTAL=</b>										
<b>A+B</b>	<b>962,678</b>	<b>11.2</b>	<b>1,060,966</b>	<b>12.4</b>			<b>1,284,108</b>	<b>14.0</b>	<b>1,316,184</b>	<b>14.0</b>
<b>(I.D.) POTS EXPENDITURES</b>										
Health/Life Dental	29,053		52,786				61,505			
Salary Survey	[25,981]		[35,685]				[32,583]			

SCHEDULE 3 - PROGRAM DETAIL

Department of Law	MEDICAID FRAUD GRANT									
	Item	Actual FY 07 Total Funds	FTE	Actual FY 08 Total Funds	FTE	Approp FY 09 Total Funds	FTE	Estimate FY 09 Total Funds	Request FY10 Total Funds	FTE
Performance Awards				[15,121]				[12,097]		
Short Term Disability		937		1,215				2,437		
SB 04.257 A.E.D.		6,264		11,094				28,473		
SB 06.235 S.A.E.D.				2,397				9,220		
Other				1,002						
[ ] Indicates a Non-add										
<b>(I.E.) BASE PERSONAL SERVICES TOTAL=</b>		<b>998,932</b>	<b>11.2</b>	<b>1,129,461</b>	<b>12.4</b>			<b>1,385,743</b>	<b>1,316,184</b>	<b>14.0</b>
<b>C+D</b>										
<b>(I.F.) DIFFERENCE- III.-I.E.</b>										0
<b>(I.G.) REQUEST YEAR DECISION ITEMS</b>										
General Fund										
Cash Funds										
Reappropriated Funds										
<b>II. PERSONAL SERVICES REQUEST</b>										
<b>(AGGREGATE ADJUSTMENTS TO THE BASE</b>										
<b>APPROPRIATION)</b>										
Previous Year Long Bill									1,278,125	
Salary Survey-Classified									19,164	
PBP - Classified									9,984	
Salary Survey Exempt									6,374	
PBP - Exempt									2,537	
OSPB .2% Base Reduction									-	
<b>SPECIAL BILLS:</b>										
Subtotal -									1,316,184	
<b>II. PERSONAL SERVICES REQUEST</b>		<b>998,932</b>	<b>11.2</b>	<b>1,129,461</b>	<b>12.4</b>			<b>1,385,743</b>	<b>1,316,184</b>	<b>14.0</b>
<b>TOTAL</b>										
General Fund										
Cash Funds		249,733		282,365				346,436	328,005	
Reappropriated Funds										
Federal Funds		749,199		847,095				1,039,307	988,179	

**SCHEDULE 3 - OPERATING PROGRAM DETAIL**

Department of Law Item	Actual FY 07				Actual FY 08				Approp FY 09				Estimate FY 09				MEDICAID FRAUD GRANT			
	Total Funds		FTE		Total Funds		FTE		Total Funds		FTE		Total Funds		FTE		Total Funds		FTE	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>OPERATING EXPENSES</b>																				
1930 - Litigation	3,654		1,665																	1,533
2220 - Building Grounds Maintenance		13	1,067																	
2230 - Equipment Contract Maintenance			56																	
2231 - ADP Equip Maint/Repair Services			350																	
2232 - Software Upgrades	1,789		3,060																	1,000
2240 - Motor Veh Maint/Repair Svcs			88																	
2251 - Lease Motor Pool Vehicle	10,547		11,147																	9,000
2252 - Motor Pool Mileage Charge	4,549		3,247																	3,250
2254 - Rental of Motor Vehicles			105																	
2255 - Rental of Buildings	32,772		44,288																	
2258 - Parking Fees	3,420		3,640																	2,600
2559 - Parking Fee Reimbursement			11																	
2510 - In State Travel	345		1,278																	1,200
2512 - IS Personal Travel Per Diem	1,844																			250
2513 - IS Personal Vehicle Reimbursement	18		20																	250
2530 - Out of State Travel	586		153																	250
2531 - OS Common Carrier Fares	1,718		558																	500
2532 - OS Personal Travel Per Diem	3,254		6,013																	3,200
2630 - Telephone	8,563		9,698																	5,000
2631 - Comm Svcs from Outside Sources	2,055		2,839																	3,200
2641 - Other ADP Billings - Purchase Service	605		5,101																	900
2660 - Insurance	1,612		102																	
2680 - Contract Printing	1,202		2,434																	2,500
2820 - Other Purchased Services	70																			
3112 - Automotive Supplies	98																			
3115 - DP Supplies	1,063		1,285																	1,000
3116 - Purchase/Leased Software	179		5,223																	350
3117 - Educational	809		1,481																	1,500
3120 - Books & Subscriptions	3,519		4,539																	3,000
3121 - Office Supplies	1,507		2,729																	2,200
3123 - Postage	906		1,480																	2,000
3126 - Repair & Maintenance/Supplies	8		60																	
3128 - Non-Capitalized Equipment	85		4,328																	-
3131 - Non-Capitalized Building Materials	6,811		5,057																	-
3132 - Non-Capitalized Furn/Office Systems	350		2,914																	-
3140 - Non-Capitalized IT - PC's	8,592		19,857																	-

**SCHEDULE 3 - OPERATING PROGRAM DETAIL**

Department of Law Item	Actual FY 07		Actual FY 08		Approp FY 09		Estimate FY 09		MEDICAID FRAUD GRANT	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
3143 - Non-Capitalized IT Other	1,804		2,895							
4140 - Dues & Memberships	5,639		14,560				15,000		6,000	
4180 - Official Functions			65				125			
4220 - Registration Fees	943		2,255				2,200		2,000	
6214 - IT Other - Direct Purchase	9,995									
<b>Operating Expense Subtotal:</b>	120,922		165,647				90,845		52,683	
<b>OPERATING EXPENSE TOTAL:</b>	<b>120,922</b>		<b>165,647</b>				<b>90,845</b>		<b>52,683</b>	
General Fund	30,231		41,412				22,711		13,171	
Federal Funds	90,692		124,235				68,134		39,512	
<b>Potted Operating Expenses</b>										
Workers' Compensation							2,418			
Leased Vehicle Expense							12,995			
Capital Complex Lease Space							39,836			
Leased Space Allocation							247			
IT Asset Maintenance							2,069			
Communication Service Payments										
ADP Capital Outlay										
<b>Total</b>							<b>57,565</b>			
General Fund							14,391			
Cash Funds										
Reappropriated Funds										
Federal Funds							43,174			
<b>Rollforward</b>										
General Funds Exempt										
Federal Funds										
<b>TOTAL MEDICAID FRAUD</b>										
General Fund	1,119,854	11.2	1,295,108	12.4	1,330,808	14.0	1,534,153	14.0	1,368,867	14.0
General Fund Exempt	279,963		319,403		332,703		383,538		342,276	
Cash Funds										
Reappropriated Funds										
Federal Funds	839,890		975,705		998,105		1,150,615		1,026,591	

SCHEDULE 3 - OPERATING PROGRAM DETAIL

Department of Law		MEDICAID FRAUD GRANT									
		Actual FY 07		Actual FY 08		Approp FY 09		Estimate FY 09		Request FY10	
Item	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	
<b>RECONCILIATION OF FUNDS</b>											
Long Bill Appropriation	1,065,816	11.0	1,281,613	14.0			1,330,808	14.0			
Special Bills											
Salary POTS	25,981		50,806				41,189				
Health/Life/Dental	25,647		32,157				61,505				
Short Term Disability	550		1,171				2,437				
SB 04.257 A.E.D.	4,950		11,060				28,473				
SB 06.235 S.A.E.D.			2,370				9,220				
Worker's Compensation	1,800		2,007				2,418				
Leased Space Allocation			223				247				
Capital Complex Lease Space	32,772		44,230				39,836				
Vehicle Lease Allocation	11,910		11,218				12,995				
IT Asset Maintenance							2,956				
ADP Capital Outlay Allocation			20,175				2,069				
Communication Service Payments	2,589		2,229								
Rollforward from Previous FY											
Rollforward to Subsequent FY											
Overexpenditure/(Reversion)	(52,161)		(164,151)	(1.6)							
Lapsed Appropriation Cash Fund Exempt											
Lapsed Appropriation Federal Funds	1,119,854	11.0	1,295,108	12.4			1,534,153	14.0			
<b>TOTAL RECONCILIATION</b>											
<b>GRAND TOTAL</b>	<b>1,119,854</b>	<b>11.2</b>	<b>1,295,108</b>	<b>12.4</b>	<b>1,330,808</b>	<b>14.0</b>	<b>1,534,153</b>	<b>14.0</b>	<b>1,368,867</b>	<b>14.0</b>	
General Fund	279,964		319,403		332,703		383,538		342,276		
General Fund Exempt	-		-		-		-		-		
Cash Funds	-		-		-		-		-		
Reappropriated Funds	-		-		-		-		-		
Federal Funds	839,891		975,705		998,105		1,150,615		1,026,591		

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**SCHEDULE 4 - SOURCE OF FINANCING - DIRECT REVENUES**

Department of Law Item	Fund Number	MEDICAID FRAUD GRANT				
		Actual FY 2007	Actual FY 2008	Approp FY 2009	Estimate FY 2009	Request FY 2010
<b>Schedule 3 Total</b>						
General Funds		1,119,854	1,295,108	1,330,808	1,534,153	1,368,867
General Funds Exempt		279,964	319,403	332,703	383,538	342,276
Cash Funds		-	-	-	-	-
Reappropriated Funds		-	-	-	-	-
Federal Funds		839,891	975,705	998,105	1,150,615	1,026,591
<b>Reappropriated Funds</b>						
Medicaid Fraud Custodial	149	-	-	-	-	-
<b>Federal Funds</b>						
Medicaid Fraud Federal Funds		839,891	975,705	998,105	1,150,615	1,026,591





# **Narrative**

# **Capital Crimes**



1. Introduction

2. Methodology

3. Results

4. Discussion

5. Conclusion

## **I) BACKGROUND INFORMATION: CAPITAL CRIME UNIT**

The Capital Crimes Unit (“CCU”) is a two-attorney, one-investigator unit, which is assisted by an administrative assistant. CCU was created by the Legislature in fiscal year 1994-1995 to assist District Attorneys by providing additional investigative and prosecutorial resources in an effort to more effectively analyze and implement the death penalty for offenders who truly deserve it given the commission of especially aggravated and brutal homicides. In addition to assisting in the prosecution of cases determined by the District Attorney to warrant filing of the death penalty, the Unit also provides investigative assistance concerning aggravated homicides and cold case homicides throughout the state.

The Unit has handled capital appeals in both the state and federal appellate courts, and post-conviction proceedings involving death row inmates. The Unit has performed a primary role in responding to legal and logistical needs during the execution process and is the only prosecutorial entity in Colorado, which provides expertise on capital cases from initial investigation through execution. The work load of CCU is dictated by the incidence of aggravated or multiple homicides, as well as prosecution requests for assistance. As anticipated, requests by state prosecutors to CCU for consultation or other assistance increased during the past fiscal year.

### **1. CAPITAL CRIMES UNIT EFFORTS IN 2007-2008**

The District Attorney’s decision to seek the death penalty is made solely by the District Attorney elected to serve in each Judicial District. Any assistance provided by the Unit is provided at the request of the District Attorney. In some of the cases which follow, the defendants have not proceeded to trial or otherwise resolved their cases. It is important to remember that a charge is merely an accusation and defendants are presumed innocent until and unless proven guilty. The Unit provided attorney assistance to the following judicial districts during the year: 4<sup>th</sup>, 8<sup>th</sup>, 9<sup>th</sup>, 11<sup>th</sup>, 14<sup>th</sup>, 17<sup>th</sup>, 18<sup>th</sup>, and 22<sup>nd</sup>. The following cases are representative of CCU’s work during fiscal year 2007-2008:

### **2. INVESTIGATIVE ASSISTANCE**

During fiscal year 2007-2008, the Unit has provided substantial consultation and/or investigative assistance to district attorneys or law enforcement agencies confronted with cold homicide cases, those which have remained unsolved more than a year.<sup>1</sup> By way of example, during the past fiscal year, such assistance has been provided to law enforcement agencies within the 1<sup>st</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 7<sup>th</sup>, 8<sup>th</sup>, 9<sup>th</sup>, 10<sup>th</sup>, 11<sup>th</sup>, 12<sup>th</sup> and 18<sup>th</sup> Judicial Districts. In addition to the cases referenced in the preceding paragraph, during the past fiscal year, the Unit has also provided substantial consultation and/or investigative assistance to district attorneys or law enforcement agencies confronted with aggravated homicides, which are not characterized as “cold.” By way of example, during

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<sup>1</sup> Discussion of the facts underlying law enforcement inquiries is not provided as such disclosure might prejudice pending investigations.

the past fiscal year, such assistance has been provided to law enforcement agencies within the 1<sup>st</sup>, 4<sup>th</sup>, 7<sup>th</sup>, 9<sup>th</sup>, 17<sup>th</sup>, 18<sup>th</sup> and 22<sup>nd</sup> Judicial Districts.

### **3. TRAINING**

The Cold Case Group founded by this Unit continues to meet on an as needed basis. This group consists of approximately 50 investigators representing 25 law enforcement agencies. The group meets to offer training as well as a forum for the presentation and evaluation of cold cases. The unit investigator is the President of the Colorado Homicide Investigators Association, a group of over 125 investigators from across the state. In this capacity training is coordinated for and presented to the group at quarterly meetings.

During fiscal year 2006-2007, the Unit and the Colorado Homicide Investigators Association offered ten different trainings on several topics throughout the state. The unit investigator has been appointed to the Cold Case Training Task Force which has been tasked with development of a training curriculum for a statewide two day cold case training program. The unit investigator is also a member of the state ViCAP Advisory Board and is instrumental in the attempt to make ViCAP submissions mandatory for all homicides and missing persons.

### **4. CONTINUING NEED FOR THE CAPITAL CRIMES UNIT**

CCU was created in large part to balance the inequity which existed by reason of the comparatively unlimited fiscal resources available for the defense of capital cases versus the substantially fewer resources then available to most Colorado prosecutors. It should also be noted that, absent a resource such as CCU, the ability of even the larger offices to prosecute a capital case is severely compromised. Regardless of the size of the office, the prosecution in any capital case is routinely confronted with defense teams of three or more attorneys and multiple investigators, who recruit numerous expert witnesses, and fund significant travel, both for investigative purposes and transportation of witnesses. Historically, if one considers the cases which have gone to trial and on which CCU has assisted, such cases average over 300 motions filed by the defense, all of which must be answered by the prosecution.

To permit an inequity, such as that which existed prior to the creation of CCU, to continue would have been a disservice to Colorado's citizenry, which has indicated its desire for a death penalty, as well as the Legislature, which responded to that demand by enacting Colorado's capital sentencing statutes. The Legislature responded to the public's desire for an effective death penalty by creating CCU.

The workload of CCU is dictated by the incidence of aggravated or multiple homicides and the frequency of requests, which local prosecutors choose to make of the Unit.

## II) PRIOR YEAR LEGISLATION

**HB08- 1397** – Disposition of Evidence in Criminal Cases. (Rep Jahn and Rep. King, Sen. Kopp and Sen. Gordon). Creates a duty upon law enforcement agencies to preserve evidence that may contain DNA and sets procedures and court proceedings to handle requests to allow the destruction of evidence. This legislation will require several more steps be taken procedurally in every case to ensure that no evidence is inadvertently destroyed without court approval. Prosecutors will likely be required to take additional steps and file additional motions to comply.

**SB08- 205** – New Trial for Destroying Evidence. (Sen. Gordon and Sen. Mitchell, Rep. Jahn and Rep. King). Provides for new procedures regarding a defendant's remedies in the event of the destruction of evidence previously ordered preserved by the court attributed to law enforcement negligence. May result in more hearings in the event that the significant pre-conditions are met and this issue is ever raised.

## III) HOT ISSUES:

- 1) Investigation of the Peggy Hettrick homicide by Order of the Governor.

Last winter, Governor Ritter ordered the Criminal Justice Section to undertake the investigation of the 1987 murder of Peggy Hettrick. In the wake of last year's developments in that case, Defendant Timothy Masters was released from prison in early 2008. This office is now tasked with a renewed investigation of that murder. Apart from the limitations placed upon the section by line item budgeting constraints, this investigation is a highly intensive effort that is using significant amounts of office resources and personnel time. The lead investigator on this matter is the Capital Crimes Unit's sole investigator. Any reduction funding of the Capital Crimes Unit would severely limit the ability of this office to continue the investigation.

- 2) Criminal Justice Unit budgetary line item constraints.

The current restrictions on the criminal enforcement section imposed by the funding restrictions are limiting the unit's ability to handle cases and are an inefficient use of taxpayer dollars. There needs to be flexibility within the various units of special prosecution, insurance fraud, and securities fraud and capital crimes to allow cross-utilization of resources and personnel when necessary to handle difficult cases.

**IV) WORKLOAD MEASURE:**

Capital Crimes Prosecution Unit		FY 07 Actual	FY 08 Actual	FY 09 Estimate	FY 10 Request
<b>Objectives 1.1</b>	To assist District Attorneys in the investigation of aggravated murders – investigator and attorney time				
<b>Measure 1.1.1. Investigation</b>	<b>Target</b>				
	<b>Actual</b>	41	22		
<b>Measure 1.1.2. Grand Jury</b>	<b>Target</b>				
	<b>Actual</b>	0	0		
<b>Combined Cases</b>		41	22		
<b>Hours</b>		1,642 <sup>2</sup>	1,576		
<b>Objectives 2.1</b>	To assist District Attorneys in prosecutions when the death penalty is under consideration or being sought – attorney time				
<b>Measure 2.1.1. Expand database</b>	<b>Target</b>				
	<b>Actual</b>	218 <sup>3</sup>	338		
<b>Measure 2.1.2. Research (hours)</b>	<b>Target</b>				
	<b>Actual</b>	664	760		
<b>Measure 2.1.3. Pleadings, briefs, appearances (hours)</b>	<b>Target</b>				
	<b>Actual</b>	1,313 <sup>4</sup>	2198 <sup>5</sup>		
<b>Measure 2.1.4 Consultation (hours)</b>	<b>Target</b>				
	<b>Actual</b>	540	316		
<b>Combined Cases</b>		5	10		
<b>Objectives 3.1</b>	To assist District Attorneys in the prosecution of capital postconviction proceedings or appeals – attorney time.				
<b>Measure 3.1.1. Appellate briefs, pleadings, appearances (hours)</b>	<b>Target</b>				
	<b>Actual</b>	664	0 <sup>6</sup>		
<b>Combined Cases</b>		1	0		

<sup>2</sup> The hours for investigative work in fiscal year 2006 include substantial attorney time representing participation in grand jury proceedings. The Unit attorneys did not perform grand jury work during fiscal years 2007, 2008.

<sup>3</sup> For the benefit of Colorado prosecutors, the Unit maintains, updates and supplements a pleadings database, which currently contains 6,055 pleadings.

<sup>4</sup> The hours noted reflect services directly benefiting Colorado District Attorneys and exclude hours spent by Unit lawyers on Continuing Legal Education or necessary office functions, which indirectly benefit Colorado prosecutors

<sup>5</sup> The increase in hours from the previous year indicates active participation in motions hearings, instructions conferences and trials during the year, especially the Owens-Ray hearings and trials. On occasions both attorneys from the unit would participate in hearings/trials.

<sup>6</sup> There was no attorney time expended on appellate matters. This is a change from previous years when the Montour case was on active appeal. In the next year we will be involved in the Owens appeal.







**FY 09-10**  
**Budget**  
**Schedules 2, 3 and 4**  
**CJ & A - Capital Crimes**





**SCHEDULE 2 - PROGRAM SUMMARY**

Department of Law	CAPITAL CRIMES PROSECUTION UNIT											
	Actual FY 07		Actual FY 08		Approp FY 09		Estimate FY 09		Request FY 10			
Item	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>CAPITAL CRIMES PROSECUTION</b>	375,228	3.8	380,838	3.8	376,643	4.0	431,996	4.0	-	-	-	0.0
General Fund	375,228		380,838		376,643		431,996		-	-	-	
General Fund Exempt	-		-		-		-		-	-	-	
Cash Funds	-		-		-		-		-	-	-	
Cash Funds Exempt	-		-		-		-		-	-	-	
Federal Funds	-		-		-		-		-	-	-	

(1)

(2)

(3)

**SCHEDULE 3 - PROGRAM DETAIL**

Department of Law	Item	Actual FY 07				Actual FY 08				Approp FY 09				Estimate FY 09				Request FY 10			
		Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE		
<b>I. POSITION DETAIL</b>																					
	First Assistant Attorney General	103,368	1.0	85,020	0.8										108,828	1.0	108,828	1.0	108,828	1.0	
	Senior Assistant Attorney General														101,280	1.0	101,280	1.0	101,280	1.0	
	Assistant Attorney General II	75,260	0.8	97,946	1.0																
	Criminal Investigator II	63,384	1.0	67,678	1.0																
	Administrative Assistant III	32,544	1.0	33,768	1																
	<b>TOTAL POSITION DETAIL</b>	<b>274,556</b>	<b>3.8</b>	<b>284,412</b>	<b>3.78</b>										<b>322,524</b>	<b>4.0</b>	<b>322,524</b>	<b>4.0</b>	<b>322,524</b>	<b>4.0</b>	
	<b>(I.A.) CONTINUATION FTE SALARY COSTS</b>																				
	(Permanent FTE by Position)																				
	Continuation Salary Subtotal	<b>274,556</b>	<b>3.8</b>	<b>284,412</b>	<b>3.8</b>										<b>322,524</b>	<b>4.0</b>	<b>322,524</b>	<b>4.0</b>	<b>322,524</b>	<b>4.0</b>	
	<b>(I.B.) OTHER PERSONAL SERVICES</b>																				
	PERA on Continuation Subtotal	26,944		28,126											32,736		32,736		32,736		
	Medicare on Continuation Subtotal	3,867		3,992											4,677		4,677		4,677		
	Non-Base Building Performance Awards														785		785				
	Part-Time/Temporary Salaries	1,138																			
	Contractual Services	182																			
	Overtime Pay	203																			
	Termination/Retirement Payouts	476																			
	Other	32,809		32,118																	
	<b>SUBTOTAL</b>	<b>307,365</b>	<b>3.8</b>	<b>316,530</b>	<b>3.8</b>										<b>361,692</b>	<b>4.0</b>	<b>361,692</b>	<b>4.0</b>	<b>359,937</b>	<b>4.0</b>	
	<b>(I.C.) PERSONAL SERVICES</b>																				
	<b>SUBTOTAL = A+B</b>																				
	<b>(I.D.) POTS EXPENDITURES</b>																				
	Health/Life/Dental	14,700		16,229											19,122		19,122				
	Salary Survey	[13,074]		[9,803]											[9,883]		[9,883]				
	Performance Awards			[414]											[4,901]		[4,901]				
	Short Term Disability	309		364											411		411				
	SB 04.257 A.E.D.	1,848		3,157											4,563		4,563				
	SB 06.235 S.A.E.D.			512											2,242		2,242				
	Other			773																	

[ ] indicates a non-add



**SCHEDULE 3 - OPERATING PROGRAM DETAIL**

Department of Law	CAPITAL CRIMES PROSECUTION UNIT					
	Actual FY 07	Actual FY 08	Approp FY 09	Estimate FY 09	Request FY 10	
Item	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>OPERATING EXPENSES</b>						
1930 - Litigation	1,869		420		420	
2220 - Building Grounds Maintenance	285					
2251 - Lease Motor Pool Vehicle	348		348		350	
2252 - Motor Pool Mileage Charge	2,493		1,959		2,200	
2255 - Rental of Buildings	11,916		12,638			
2258 - Parking Fees	1,615		2,280		2,000	
2512 - IS Personal Travel Per Diem	1,426		509		1,000	
2530 - Out of State Travel	213		12		100	
2531 - OS Common Carrier Fares	406		1,189		1,000	
2532 - OS Personal Travel Per Diem	645		1,107		600	
2630 - Telephone	4,081		3,864		4,000	
2631 - Comm Svcs from Outside Sources	290		168		169	
2641 - Other ADP Billings - Purchase Services	11,826		4,645		7,368	
2660 - Insurance	586		2,699		-	
2680 - Contract Printing	733		1,586		2,000	
2830 - Office Moving/Purchased Services	341					
3115 - DP Supplies	254		268		279	
3116 - Purchase/Leased Software			1,200		1,200	
3117 - Educational	101		123		250	
3120 - Books & Subscriptions	1,193		1,120		1,500	
3121 - Office Supplies	905		1,657		1,100	
3123 - Postage	176		172		200	
3126 - Repair & Maintenance/Supplies	1					
3128 - Non-Capitalized Equipment	11		1,516		-	
3140 - Non-Capitalized IT Purchases	2,343					
3143 - Non-Capitalized Other			502			
3131 - Non-Capitalized Bldg Mat'l	1,076					
3132 - Non-Capitalized Furn/Office Syst.	265					
4140 - Dues & Memberships	1,298		988		1,500	
4220 - Registration Fees	1,308		2,305		2,500	
6224 - Other Furn & Fixtures - Direct Purchase	3,000					
<b>Operating Expense Subtotal:</b>	<b>51,005</b>		<b>43,274</b>		<b>29,735</b>	<b>33,466</b>

**SCHEDULE 3 - OPERATING PROGRAM DETAIL**

Department of Law	CAPITAL CRIMES PROSECUTION UNIT											
	Actual FY 07		Actual FY 08		Approp FY 09		Estimate FY 09		Request FY 10		Request FY 10	
Item	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>Potted Operating Expenses</b>												
Workers' Compensation							673					
Leased Vehicle Expense							348					
Capital Complex Lease Space							11,902					
Lease Space							-					
Communication Services							296					
IT Asset Maintenance							1,012					
ADP Capital Outlay							14,231					
<b>Total</b>												
<b>OPERATING EXPENSE TOTAL:</b>												
General Fund	51,005		43,274		43,966		43,966		33,466		33,466	
General Funds Exempt	51,005		43,274		43,966		43,966		33,466		33,466	
Cash Funds												
Cash Funds Exempt												
<b>DECISION ITEM REQUESTS</b>												
<b>FY10 Dec Item #1 - Consolidate SP Unit</b>												
General Fund											(390,448)	(4.0)
Cash Funds											(390,448)	
Cash Funds Exempt												
<b>Rollforward</b>												
General Funds Exempt												
<b>TOTAL CAPITAL CRIMES PROSECUTIONS</b>												
General Fund	375,228	3.8	380,838	3.8	376,643	4.0	431,996	4.0	-		-	0.0
General Fund Exempt	375,228		380,838		376,643		431,996		-		-	
<b>RECONCILIATION OF FUNDS</b>												
Long Bill Appropriation	350,255	4.0	361,781	4.0	376,643		376,643		376,643			
Special Bills:												
Supplemental (1331)			(20,000)									
Salary POTS	13,074		15,290						14,784			
Health/Life/Dental	19,918		16,420						19,122			
Short Term Disability	331		378						411			
SB 04.257 A.E.D.	2,172		3,686						4,563			



**SCHEDULE 3 - OPERATING PROGRAM DETAIL**

Department of Law	Item	Actual FY 07		Actual FY 08		Approp FY 09		Estimate FY 09		CAPITAL CRIMES PROSECUTION UNIT Request FY 10	
		Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
SB 06.235 S.A.E.D.				640				2,242			
Worker's Compensation		655		550				673			
Capital Complex Leased Space		11,917		12,638				11,902			
Leased Space Allocation								-			
Vehicle Lease Allocation		589		348				348			
IT Asset Maintenance								1,012			
ADP Capital Outlay Allocation								-			
Communication Service Payments		431		372				296			
Rollforward from Previous FY year		2,916									
Rollforward to Subsequent FY											
Overexpenditure/(Reversion)		(27,030)	(0.2)	(11,265)	(0.2)						
<b>TOTAL RECONCILIATION</b>		375,228	3.8	380,838	3.8			431,996	4.0		
<b>GRAND TOTAL</b>		375,228	3.8	380,838	3.8			431,996	4.0		0.0
General Fund		375,228		380,838				431,996			
General Fund Exempt		-		-				-			
Cash Funds		-		-				-			
Reappropriated Funds		-		-				-			
Federal Funds											

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**SCHEDULE 4 - SOURCE OF FINANCING - DIRECT REVENUES**

Department of Law	CAPITAL CRIMES PROSECUTION UNIT						
	Revenue Source	Fund Number	Actual FY 2007	Actual FY 2008	Approp FY 2009	Estimate FY 2009	Request FY 2010
<b>Schedule 3 Total</b>			375,228	380,838	376,643	431,996	-
General Fund			375,228	380,838	376,643	431,996	-
General Fund Exempt			-	-	-	-	-
Cash Funds			-	-	-	-	-
Reappropriated Funds			-	-	-	-	-
Federal Funds			-	-	-	-	-

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# Narrative POST Board





## **D) BACKGROUND INFORMATION: PEACE OFFICERS STANDARDS AND TRAINING BOARD UNIT.**

**Structure:** The Colorado Peace Officer Standards and Training Board (P.O.S.T.) is established as a result of the enactment of federal legislation requiring equal protection by jurisdictions receiving federal funding (Title VII of the Rehabilitation Act of 1973).

The P.O.S.T. Board is composed of 20 members, of which three are statutory members: the Attorney General (Chairperson); the FBI Special Agent in Charge of the Denver Division of the Federal Bureau of Investigation; and the Executive Director of the Colorado Department of Public Safety. Seventeen members are appointed to 3-year terms by the Governor, and include one local government representative; one member of the general public; 6 active sheriffs; 6 active chiefs of police; and 3 line-level peace officers serving at the rank of sergeant and below.

**Primary Duties:** The P.O.S.T. Board is statutorily responsible for the approval, inspection, and regulation of basic all basic and reserve peace officer training academy programs, to include the development of the basic and reserve peace officer program curriculums, instructor methodology training programs, skills training programs (arrest control tactics, firearms qualification, and law enforcement driving) and skills instructor programs. Additionally, the Board has the statutory authority and responsibility for the development of standards related to the training, certification, and revocation processes for certified peace officers and reserve peace officers. This responsibility includes enforcing the statutes and rules related to peace officer academy enrollment; insuring peace officer applicants are not convicted criminals; reviewing variance applications; and taking timely revocation action against any certified peace officer convicted of a felony or certain misdemeanors. P.O.S.T. is required to establish the standards for the renewal of expired Colorado peace officer certificates.

P.O.S.T. also participates in the National Peace Officer De-certification Project and enters the personal data of individuals whose peace officer authority and peace officer certificates are revoked by the P.O.S.T. Board. The National Peace Officer De-certification Database can be accessed by all states and serves as a national clearing house which maintains the names of individuals who are prohibited to serve as peace officers.

P.O.S.T. Staff members work with the five (5) Subject Matter Expert (SME) Committees, which include the Curriculum SME Committee, Advanced Officer Training Committee and three skills disciplines (Firearms, Arrest Control Tactics, and Law Enforcement Driving) to improve training delivery, administer practical examinations to individuals seeking Colorado peace officer certification under reciprocity. Over the years, Colorado P.O.S.T. has joined with its counterparts from other states to develop a reciprocity process for the evaluation for out-of-state peace officer applicants.

During the 2003 Legislative Session, Senate Bill 03-103 was passed. The legislative intent of SB03-103 was to re-establish a statewide peace officer training program and to enable the P.O.S.T. Board to provide substantial training for certified peace officers. A twenty-five cent fee is collected on motor vehicle registrations and transferred to the P.O.S.T. Board Cash Fund pursuant to § 42-3-134(32), C.R.S.. These revenues are used





to provide funding for peace officer training programs as determined by the P.O.S.T. Board. P.O.S.T. has established 10 training regions, which are based upon the state's 22 judicial districts. Law enforcement agencies within each training region are encouraged to work collaboratively and each region is required to develop training programs through the use of regional law enforcement planning groups and multi-agency collaborative efforts. The regions then annually submit a grant application on behalf of their region to P.O.S.T. Applications are reviewed by the P.O.S.T. Peace Officer Training Project Subcommittee, which then makes grant award recommendations to the P.O.S.T. Board.

**Critical Issues:** Since 2001, *fourteen (14)* new academies have applied for and have received approval from P.O.S.T. to conduct basic peace officer training certification programs. This process requires the P.O.S.T. Investigator to receive, review and process the academy applications, course descriptions and schedules, lesson plans, site depiction, and instructor credentials. Skills training information is then distributed to each of the Subject Matter Expert (SME) Committees for review and approval. The academy inspector is also responsible for all academy and program inspections, which requires travel to each of the 28 academy sites. The P.O.S.T. Inspector and SME Committee members are regularly and routinely required to travel to the numerous academies located in Buena Vista, Colorado Springs, Craig, Delta, Durango, Fort Collins, Greeley, La Junta, Pueblo, Sterling, Steamboat Springs, Trinidad, Rangely, and numerous Denver Metro area locations.

P.O.S.T. Staff electronically maintains the peace officer certification record and data for approximately 14,000 active peace officers, and approximately 2100 reserve peace officers. P.O.S.T. is also responsible for the maintenance of the certification records of many thousands of individuals who were at one time appointed as active peace officers, but who no longer serve as peace officers.

During the 2003 Legislative Session, the Colorado legislature passed Senate Bill 03-103, *The P.O.S.T. Peace Officer Training Bill*. This legislation adds a twenty-five cent fee to all Colorado motor vehicle registrations. The fees are to be used to fund peace officer training grants for Colorado peace officers, particularly peace officers from small and rural law enforcement agencies. The twenty-five cent fee is collected at the time each motor vehicle is licensed. The fees are forwarded to the Department of Revenue, then on to the Colorado State Treasurer, who then credits the funds to the P.O.S.T. Board Cash Fund. It should be noted that P.O.S.T. has always had the authority to issue such grants, but the cash fund had never been funded. The twenty-five cent fee is now the primary funding source for the P.O.S.T. Peace Officer Training Project.



## **II) PRIOR YEAR LEGISLATION**

### **HB 08-1397 - Concerning the Disposition of Evidence Collected in Criminal Cases**

This bill requires the preservation of evidence collected during the investigation of a class 1 felony or a sex crime for indeterminate sentencing that resulted in a sentence for the life of the offender. Creates a process whereby all other evidence may be disposed of after notice to the district attorney and defendant or his or her counsel of record with an opportunity to file an objection with the court.

Additionally, the Bill requires that P.O.S.T. create training for new peace officer cadets to receive training at the training academy and to develop a separate training program for existing certified peace officers on proper DNA evidence collection and preservation. P.O.S.T. is also authorized to develop other specialized certification programs that concentrate on the proper techniques, practices and protocols for evidence collection with emphasis on evidence that may contain biological or DNA evidence.

### **HB 08-1147 - Concerning a Report Regarding Witness Protection Training**

This bill requires that any Witness Protection Curriculum developed by the Witness Protection Board shall be provided to the P.O.S.T. Board and shall be distributed and made available to Colorado law enforcement agencies.

## **III) HOT ISSUES:**

P.O.S.T.'s responsibility for the certification and training of Colorado Peace Officers is a critical between federal agencies, state agencies, and local government agencies. The motor vehicle registration fees used to fund peace officer training grants for Colorado peace officers, particularly peace officers from small and rural law enforcement agencies, have been depleted as a result of continuing increase in operational costs to administer the POST program. The grant funding has been steadily reduced over the past three years. Legislation to increase the fee must be sought and passed during the 2009 Legislative Session.

## **IV) WORKLOAD MEASURE:**

At its periodic meetings, the P.O.S.T. Board considers appealed variance requests and may hold hearings of appealed suspension, revocation, or denial rulings made by the P.O.S.T. Director. The Board also reviews applications for program approval. Additionally, the Board conducts Rule Making Hearings to modify or implement P.O.S.T. Rules as a result of changes made during the legislative session, at the request of Staff, or to coincide with case law.

Staff also reviews the certification records of peace officers from bordering states applying for Colorado peace officer certification or involved in temporary assignment to law enforcement agencies in Colorado (see § 29-1-206, C.R.S.).



The Staff conducts over 90 certification exams each year at the twenty-eight basic training academy sites. Within that testing process, the P.O.S.T. Staff members regularly travel to the academies in Buena Vista, Colorado Springs, Craig, Delta, Durango, Fort Collins, Greeley, La Junta, Pueblo, Sterling, Steamboat Springs, Trinidad, Rangely, and at numerous Denver Metro locations.

P.O.S.T. will continue to review the educational requirements and certification needs of Colorado peace officers, including Continuing Law Enforcement Educational (CLEE) requirements and issues. A recent P.O.S.T. survey of Colorado law enforcement leaders established the need for P.O.S.T. supported continuing education standards and a stratified certification process for Colorado peace officers.

### **WORKLOAD INDICATOR**

Workload Measure		FY 07 Actual	FY 08 Actual	FY 09 Estimate	FY10 Request
Coordination and delivery of the peace officer certification examination		915	1035	950	950
Inspection of training programs		18	17	18	18
Annual documentation of training funded by POST and attended by peace officers (SB03-103)		115,274	111,582	102,500	165,000* (with new legislation)
Peace officers certified under reciprocity		61	73	70	70
Peace Officer Revocation Actions		22	37	40	40

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**FY 09-10**  
**Budget**  
**Schedules 2, 3 and 4**  
**CJ & A - POST Board**





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SCHEDULE 2 - PROGRAM SUMMARY

Department of Law

PEACE OFFICERS STANDARDS & TRAINING BOARD

Item	Actual FY 07		Actual FY 08		Approp FY 09		Estimate FY 09		Request FY 10	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
POST Board	1,163,399	6.0	1,233,323	6.0	1,176,732	6.0	1,269,989	6.0	1,294,476	6.0
General Fund	-		44,638		-		-		97,500	
General Fund Exempt	-		-		-		-		-	
Cash Funds	1,158,673		1,188,685		1,176,732		1,269,989		1,196,976	
Reappropriated Funds	4,726		-		-		-		-	
Federal Funds										



**SCHEDULE 3 - PROGRAM DETAIL**

**PEACE OFFICERS STANDARDS & TRAINING BOARD**

Department of Law

Item	Actual FY 07		Actual FY 08		Approp FY 09		Estimate FY 09		Request FY 10	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>I. POSITION DETAIL</b>										
General Professional VI	89,904	1.0	93,936	1.0			98,760	1.0	98,760	1.0
General Professional V	72,384	1.0	75,624	1.0			79,500	1.0	79,500	1.0
Compliance Investigator II	60,888	1.0	63,612	1.0			66,876	1.0	66,876	1.0
Program Assistant I	33,120	1.0	34,421	1.0			36,384	1.0	36,384	1.0
Program Assistant II	39,984	1.0	41,772	1.0			43,920	1.0	43,920	1.0
Administrative Assistant II	30,372	1.0	31,512	1.0			32,904	1.0	32,904	1.0
<b>TOTAL POSITION DETAIL</b>	<b>326,652</b>	<b>6.0</b>	<b>340,877</b>	<b>6.0</b>			<b>358,344</b>	<b>6.0</b>	<b>358,344</b>	<b>6.0</b>
<b>(I.A.) CONTINUATION FTE SALARY COSTS</b>										
(Permanent FTE by Position)										
Continuation Salary Subtotal	<b>326,652</b>	<b>6.0</b>	<b>340,877</b>	<b>6.0</b>			<b>358,344</b>	<b>6.0</b>	<b>358,344</b>	<b>6.0</b>
<b>(I.B.) OTHER PERSONAL SERVICES</b>										
PERA on Continuation Subtotal	32,419		33,945				36,372		36,372	
Medicare on Continuation Subtotal	4,631		4,849				5,196		5,196	
Non-Base building performance Award			1,879				887			
Part Time/Temporary Services									2,500	
Contractual Services	292		45,453				5,804		32,743	
Overtime Payments										
Termination/Retirement Payouts										
Other	10									
Leave										
<b>SUBTOTAL</b>	<b>37,352</b>		<b>86,126</b>				<b>48,259</b>		<b>76,811</b>	
<b>(I.C.) PERSONAL SERVICES</b>										
<b>SUBTOTAL = A+B</b>	<b>364,004</b>	<b>6.0</b>	<b>427,003</b>	<b>6.0</b>			<b>406,603</b>	<b>6.0</b>	<b>435,155</b>	<b>6.0</b>
<b>(I.D.) POTS EXPENDITURES</b>										
Health/Life Dental	24,891		26,579				34,277			
Salary Survey	[9,995]		[12,387]				[15,320]			
Performance Awards			[1,155]				[5,543]			
Short Term Disability	370		443				465			
SB 04.257 A.E.D.	2,395		4,013				5,719			
SB 06.235 S.A.E.D.			836				2,681			
Other	703		682							

[ ] Indicates a Non-add

**SCHEDULE 3 - PROGRAM DETAIL**

Department of Law	Item	Actual FY 07		Actual FY 08		Approp FY 09		Estimate FY 09		Request FY 10	
		Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
	<b>(I.E.) BASE PERSONAL SERVICES TOTAL=</b>	392,363	6.0	459,556	6.0			449,745	6.0	435,155	6.0
	C+D										
	<b>(I.F.) DIFFERENCE=II- I.E.</b>									(1)	
	<b>(I.G.) REQUEST YEAR DECISION ITEMS</b>										
	General Fund										
	Cash Funds										
	Reappropriated Funds										
	<b>II. PERSONAL SERVICES REQUEST</b>										
	<b>(AGGREGATE ADJUSTMENTS TO THE BASE</b>										
	<b>APPROPRIATION)</b>										
	Previous Year Long Bill									415,400	
	Salary Survey-Classified									15,320	
	PBP - Classified									4,434	
	OSP .2% Base Reduction									-	
	SPECIAL BILLS:									435,154	
	<b>II. PERSONAL SERVICES REQUEST TOTAL</b>	392,363	6.0	459,556	6.0			449,745	6.0	435,155	6.0
	General Fund			44,638							
	General Fund Exempt										
	Cash Funds			414,918						435,155	
	Reappropriated Funds										
	Federal Funds										

**SCHEDULE 3 - OPERATING PROGRAM DETAIL**

**PEACE OFFICERS STANDARDS & TRAINING BOARD**

Department of Law

Item	Actual FY 07		Actual FY 08		Approp FY 09		Estimate FY 09		Request FY 10	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>OPERATING EXPENSES</b>										
2230 - Equipment Contract Maintenance	1,017		-				-		1,757	
2231 - ADP Equip Maint/Repair Services	334		-				340		400	
2232 - Software Upgrades	2,950		-				-		-	
2254 - Rental of Motor Vehicles	208						208		200	
2255 - Rental of Buildings	18,580		19,881							
2259 - Parking Fee Reimbursement	446		462				500		500	
2512 - IS Personal Travel Per Diem	2,206		2,956				1,694		3,000	
2513 - IS Personal Vehicle Reimbursement			71						125	
2530 - Out of State Travel	2									
2630 - Telephone	3,179		2,756				2,800		3,200	
2631 - Comm Svcs from Outside Sources	43		150				100		100	
2641 - Other ADP Billings - Purchase Service	20		50				-		50	
2660 - Insurance	879		815							
2680 - Contract Printing	7,487		6,263				2,575		7,500	
2690 - Other Pur Services - Legal	7,616		9,818				-		11,000	
2820 - Other Purchased Services	100		-				-		100	
2830 - Office Moving/Purchased Services										
3115 - DP Supplies	796		448				-		500	
3116 - Purchase/Leased Software			732						750	
3120 - Books & Subscriptions	88						50		200	
3121 - Office Supplies	3,537		3,286				2,500		3,200	
3122 - Microfilming/Photo. Supplies	21		23						100	
3123 - Postage	4,604		4,950				2,500		5,200	
3128 - Non-Capitalized Equipment	277						-		250	
4111 - Prizes and Awards	1,936						-		1,700	
4140 - Dues & Memberships	1,509		1,459				750		1,500	
4180 - Official Functions	1,108		953				750		1,500	
5110 - Grants to Cities	273,550						275,225		220,000	
5120 - Grants to Counties	175,293						176,000		180,000	
5781 - Grants to NonGov/Organizations	263,250		718,696				325,000		320,000	
<b>Operating Expense Subtotal:</b>	771,036		773,766				790,992		761,332	
<b>OPERATING EXPENSE TOTAL:</b>	<b>771,036</b>		<b>773,766</b>				<b>790,992</b>		<b>761,332</b>	
General Fund										
General Funds Exempt	0									
Cash Funds	766,310		773,766				790,992		761,332	
Reappropriated Funds	4,726									

**SCHEDULE 3 - OPERATING PROGRAM DETAIL**

**PEACE OFFICERS STANDARDS & TRAINING BOARD**

Department of Law

Item	Actual FY 07		Actual FY 08		Approp FY 09		Estimate FY 09		Request FY 10	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>Potted Operating Expenses</b>										
Workers' Compensation							1,045			
Leased Vehicle Expense							18,479			
Capital Complex Lease Space							-			
Leased Space							9,728			
IT Asset Maintenance							-			
ADP Capital Outlay							29,252			
<b>Total</b>							29,252			
General Fund							-			
Cash Funds							29,252			
Reappropriated Funds							-			
<b>ROLLFORWARD</b>										
General Funds Exempt							-			
Reappropriated Funds							-			
<b>SPECIAL BILLS</b>										
HB08-1397 DNA bill									81,207	
General Fund									81,207	
<b>ANNUALIZATION SPECIAL BILLS</b>										
HB08-1397 DNA bill									16,293	
General Fund									16,293	
<b>FY10 DECISION ITEM REQUEST</b>										
FY10 - NP #3 DPA Central Services Postage Inc										
General Fund									489	
Cash Funds									489	
<b>TOTAL POST BOARD</b>										
General Fund	1,163,399	6.0	1,233,323	6.0	1,176,732	6.0	1,269,989	6.0	1,294,476	6.0
Cash Funds	-		44,638		-		-		97,500	
General Fund Exempt	1,158,673		1,188,685		1,176,732		1,269,989		1,196,976	
Cash Funds	4,726		-		-		-		-	
Reappropriated Funds										
Federal Funds										
<b>RECONCILIATION OF FUNDS</b>										
Long Bill Appropriation	1,155,202	6.0	1,208,125	6.0			1,176,732	6.0		

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**SCHEDULE 3 - OPERATING PROGRAM DETAIL**

**Department of Law PEACE OFFICERS STANDARDS & TRAINING BOARD**

Item	Actual FY 07		Actual FY 08		Approp. FY 09		Estimate FY 09		Request FY 10	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
Salary POTS	9,995		13,542				20,863			
Health/Life/Dental	18,856		29,354				34,277			
Short Term Disability	371		425				465			
SB 04.257 A.E.D.			4,004				5,719			
SB 06.235 S.A.E.D.			858				2,681			
Workers Compensation	982		862				1,045			
Capital Complex Lease Space	17,876		18,953				18,479			
Leased Space Allocation							-			
Vehicle Lease Allocation							-			
Building Wiring and Security							9,728			
IT Asset Maintenance							-			
ADP Capital Outlay Allocation							-			
Rollforward from Previous FY										
Rollforward to Subsequent FY										
Overexpenditure/(Reversion)	(39,884)		(42,800)							
Lapsed Appropriation Cash Fund										
Lapsed Appropriation Cash Fund Exempt	1,163,398	6.0	1,233,323	6.0			1,269,989	6.0		
<b>TOTAL RECONCILIATION</b>										
<b>GRAND TOTAL</b>	<b>1,163,399</b>	<b>6.0</b>	<b>1,233,323</b>	<b>6.0</b>	<b>1,176,732</b>	<b>6.0</b>	<b>1,269,989</b>	<b>6.0</b>	<b>1,294,476</b>	<b>6.0</b>
General Fund			44,638						97,500	
General Fund Exempt										
Cash Funds	1,158,673		1,188,685		1,176,732		1,269,989		1,196,976	
Reappropriated Funds	4,726									
Federal Funds										

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**SCHEDULE 4 - SOURCE OF FINANCING - DIRECT REVENUES**

Department of Law		PEACE OFFICERS STANDARDS & TRAINING BOARD						
		Fund Number	Actual FY 2007	Actual FY 2008	Approp FY 2009	Estimate FY 2009	Request FY 2010	
<b>Schedule 3 Total</b>			1,163,399	1,233,323	1,176,732	1,269,989	1,294,476	
General Funds			-	44,638	-	-	97,500	
General Funds Exempt			-	-	-	-	-	
Cash Funds			1,158,673	1,188,685	1,176,732	1,269,989	1,196,976	
Reappropriated Funds			4,726	-	-	-	-	
<b>Cash Funds</b>								
POST Board Fund		296	1,158,673	1,188,685	1,176,732	1,269,989	1,196,976	
<b>Reappropriated Funds</b>								
POST Board Fund Reserve		296	4,726	-	-	-	-	

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# Narrative

# Victims Assistance





## **I) BACKGROUND INFORMATION: VICTIM ASSISTANCE UNIT.**

Under Colo. Const. Art. II, § 16a and Colo. Rev. Stat. §§ 24-4.1-302, *et seq.*, victims of certain crime have the right to be informed of and present for each critical stage of the criminal justice process. To this end, law enforcement agencies are required to provide certain services to all victims of crime against persons. The Department of Law Victim Services is provided by 1 FTE, the Victim Services Coordinator. The Victim Services Coordinator carries out these duties for both the (Criminal) Appellate Division and the trial prosecutions within the Criminal Justice Section in the Attorney General's office. The Coordinator helps over 1200 victims each year. These duties entail providing status information, explanations, court accompaniment, referral, and liaison services to crime victims in Appellate, Special Prosecutions, Medicaid fraud, and, occasionally, capital cases.

The Coordinator provides status information, explanations, court accompaniment, referral, and liaison services to the victim as his or her case progresses through the "critical stages" of the criminal justice process. Depending on whether the case is an appellate or trial-level proceeding, the critical stages and nature of additional services vary. These services are non-duplicative of any other services in the state. The VSC enables crime victims and their families to know what is going on with their cases and why.

## **II) PRIOR YEAR LEGISLATION**

The Victim Assistance Unit did not sponsor or promote any legislation in FY 2008-2009.

## **III) HOT ISSUES**

### People v. Michael Muniz

This was a brutal first degree murder case in Jefferson County. The defendant and the victim were strangers. The defendant followed the victim home and stabbed her repeatedly. The conviction was reversed on appeal because the trial court did not allow the defense to present their theory of alternate suspects. The Victim Services Coordinator was in close contact with the daughter and son-in-law of the victim throughout the appeal. When the conviction was vacated, the Coordinator established for the victim new contact with the victim advocate in Jefferson County and also with a victim advocate with a non-profit agency who was called out to the original crime scene and remained a support to the daughter throughout the trial. A new trial has been ordered in Jefferson County, and a new direct appeal will eventually follow at the Department of Law.

### People v. Jimmy Anglin

This is a wrenching crime of a death caused by a careless driver whose car hit the victim's car, throwing the victim onto the road, and then the defendant ran over the victim. The defendant then fled the scene without rendering aid. The pregnant new wife of the victim attempted unsuccessfully to aid her husband. The victim had raised four

daughters as a single father, and all of the daughters have been devastated by his death, the lack of remorse shown by the defendant, and by the sentence to four years of probation by the court. The appeal began mid-2008, and will not be completed until sometime in 2009. The Coordinator is frequently contacted by the daughters and the widow who are extremely concerned about the appeal.

People v. Steven Cook

This is a case involving 14 counts of aggravated sexual abuse and sexual exploitation on two children in Arapahoe County. The defendant was convicted of abusing his own biological daughter and the daughter of his girlfriend. Both girls described the defendant taking them to the basement, sexually assaulting them, taking pictures of them on his webcam, and then sending these pictures over the internet to other people. The Court of Appeals vacated the conviction because the investigating officer vouched for the credibility of other witnesses. There will be a new trial in Arapahoe County. The Coordinator has been in frequent contact with both families, and is currently helping them to transition back to the trial court to prepare the girls for a new trial.

**IV) WORKLOAD MEASURE:**

Objective: To provide statutorily mandated services to all crime victims whose cases will open on appeal in the Appellate Division or are litigated by the special prosecutions, Medicaid Fraud and as determined, the Capital Crimes Unit of the Criminal Justice Section.

Workload Measure		FY 07 Actual	FY 08 Actual	FY 09 Estimate	FY 10 Request
To provide service to all victims of violent crime whose cases will open on appeal or prosecuted within the Attorney General's Office this year.	Target	1250	1250	1250	
	Actual	1250	1250	1250	

Objective: To play an active role in the statewide coordination of victim services.

Workload Measure		FY 07 Actual	FY 08 Actual	FY 09 Estimate	FY 10 Request
Participate on a number of ongoing statewide victim services boards, task forces, and committees.	Target	6	6	6	
	Actual	6	7		

## VICTIMS ASSISTANCE CORE OBJECTIVES AND PERFORMANCE MEASURES

Performance Measure	Outcome	FY 07 Actual	FY 08 Actual	FY 09 Estimate	FY 10 Request
Phone calls received, answered, or initiated to victims concerning events in cases	Target	600	600	700	
	Actual	710	700		

Performance Measure	Outcome	FY 07 Actual	FY 08 Actual	FY 09 Estimate	FY 10 Request
Mailed substantive notifications to victims concerning critical stages in their cases.	Target	1,250	1,250	1,500	
	Actual	1,300	1,350		

Performance Measure	Outcome	FY 07 Actual	FY 08 Actual	FY 09 Estimate	FY 10 Request
Accompany victims to oral arguments to the Court of Appeals and the Colorado Supreme Court	Target	24	24	24	
	Actual	24	24		

**Similar or Cooperating Programs:** The Victim Services Coordinator works cooperatively with the Victim Assistance Coordinators in all of the District Courts in Colorado, with Victim Compensation, with the Victim Advocates in the Departments of Correction, Probation, Parole, and with community-based victim programs throughout the state.

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**FY 09-10**  
**Budget**  
**Schedules 2, 3 and 4**  
**CJ & A - Victims Assistance**





**SCHEDULE 2 - PROGRAM SUMMARY**

Department of Law Item	Actual FY 07		Actual FY 08		Approp FY 09		Estimate FY 09		Request FY 10	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>VICTIM'S ASSISTANCE</b>	76,516	1.0	80,271	1.0	72,149	1.0	85,099	1.0	76,086	1.0
General Fund	7,244		11,080		-		8,682		330	
General Fund Exempt	-		-		-		-		-	
Cash Funds	-		-		-		-		-	
Reappropriated Funds	47,424		69,191		72,149		76,417		75,756	
Federal Funds	21,848		-		-		-		-	

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**SCHEDULE 3 - PROGRAM DETAIL**

Department of Law Item	Actual FY 07		Actual FY 08		Approp FY 09		Estimate FY 09		VICTIMS ASSISTANCE Request FY 10	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>I. POSITION DETAIL</b>										
General Professional III	62,136	1.0	64,920	1.0			68,256	1.0	68,256	1.0
<b>TOTAL POSITION DETAIL</b>	62,136	1.0	64,920	1.0			68,256	1.0	68,256	1.0
<b>(I.A.) CONTINUATION FTE SALARY COSTS</b>										
(Permanent FTE by position) Continuation Salary Subtotal	62,136	1.0	64,920	1.0			68,256	1.0	68,256	1.0
<b>(I.B.) OTHER PERSONAL SERVICES</b>										
PERA on Continuation Subtotal	6,127		6,452				6,928		6,928	
Medicare on Continuation Subtotal	879		915				990		990	
Non-Base Building Performance Awards							169			
Contractual	49									
Other										
<b>SUBTOTAL</b>	7,056		7,367				8,087		7,918	
<b>(I.C.) PERSONAL SERVICES SUBTOTAL=</b>										
A+B	69,192	1.0	72,287	1.0			76,343	1.0	76,174	1.0
<b>(I.D.) POTS EXPENDITURES</b>										
Health/Life Dental										
Salary Survey	3,191		3,687				4,449			
Performance Awards	[1,812]		[2,384]				[2,960]			
Short Term Disability			[718]				[1,056]			
SB 04.257 A.E.D.	72		83				-			
SB 06.235 S.A.E.D.	480		685				1,090			
Other	16		-				-			
<b>(I.E.) BASE PERSONAL SERVICES TOTAL=</b>										
C+D	72,951	1.0	76,874	1.0			81,882	1.0	76,174	1.0
<b>(I.F.) DIFFERENCE= II- I.E.</b>									(326)	

**SCHEDULE 3 - PROGRAM DETAIL**

Department of Law Item	Actual FY 07		Actual FY 08		Approp FY 09		Estimate FY 09		VICTIMS ASSISTANCE Request FY 10	
	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>(I.G.) REQUEST YEAR DECISION ITEMS</b>										
General Fund										
Cash Funds										
Reappropriated Funds										
<b>II. PERSONAL SERVICES REQUEST (AGGREGATE ADJUSTMENTS TO THE BASE APPROPRIATION)</b>										
Previous Year Long Bill										
Salary Survey-Classified										
PBP - Classified									72,043	
Salary Survey Exempt									2,960	
PBP - Exempt									845	
OSPB .2% Base Reduction									-	
Subtotal									75,848	
<b>II. PERSONAL SERVICES REQUEST TOTAL</b>										
General Fund										
Cash Funds										
Reappropriated Funds										
Federal Funds										
	72,951	1.0	76,874	1.0			81,580	1.0	75,848	1.0
	72,951		76,874				5,539		3,805	
							76,041		72,043	

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**SCHEDULE 3 - OPERATING PROGRAM DETAIL**

**VICTIMS ASSISTANCE**

Department of Law	Item	Actual FY 07		Actual FY 08		Approp FY 09		Estimate FY 09		Request FY 10	
		Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
<b>OPERATING EXPENSES</b>											
	2254 - Rental of Motor Vehicles			136							
	2255 - Rental of Buildings			341							
	2512 - IS Personal Travel Per Diem	521		135							
	2513 - IS Personal Vehicle Reimbursement	36									
	2630 - Telephone	508		549				261			
	2641 - Other ADP Billings - Purchase Service	5		8				8			
	2660 - Insurance	147		163							
	2680 - Contract Printing	288		119							
	3120 - Books & Subscriptions			28				28			
	3121 - Office Supplies	224		79				79			
	3123 - Postage	1,252		1,332							
	4140 - Dues & Memberships	239		177						106	
	4220 - Registration Fees	344		331							
	<b>Operating Expense Subtotal:</b>	3,565		3,398				376		106	
	<b>OPERATING EXPENSE TOTAL:</b>	<b>3,565</b>		<b>3,398</b>				<b>376</b>		<b>106</b>	
	General Fund										
	Reappropriated Funds	3,565		3,398				376		106	
	<b>Potted Operating Expenses</b>										
	Workers' Compensation							168			
	Leased Space Allocation							2,975			
	IT Asset Maintenance										
	ADP Capital Outlay										
	<b>Total</b>							<b>3,143</b>			
	General Fund							3,143			
	General Fund										
	Reappropriated Funds										
	<b>FY010 Refinancing</b>										
	General Fund										(3,607)
	Reappropriated Funds										3,607

**SCHEDULE 3 - OPERATING PROGRAM DETAIL**

Department of Law	Item	Actual FY 07		Actual FY 08		Approp FY 09		Estimate FY 09		VICTIMS ASSISTANCE	
		Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
	<b>FY10 DECISION ITEMS</b>										
	FY10 - NP #3 DPA Central Services Postage Inc General Fund	76,516	1.0	80,271	1.0	72,149	1.0	85,099	1.0	76,086	1.0
		7,244		11,080				8,682		330	
		47,424		69,191		72,149		76,417		75,756	
		21,848									
	<b>TOTAL VICTIMS ASSISTANCE</b>										
	General Fund	76,516	1.0	80,271	1.0	72,149	1.0	85,099	1.0	76,086	1.0
	Reappropriated Funds	7,244		11,080				8,682		330	
	Federal Funds	47,424		69,191		72,149		76,417		75,756	
		21,848									
	<b>RECONCILIATION OF FUNDS</b>										
	Long Bill Appropriation	67,697	1.0	69,191	1.0			72,149	1.0		
	Federal Grant										
	Classified Salary POTS	1,824		3,102				4,016			
	Health/Life/Dental	3,513		3,726				4,449			
	Short Term Disability	68		81				1,090			
	SB 04.257 A.E.D.	449		784							
	SB 06.235 S.A.E.D.			136				2,975			
	Capital Complex Lease Space	2,979		3,159				168			
	Workers Compensation	164		137				252			
	Vehicle Lease Allocation										
	IT Asset Maintenance										
	ADP Capital Outlay Allocation										
	Rollforward from Previous FY year										
	Restriction										
	Overexpenditure/(Reversion)	(178)		(44)							
	Lapsed Appropriation Cash Fund Exempt										
	Lapsed Appropriation Federal Funds										
	<b>TOTAL RECONCILIATION</b>										
	General Fund	76,516	1.0	80,271	1.0	72,149	1.0	85,099	1.0	76,086	1.0
	General Fund Exempt	7,244		11,080				8,682		330	
	Cash Funds	-		-		-		-		-	
	Reappropriated Funds	47,424		69,191		72,149		76,417		75,756	
	Federal Funds	21,848									



**SCHEDULE 4 - SOURCE OF FINANCING - DIRECT REVENUES**

Department of Law	Item	Fund Number	VICTIMS ASSISTANCE						
			Actual FY 2007	Actual FY 2008	Approp FY 2009	Estimate FY 2009	Request FY 2010		
<b>Schedule 3 Total</b>									
	General Funds		76,516	80,271	72,149	85,099	76,086		
	General Funds Exempt		7,244	11,080	-	8,682	330		
	Cash Funds		-	-	-	-	-		
	Reappropriated Funds		47,424	69,191	72,149	76,417	75,756		
	Federal Funds		21,848	-	-	-	-		
<b>Reappropriated Funds</b>									
	Victim Assistance & Law Enforcement Fund		47,424	69,191	72,149	76,417	75,756		
<b>Federal Funds</b>									
	Federal VOCA Grant		21,848	-	-	-	-		

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**FY 09-10**  
**Budget**  
**Schedules 2, 3 and 4**  
**CJ & A - Indirect Cost Assessment**





**SCHEDULE 2 - PROGRAM SUMMARY**  
**INDIRECT COST ASSESSMENT - CRIMINAL JUSTICE & APPELLATE**

Department of Law	Item	Actual FY 07		Actual FY 08		Approp FY 09		Estimate FY 09		Request FY 10	
		Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
Criminal Justice & Appellate Indirect		142,112	-	223,273	-	247,395	-	247,395	-	247,395	-
General Fund		-	-	-	-	-	-	-	-	-	-
General Fund Exempt		-	-	-	-	-	-	-	-	-	-
Cash Funds		75,362		85,875		106,744		106,744		106,744	
Reappropriated Funds		66,750		137,398		140,651		140,651		140,651	
Federal Funds		-		-		-		-		-	

**SCHEDULE 3 - PROGRAM DETAIL**  
**INDIRECT COST ASSESSMENT - CRIMINAL JUSTICE & APPELLATE**

Department of Law	Item	Actual FY 07		Actual FY 08		Approp FY 09		Estimate FY 09		Request FY 10	
		Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE	Total Funds	FTE
Criminal Justice & Appellate Indirect		142,112	-	223,273	-	247,395	-	247,395	-	247,395	-
General Fund		-	-	-	-	-	-	-	-	-	-
General Fund Exempt		-	-	-	-	-	-	-	-	-	-
Cash Funds		75,362		85,875		106,744		106,744		106,744	
Reappropriated Funds		66,750		137,398		140,651		140,651		140,651	
RECONCILIATION OF FUNDS											
Long Bill Appropriation		158,262		241,673				247,395			
Supplemental		-		-		-		-		-	
Rollforward from Previous FY		-		-		-		-		-	
Rollforward to Subsequent FY		(16,149)		(18,400)							
Reversion											
<b>TOTAL RECONCILIATION</b>		142,113		223,273				247,395			

SCHEDULE 4 - SOURCE OF FINANCING - DIRECT REVENUES

Department of Law Item	Fund Number	INDIRECT COST ASSESSMENT - CRIMINAL JUSTICE & APPELLATE				
		Actual FY 2007	Actual FY 2008	Approp FY 2009	Estimate FY 2009	Request FY 2010
<b>Schedule 3 Total</b>		142,112	223,273	247,395	247,395	247,395
General Funds		-	-	-	-	-
General Funds Exempt Cash Funds		75,362	85,875	106,744	106,744	106,744
Reappropriated Funds		66,750	137,398	140,651	140,651	140,651
<b>Cash Funds</b>		<b>75,362</b>	<b>85,875</b>	<b>106,744</b>	<b>106,744</b>	<b>106,744</b>
State Compensation Insurance Authority		26,915	30,669	31,395	31,395	31,395
POST Board Cash Fund		48,447	55,206	75,349	75,349	75,349
<b>Reappropriated Funds</b>		<b>66,750</b>	<b>137,398</b>	<b>140,651</b>	<b>140,651</b>	<b>140,651</b>
DORA Division of Insurance Cash Fund		27,992	93,234	95,442	95,442	95,442
DORA Division of Securities		38,758	44,164	45,209	45,209	45,209