

**Objectives:**

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

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

The DOL tracks specific workload and performance measures and strategic efforts in attempting to meet performance measures. In coordination with the objectives listed above, the DOL has provided specific performance measures, strategies, and performance evaluations provided below.

**STRATEGIC PRIORITY 1: INNOVATIVE PRACTICE OF LAW**

The DOL will collaborate with partner agencies to bolster information sharing and best utilize skills across the state enterprise to combat the various facets of human trafficking, thereby building an informed network of responsible change agents.

**Human Trafficking:** The DOL will lead and advise on investigative, training and prosecutorial efforts across the state. Additionally, the DOL will create internal working groups to best align resources and knowledge in this area of law and will annually review and recommend relevant statutory changes.

Performance Measure	Actual FY 16	Actual FY 17	Actual FY 18	FY 19 to date	Request FY 20	Request FY 21
Staff hours invested in statewide human trafficking efforts	NA	NA	477	101.5	600	600

**Evaluation of Performance to date:** The DOL’s investment of time and skill is an important and critical effort of the Attorney General. The DOL is a member of the Colorado Human Trafficking Council. Additionally, the DOL uses the statewide Grand Jury for those cases that cross multiple jurisdictions in coordination with the appropriate District Attorney’s Office.

**Opioid Epidemic:** Each opioid-related action taken by the DOL, such as a criminal prosecution, a community initiative, a professional or facility license sanction, or an enforcement effort based on

consumer protection litigation, will have a strong statewide impact on the opioid epidemic.

Performance Measure	Actual FY 16	Actual FY 16	Actual FY 18	FY 19 to date	Request FY 20	Request FY 21
Staff hours invested in statewide opioid efforts	NA	N7	12,404	13,746	15,000	15,000

**Evaluation of Performance to date:** The number of hours expended upon opioid-related matters demonstrates that this has been a significant priority for the office. In June of 2018, DOL brought on additional staff to create an Opioid Unit within the Consumer Protection Section to focus on its investigation of opioid marketing and distribution practices, and to prepare, file and prosecute civil lawsuits against opioid manufacturers, resulting in a dramatic uptick in hours on that particular initiative. These hours also reflect time spent on criminal prosecutions, regulatory disciplinary actions, legislative efforts, and community outreach activities related to the opioid crisis.

**Cyber Crime:** The DOL will establish Colorado as a leader in cyber-security within the state and among the country’s Attorneys General Offices by demonstrating responsibility, influence and actively promoting a practical, useful, and secure cyberspace to the DOL and to the community.

Performance Measure	Actual FY 16	Actual FY 17	Actual FY 18	FY 19 to date	Request FY 20	Request FY 21
Staff hours invested in statewide cyber security efforts	NA	NA	1,140	672	NA	NA

**Evaluation of Performance to date:** These hours reflect the time DOL employees have invested in establishing the state as a leader in cybersecurity efforts and the DOL as a leader among the country’s Attorneys General Offices. HB 18-1128, “Concerning Strengthening Protections for Consumer Data Privacy” in part requires notices to Colorado residents upon discovery by an entity that a data security breach occurred. Additionally, notification to the Attorney General is also required under specified circumstances. This bill is another tool to help Colorado residents best protect their personal identifying information.

**STRATEGIC PRIORITY 2: SUSTAINING EXCELLENCE**

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

**Representation of Client Agencies.** The Attorney General by statute is the legal counsel and advisor of each department, division, board, bureau, institution of higher education and agency of state government other than the legislative branch and University of Colorado. § 24-31-101, et seq., C.R.S. The DOL represents the various clients efficiently and effectively. The key to this

success is retaining quality employees by providing competitive attorney compensation and benefits package and a dynamic work environment.

Performance Measure		Actual FY 16	Actual FY 17	Actual FY 18	FY 19 to date	Request FY 20	Request FY 21
Provide Quality legal counsel and representation to client agencies as measured by annual survey as satisfied with legal counsel	Target	95%	95%	95%	95%	95%	95%
	Actual	96.04%	96.17%	94.1%	NA	NA	NA

**Evaluation of Performance to date:** The DOL annually surveys client agencies during each fall. The DOL will continue to hire and do its best to retain quality attorneys through the valuable work attorneys are exposed to and within the available resources to continue to be “an employer of choice” in the legal field.

**Criminal Investigations and Prosecution**

Pursuant to section 2-7-204(3)(c), C.R.S., the DOL must supply performance goals as part of this report. For purposes of complying with this requirement, the Criminal Justice Section estimates, to the best of its ability, how it can best have a positive impact on behalf of all Coloradans. The projections supplied are only estimates based on previous results as well as anticipated trends. These numbers are not intended to, and will not, subvert the ethical duties regarding the charging and disposition of criminal cases by any prosecutor in the DOL.

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

Performance Measure		Actual FY 16	Actual FY 17	Actual FY 18	FY 19 to date	Request FY 19	Request FY 20
Resolve 75% of MFCU investigations within one year	Target	NA	NA	75%	75%	75%	75%
	Actual	NA	NA	81.8%	94.0%	NA	NA

**Evaluation of Performance to date:** Between July 1, 2018 and February 15, 2019, the Medicaid Fraud Control Unit (MFCU) received one-hundred and seventy (170) case referrals, of that number nine (9) remain queued for initial investigation. As a result, ninety-four percent (94.7%) of the referrals received by the MFCU during the above stated time period were resolved during that same period. Of those referrals, forty-four (44) were opened as criminal cases, eighty-seven (87) were referred to other agencies, and thirty (30) were not within our jurisdiction.

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

Performance Measure		Actual FY 16	Actual FY 17	Actual FY 18	FY 19 to date	Request FY 20	Request FY 21
Resolve 75% of complex, multijurisdictional securities fraud Grand Jury investigations within twelve months	Target	NA	NA	75%	90%	90%	95%
	Actual	NA	NA	100%	97%	NA	NA

**Evaluation of Performance to date:** Over the last year, the DOL has had several multijurisdictional securities fraud grand jury investigations that have resolved by way of indictment within one year. In addition, multiple investigations are ongoing and resolution is expected this fiscal year. The DOL is meeting this performance measure. During the last fiscal year, all grand jury cases resulted in an indictment within one year from the time the grand jury investigation process commenced.

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

Performance Measure		Actual FY 16	Actual FY 17	Actual FY 18	FY 19 to date	Request FY 20	Request FY 21
Resolve 75% of assigned insurance fraud investigations within one year through filing/closure.	Target	NA	NA	75%	90%	90%	90%
	Actual	NA	NA	91%	100%	NA	NA

**Evaluation of Performance to date:** The DOL is on track meeting the expectations of this performance measure. System modifications have been put in place over the last year to ensure all referrals are addressed in an expeditious manner.

**Consumer Protection**

The Attorney General’s Consumer Protection Section has very broad jurisdiction (Consumer Protection Act, Antitrust Act, Charitable Solicitations Act, and approximately a dozen other state and federal statutes), and the Section receives complaints about possible violations of these laws from a variety of sources. The Section will continue selecting appropriate cases for investigation and enforcement to maximize overall

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benefit to consumers, as well as providing consumer outreach to empower consumers, especially vulnerable populations, to protect themselves against common scams.

Performance Measure		Actual FY 16	Actual FY 17	Actual FY 18	FY 19 to date	Request FY 20	Request FY 21
Resolve 75% of investigations within one year through settlement, filing, or closure	Target	75%	75%	75%	75%	75%	75%
	Actual	72.50%	74.29%	83%	77%	NA	NA

**Evaluation of Performance to date:** Unresolved cases during this period are multistate investigations involving a number of entities coordinating efforts, and cases that, due to the complexity of the case or other challenges, cannot be resolved within a year. The DOL will continue to include all cases in this measure to maintain data integrity and to continue to monitor and assess efforts in this area.

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

Performance Measure		Actual FY 16	Actual FY 17	Actual FY 18	FY 19 to date	Request FY 20	Request FY 21
Investigate and resolve 90% of complaints within 60 days or less	Target	90%	90%	90%	90%	90%	90%
UCCC	Actual	88%	80%	77%	95%	NA	NA
Debt Management	Actual	91%	94%	64%	80%	NA	NA
Debt Collection	Actual	81%	43%	13%	42%	NA	NA

**Evaluation of Performance to date:** The performance improvement, especially in regards to Debt Collection, is a reflection of the new Compliance Investigator to the Consumer Credit Unit, as well as the Complaint Intake Coordinator, who has drastically cut down on complaint processing times. The DOL will continue to monitor efforts in this area to ensure the most effective program delivery within resources.

**Criminal Appeals:** Produce high quality briefs appropriately tailored to the seriousness of the offense/appellate challenge while (1) maintaining or improving success rate and (2) reducing extensions of time for filing briefs in the Court of Appeals.

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Performance Measure		Actual FY 16	Actual FY 17	Actual FY 18	FY 19 to date	Request FY 20	Request FY 21
Percentage of cases with a successful outcome on appeal	Target	90%	90%	90%	90%	90%	90%
	Actual	89.5%	89.9%	91%	90%	NA	NA

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

Performance Measure		Actual FY 16	Actual FY 17	Actual FY 18	FY 18 to date	Request FY 19	Request FY 20
Percentage of Court of Appeals briefs within 180 days of the initial deadline	Target	NA	NA	85%	85%	85%	85%
	Actual	NA	NA	82%	79.2%	NA	NA

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

**STRATEGIC PRIORITY: PROCESS IMPROVEMENT AND EMPLOYEE ENGAGEMENT**

The DOL will promote a culture of constant process improvement. In doing so, the DOL is committing to improving internal business processes annually, as well as continue to improve the knowledge base of our attorneys.

Performance Measure		Actual FY 16	Actual FY 17	Actual FY 18	FY 18 to date	Request FY 19	Request FY 20
LEAN analyze and modify business practices in two program areas annually	Target	NA	NA	2	2	2	2
	Actual	NA	NA	4	5	NA	NA

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Performance Measure		Actual FY 16	Actual FY 17	Actual FY 18	FY 19 to date	Request FY 19	Request FY 20
Identify and implement ten new professional development opportunities to support employees in career development and continuing education obligations	Target	NA	NA	4	10	10	10
	Actual	NA	NA	35	43	NA	NA

**Evaluation of Performance to date:** The DOL is currently working through five LEAN objectives. One in the Natural Resources Section, one in the Criminal Justice Section, one office-wide objective, and two objectives that are currently being developed through current ongoing HONSHA training. .

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

The 2010 decennial abandonment proceedings cost \$572,000 in legal fees (exceeding the \$300,000 provided for the proceedings by the Colorado Water Conservation Board) and the mean times to resolve the majority of abandonment protests that do not go to trial ranged from 270 days to 476 days depending on the Water Division, with the maximum days to resolve ranging from 487 days to 1155 days. Final judgments cannot be entered until all protests are resolved, which delays the start of the statute of limitations period and delays certainty for water users and the State. Reducing the number of protests in the 2020 decennial abandonment proceeding and expediting their resolution should reduce legal fees and may reduce the time until the entry of final decrees.

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

**HONSHA Training**

During SFY 18, as part of the Governor’s Talent Challenge, the DOL sent two teams to the state’s Honsha PDCA 8-Step LEAN training. The Honsha PDCA 8-Step LEAN system focuses on improving

value and improving the ability of an organization to meet its assigned mission. In order to accomplish this, efforts are focused on determining areas for improvement, examining the current processes that are in place and improving efficiency through the elimination of non-value added activities. For the training, two teams were created and each was tasked with identifying an area for improvement within the office:

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

### **Office-Wide Objective - Attorney Retention**

In recent years, the Department has experienced continued turnover of Assistant Attorneys General with 3-5 years of tenure, which in turn negatively affects employee engagement and the mission of the Department. As of the date of this report, the Attorney Retention team is utilizing the LEAN process and considering different short, medium and long-term countermeasures gathered from surveys and a focus group to address the causes of the high turnover.

Counter measures that have been taken to date by the Department include:

- Creating a focus group of 3-5 year attorneys to provide a venue to discuss their concerns and ideas. The results of the focus group formed the basis for other countermeasures to improve retention and engagement.
- Creating opportunities for cross-collaboration between various Sections of the Department resulting in greater opportunities for professional development across disciplines. An example is an AAG who works primarily on tax matters assisted in a criminal appeal, securing a great result.
- Creating an additional advancement opportunity within the Department of Law to counter the perception that the career path within the Department is flat.
- Presenting the focus group findings to the transition team for the incoming Attorney General Phil Weiser to ensure continuity of measures to advance the objective. One of the Department's primary issues with retaining critical attorney positions is salary. Compensation offered by the Department lags substantially in comparison to comparable public law offices, in particular, the City and County of Denver. This disparity is especially acute given the rising cost of living throughout the Denver Metropolitan Region. The incoming AG administration has requested wage equalization so that all the attorney classifications are best positioned to compete and retain talent.
- Attorneys participated in office-wide vision and values meetings with the executive management team of the office to provide direct insight and input into changing the culture of the office to be more inclusive, diverse, collaborative, and engaging.

### **Criminal Justice Section - Medicaid Fraud Intake Process**

The Medicaid Fraud Intake Process team used the Honsha PDCA 8-Step LEAN process to evaluate the efficiency of the previous intake process used by the Unit. The team utilized the LEAN process to analyze the Medicaid Fraud Control Unit (MFCU)'s current referrals queued for investigation and discovered that the Unit's outreach activities led to an increase in case referrals. As the number of referrals increased, the number of those referrals queued for initial investigation also began to increase.

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The team identified a *prioritized problem* within the process and created several countermeasures with the goal of reducing the referral queue. The team has developed an improved intake process that successfully addresses the increase in case referrals.

**Additional Objectives**

A collateral benefit of the interface of the Honsha teams has been to raise awareness and knowledge of the LEAN process. Two additional HONSHA teams will be working on additional objectives through the fall of 2018