



**STATE OF COLORADO  
DEPARTMENT OF LAW**

**Attorney General Phil Weiser  
Statement to the Joint Committee on the Judiciary  
Colorado General Assembly  
January 25, 2022**

Chairpersons Lee and Weissman, members of the Committee, thank you for your time today and allowing me to discuss my priorities for the 2022 year and my team's efforts to serve our State.

This past year, we faced many challenges—over 100,000 Americans lost to overdose deaths, our continued response to COVID-19 (including scam and fraud prevention and response), and prolonged work-from-home arrangements due to the pandemic. I am proud of the work that the Department of Law (“Department”) has done. Going forward, we will continue to press ahead to best serve Colorado, uphold the rule of law, fight the opioid epidemic, advance public safety, stand up for consumers, and protect our land, air, and water.

During this hearing, I will update you on our progress made in achieving our goals, lay out our 2022 priorities, and respond to any questions you may have on the Department's performance plan, FY 2022-2023 budget request, and departmental regulatory agenda.

**Background**

Each year, I begin by providing a brief background on my role and that of the Department. The Department has multiple responsibilities—ranging from prosecuting white collar crimes and bringing charges for consumer protection violations to negotiating Colorado's interstate water agreements and protecting our State's outdoors from polluters. The common thread with each of these charges is that we uphold the rule of law, protect Colorado, and hold lawbreakers accountable.

In my role as Attorney General, I and my staff are also charged with serving as the State's chief legal representative and acting as legal counsel to the Executive and Judicial Departments. This includes all principal departments, agencies, boards, and commissions falling under these two branches of government. As attorneys for Colorado state government, I am committed to our team always acting not only consistently with the Colorado Rules of Professional Conduct, but with the highest level of professionalism and a commitment to serving the people of Colorado.

## **Fighting the Fentanyl and Opioid Epidemic**

One of our highest priorities is addressing the opioid epidemic. This past year, we obtained settlement funds of over \$400 million for Colorado from a nationwide settlement with Johnson & Johnson, three of the largest drug distribution companies, and other irresponsible actors. Significantly, we also reached an historic agreement with Colorado's cities and counties on how to spend the settlement funds to address the opioid crisis. This was a major accomplishment to achieve consensus with our local partners after months of collaboration on how best to spend these new resources. And Colorado was the third state to reach such a resolution, after only Connecticut and Delaware (which have far fewer local governmental entities).

But as we make continued strides to hold corporate lawbreakers accountable for fueling the opioid epidemic, fentanyl and fentanyl analogue use continues to rise. As I said last December, CDPHE estimates that 1,838 Coloradans died from drug overdoses—mostly from opioids—between May 2020 and May 2021. This is the greatest number of overdose deaths in our State over a single year. And it's twice as many that occurred in 2018. And as noted above, overdose deaths crossed 100,000 nationally this past year—more than from automobile fatalities and gun violence deaths combined. That's a somber statistic that underscores why we must redouble our efforts to raise awareness, increase treatment options, and fight the drug trade.

Earlier this year, my Department worked with the Adams County District Attorney's Office, the DEA, and local law enforcement, to dismantle an international drug trafficking and money laundering ring resulting in 64 charges for trafficking of fentanyl, cocaine, heroin, and meth into Colorado. As part of this operation, 77,000 counterfeit oxycodone pills—all containing deadly fentanyl—were recovered, undoubtedly saving lives.

But law enforcement cannot do this work alone if we are to make greater progress in saving lives. We need greater resources and stronger laws—on both the public health and public safety fronts. This includes educating the public about the deadly nature of fentanyl and its presence in other drugs which leads to persons unknowingly ingesting the substance. And it includes devoting more resources to fentanyl supply chain disruption by bolstering multijurisdictional efforts to interrupt drug trafficking. This year, we are working with the House and Senate to do just that.

Addressing the rising use of fentanyl calls for a re-examination of our criminal laws. Just a few grams of fentanyl is enough to kill thousands of people. There is no question we must invest in treatment and addiction services. At the same time, it is appropriate to update our drug distribution laws to take account of the extremely deadly nature of this drug. I believe it is possible to do this in a way that does not penalize those struggling with addiction and allows law enforcement to pursue high-level dealers pushing this deadly substance in our communities—I urge the legislature to do just that in the next session.

## **Protecting Public Safety and Advancing Criminal Justice**

As I stressed last year, we must do more to help persons reintegrate into society after they complete their sentences. Having a job is essential upon leaving prison. Without employment, a

person cannot secure housing or support their families. Often, this results in reoffending. It is estimated that, in Colorado, around 50 percent of those leaving prison are re-arrested and reincarcerated within three years. We can and must do better. We need to give former inmates opportunities to succeed. And we start that by removing unnecessary barriers.

One priority I urge the legislature to take up is providing employment pathways for persons leaving prison. Providing gainful employment opportunities for former inmates offers a path to support their families and not reoffend. The State has an important role to play to help those who have served their sentences. This includes weeding out needless barriers to receiving licenses and entering certain professions—particularly barriers not grounded in public safety or consumer protection. These are unnecessary, significant obstacles preventing former inmates from obtaining a job. These barriers should be identified and repealed.

### **Supporting Colorado’s Peace Officers**

One action that I was particularly grateful for last session was the General Assembly’s inclusion of funding for peace officer body worn cameras. As you know, Senate Bill 20-217 required all law enforcement personnel to be equipped with body-worn cameras by July 1, 2023. In my 2020 budget request letter, I asked the Joint Budget Committee (“JBC”) to prioritize funding for this initiative. I strongly supported this goal and encourage the legislature to continue to fund this priority at a necessary level to cover all costs, particularly for rural and smaller law enforcement agencies.

This past year, we resolved our two-year dispute with the federal government over millions of dollars in funding that the U.S. Department of Justice illegally withheld from Colorado’s police and sheriff offices. One of the first actions I took in 2019 was to bring a lawsuit against the federal government when Colorado’s Byrne JAG funds—critical federal dollars for our local law enforcement personnel—were refused to our State. That legal issue is now resolved, and those funds will be reinstated for Colorado police and sheriffs.

This session, I look forward to working with you to continue this work to ensure our law enforcement officers have the resources they need. Senate Bill 22-005 (“SB 22-005”) is a major priority for me this session. We worked with the bill sponsors to craft legislation that: (1) provides millions in new funding to bolster peace officer recruitment and retention; and (2) adds additional funding to support mental health services for officers. Suicide is at a crisis level in the law enforcement community. Police and sheriffs grapple with the most traumatic and stress-inducing situations of any profession. Providing greater mental health supportive services to all law enforcement agencies is critical if we are to give police and sheriffs the support they need.

Peace officer recruitment and retention are equally important. The way to build trust and accountability in law enforcement is to ensure we recruit and keep good officers and sheriffs in the profession. SB 22-005 will do just that—providing needed funds so law enforcement agencies can enhance their efforts to recruit top entry level officers and support their retention. I look forward to working with you on this critical legislation.

As for improving policing, we continue to work on modernizing our academy training and training programs. On the academy front, we are finalizing our contract with a partner to develop a job task analysis for peace officers, paving the way to redesigning the academy curriculum to include more experiential learning and emphasize critical competencies like de-escalation tactics, emotional intelligence, and ethical decision making. And on the training front, we are working to develop modules in ethical decision making, which seek to avoid undue escalation of interactions, and bystander training, which encourages more awareness of officers' emotional states. By improving training—at both the academy and professional level—we are working to elevate law enforcement in Colorado.

### **Enhancing Consumer Protection for Colorado Consumers**

Consumer protection is one of our primary roles at the Department. This past year, the General Assembly enacted landmark consumer legislation—sponsored in part by Senator Rodriguez and Representative Carver—to establish the Colorado Privacy Act (“CPA”). This bill makes Colorado the third state (after California and Virginia) to establish comprehensive privacy protections for its citizens. I strongly supported this legislation. Currently, we are onboarding staff to stand up a new team to administer the CPA. In the coming weeks, we will begin the important rulemaking process required in preparation for the bill's effective date. This rulemaking will be an open and collaborative process—one that welcomes input from the public, advocates, and the business community. I look forward to updating you on our progress in rolling out this important effort.

One of the greatest responsibilities before the General Assembly this year is expending federal recovery, stimulus, and infrastructure dollars. This is a tremendous opportunity for our State to make unprecedented investments in priorities like affordable housing, mental health services, and protecting our water. But with billions of dollars of new federal funding being sent to the State and local governments, we must ensure we have the tools necessary to better guard against fraudsters who may prey upon these, or any, public funds. To that end, we are asking that you consider new legislation replicating the federal False Claims Act. Roughly half of all states, and the federal government (dating back to the Civil War) have such a law on the books. False claims acts provide governments with enhanced tools to deter fraudsters by bringing certain actions and leveraging whistleblowers. These laws also protect whistleblowers who report fraud against the government and they leverage private enforcement resources by authorizing *qui tam* actions while allowing governments to maintain strong oversight. This has proven to be a very effective tool for other states and the federal government to recover funds lost to fraud. With so much new money coming into Colorado—which is well beyond the State's and local government's current oversight resources—we should be cognizant of the potential for fraudulent activity and the need to address it. Enacting a Colorado-specific false claims act is a strong tool for doing so.

### **Protecting Colorado's Water Resources**

Protecting Colorado's water resources is also one of our most important duties as an agency. Water is Colorado's greatest natural resource—driving our economies, communities, environment, and agricultural and recreation industries.

But persistent droughts and reduced supplies mean we face even greater coordination challenges in Colorado and with our surrounding states. In 2022, we will continue to defend Colorado's rights and obligations under our interstate river compacts and equitable apportionment decrees. We will also advise Colorado's appointed Compact Commissioners and work together with other states towards fair and sustainable solutions that adapt to a changing climate and variable water supplies. And, where necessary, we will be prepared to defend Colorado's rights through litigation.

Part of our water protection efforts includes holding accountable polluters of our natural resources. In one of my initiatives, attorneys from our Criminal Justice and Natural Resources and Environment Sections combined efforts to investigate and prosecute criminal polluters who knowingly discharge contaminants into Colorado's waterways. In 2020, we worked with you to pass House Bill 20-1143. This bill bolstered our efforts against criminal polluters, providing stiffer penalties for crimes committed under Colorado's Water Quality Control Act.

On the water management front, we are committed to supporting local communities and helping them protect their water in sustainable ways. As demands for water increase and supplies become more variable, future water development projects will undoubtedly impact those around them. We are here to support local communities in developing tools they need to mitigate these impacts and to ensure that all Coloradans have adequate water supplies. To that end, we will continue to push for an investment from federal recovery funds of at least \$100 million to the CWCB to support water infrastructure projects. Particularly given that the federal infrastructure law requires state matching dollars, we need to redouble our efforts to free up funds for water infrastructure. In short, such projects promise to increase the dependability of both groundwater and surface water supplies in all of Colorado's river basins in the face of continuing drought and a water-tight future.

## **Statutory Reports**

Before I conclude, there are also three matters we are required to update you on.

First, the Department now houses the State Office of Financial Empowerment ("Office"). The Office was formed this past July under legislation championed by two members from this Committee—Senator Gonzales and Representative Tipper. The Office's purpose is to grow the financial well-being and resilience of Coloradans through various goals and strategies, including partnering with other governments, community groups, and private sector financial institutions. Since enactment, we have hired the Office's first Director, Carmina Lass, who most recently served as the chief program officer at the Credit Builder's Alliance. As we've been working to staff the Office, our Consumer Protection team, especially Uniform Consumer Credit Code Administrator Martha Fulford have carried the load to ensure a successful launch. This includes regional meetings last year with local government and nonprofit representatives seeking to establish financial empowerment in their areas—of which I joined meetings with Pueblo leaders and Roaring Fork Valley leaders. We also partnered with federal agencies, including the FDIC, OCC, and Federal Reserve on an event promoting banking access, at which I addressed the

importance of secure and safe banking options for Coloradans. And lastly, our team meets regularly with local and national advocates to seek their guidance and strategies to maximize the benefit of the Office. Now that we have staff on board and the Office is stood up, I look forward to briefing you next year on the Office's initial efforts, accomplishments, and goals to support Colorado families.

Second, the new Nonbank Mortgage Servicing Act—sponsored by Rep. Weissman and Sen. Gonzales—also directs us to update you on implementation and administration of the new law. The law just took effect on January 1, so this update is brief. The present status of the program is for servicers to file notifications with our Department by end of January. This is a very new regulatory program for Colorado; before this bill, our State was one of several that did not have regulatory authority for nonbank mortgage servicers. The need for such a role was thus evident. Last year, we received roughly 120 complaints about these companies. My desire is to partner with the industry to provide proper oversight to ensure that Coloradans can safely pay their mortgages and remain in their homes. As this program rolls out this year, we will keep this Committee updated.

And third, as part of House Bill 21-1250, a temporary study group was established to evaluate procedures related to the use of no-knock entry warrants and forced entry by law enforcement officers. The Study Group completed their work last month and provided me with their findings and recommendations. As required by the law, part of the materials you received from our Department in advance of this hearing includes the Study Group's final recommendations for the Committee's review. I'm grateful to the study group for their work and their thoughtfulness in crafting recommendation for the General Assembly's review. Representative Gonzales-Gutierrez and Senator Fields served on the panel and provided strong leadership for the group. They may have thoughts to add for the Committee.

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Committee members, thank you for this opportunity to appear before you once again. At the Department of Law, we work as partners with the General Assembly in service of the people of Colorado. I am proud that, in Colorado, our commitment to collaboration transcends party affiliation, background, and geography. In line with that tradition, all of our Department's legislative priorities since I took office passed your chambers with bipartisan support. In the past year, we've accomplished much together, and I look forward to continuing that spirit of collaboration and innovation with you this coming year.

Each of you were provided with electronic copies of the Department's SMART Act performance plan, department regulatory agenda, and budget request for FY 2022-2023. I, and my team, are happy to discuss these materials with you and answer any questions you may have. Thank you again for the opportunity to join you today and for your service to Colorado.