Colorado Department of Law
Strategic Plan and Budget Request

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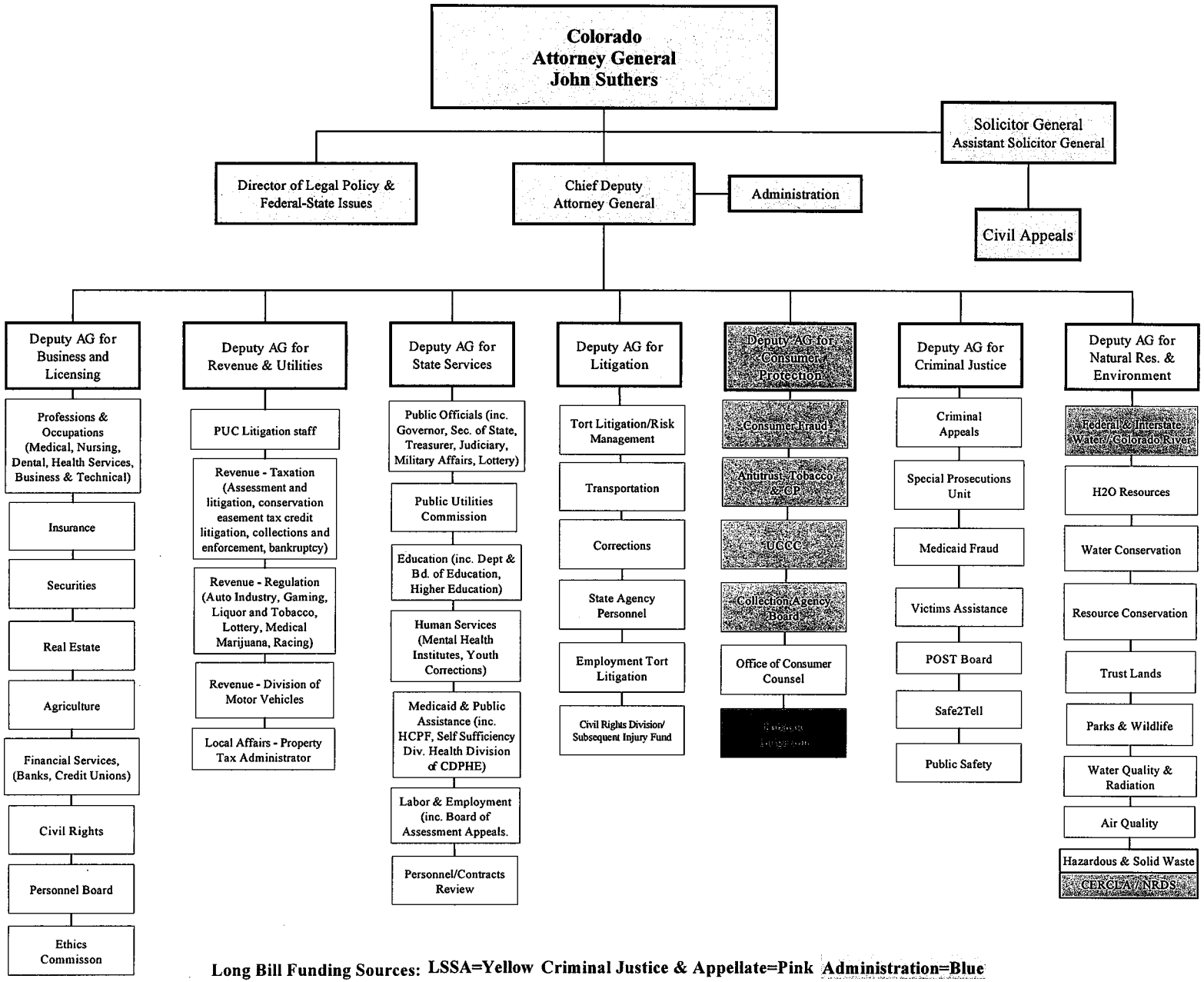
Department Organizational Chart


Colorado
Attorney General
John Suthers
Solicitor General
Assistant Solicitor General
Director of Legal Policy & Federal-State Issues
Chief Deputy Attorney General
Administration
Civil Appeals
Deputy AG for Business and Licensing
Professions & Occupations (Medical, Nursing, Dental, Health Services, Business & Technical)
Insurance
Securities
Real Estate
Agriculture
Financial Services, (Banks, Credit Unions)
Civil Rights
Personnel Board
Ethics Commisson
Deputy AG for Revenue & Utilities
PUC Litigation staff
Revenue - Taxation (Assessment and litigation, conservation easement tax credit litigation, collections and enforcement, bankruptcy)
Revenue - Regulation (Auto Industry, Gaming, Liquor and Tobacco, Lottery, Medical Marijuana, Racing)
Revenue - Division of Motor Vehicles
Local Affairs - Property Tax Administrator
Deputy AG for State Services
Public Officials (inc. Governor, Sec. of State, Treasurer, Judiciary, Military Affairs, Lottery)
Public Utilities Commission
Education (inc. Dept & Bd. of Education, Higher Education)
Human Services (Mental Health Institutes, Youth Corrections)
Medicaid & Public Assistance (inc. HCPF, Self Sufficiency Div. Health Division of CDPHE)
Labor & Employment (inc. Board of Assessment Appeals.
Personnel/Contracts Review
Deputy AG for Litigation
Tort Litigation/Risk Management
Transportation
Corrections
State Agency Personnel
Employment Tort Litigation
Civil Riglus Division/ Subsequent Injury Fund
Deputy AG for Consumer Protection
Consumer Fraud
Antitrust, Tobacco & CP
UCCC
Collection Agency Board
Office of Consumer Counsel
Deputy AG for Criminal Justice
Criminal Appeals
Special Prosecutions Unit
Medicaid Fraud
Victims Assistance
POST Board
Safe2Tell
Public Safety
Deputy AG for Natural Res. & Environment
Federal & Interstate Water/ Colorado River
H2O Resources
Water Conservation
Resource Conservation
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Parks & Wildlife
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Air Quality
Hazardous & Solid Waste
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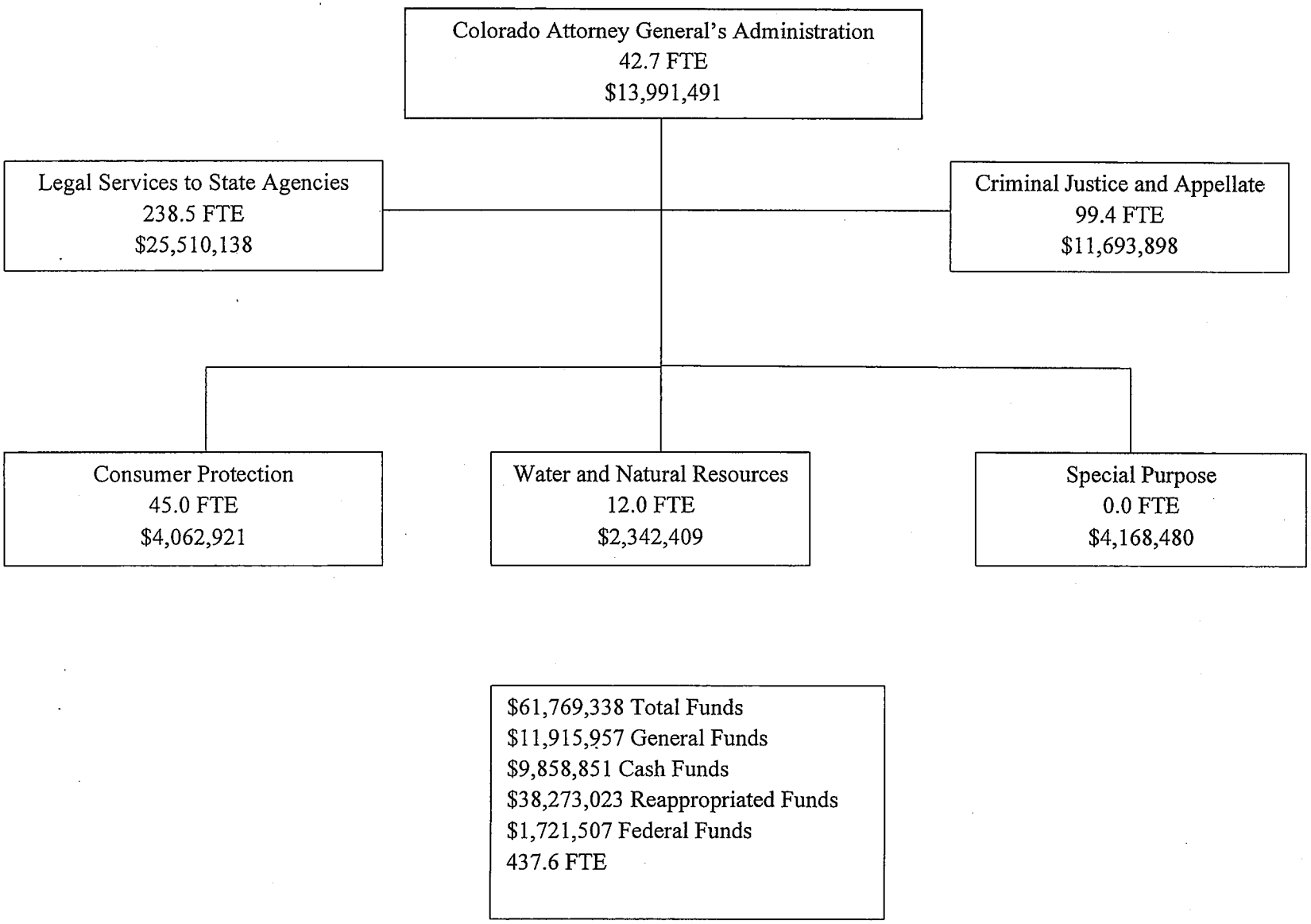
Natural Resources & Water Rights=Light Green
Consumer Protection=Orange

Colorado Department of Law
FY 2013-14 Budget Request



FY 14 Budget in Brief

Department of Law
FY2013-14 Budget in Brief

The FY 14 Department of Law budget request totals $61,769,338 and 437.6 FTE. This is an all fund source $4.4M (7.7 %) increase over the FY13 appropriation. The increase is due to a $1.4M increase due to Salary Survey and Merit Pay requests. Additionally $1.6M is for increasing rent costs. The balance of the increase is due to other state paid benefits, such as HLD, AED and SAED increases, as well as department initiated decision item requests.

The Department is submitting various decision items listed below to address critical and priority efforts of the agency. These include:

- Decision Item #1 – Appellate FTE Increase to Manage Backlog. The department is requesting 5.5 additional FTE and $554,200 spending authority to support the salaries, state paid benefits, and operating expenses for the new FTE. This request will allow the Department of Law, to reduce the growing appeals backlog. The Department witnessed an increase of 210 cases in the backlog, growing from 398 at the beginning of the fiscal year to 608 by the end of FY 2012.
- Decision Item #2 – Additional FTE for Special Prosecution. The department is requesting 1.9 additional FTE and $298,907 of spending authority. This request will allow the Department of Law to better protect Colorado citizens in the investigation and prosecution of complex criminal conspiracies, environmental crimes, and gang activities. This request includes the FTE and spending authority for a First Assistant Attorney and a Program Assistant I. Additionally, this request includes the salary and associated costs for a Criminal Investigator II.
- Decision Item #3 - Tobacco Litigation Funding. The Department of Law (Department) is requesting a refinance of $676,952 GF. This request will allow the Department to continue to advocate for the state's interests on Tobacco Litigation efforts. The department's Tobacco efforts have traditionally been funded by the Tobacco Settlement Defense Account within the Tobacco Litigation Settlement Cash Fund. The department is projecting that the balance within this fund will be exhausted by the end of FY 2012-13, thereby leaving no resources for these efforts moving forward. Because of this, the Department is making a GF request to continue the support of the Tobacco Litigation efforts on behalf of the state.
- Decision Item #4 – Refinance PIO in Administration. The Department of Law is requesting a refinance of the current Public Information Office Position (PIO) from the Consumer Protection/Antitrust line item to the Administration Personal Services Line Item.

Department of Law Annual Report

ATTORNEY GENERAL JOHN W. SUTHERS

To my fellow Coloradans,

It is a great privilege to serve as your Attorney General. Since becoming Colorado's 37th Attorney General, I have had the honor of working with hundreds of dedicated public servants at the Colorado Department of Law.

The 2011 Annual Report of the Colorado Department of Law is only a glimpse of the work we do on behalf of the people of Colorado and our clients throughout state government. From protecting Colorado's water to defending the state against frivolous lawsuits, the work of the Department of Law's employees might not always be in the news, but it does affect Coloradans throughout the state. Here are a just few of the Department of Law's accomplishments from 2011:

- My office worked with the Colorado Meth Project to roll out their latest wave of commercials aimed at combating youth use of methamphetamine.
- We allocated a two-year, $600,000 grant to the Colorado Foreclosure Hotline, allowing it to continue to serve Coloradans facing foreclosure.
- Prosecutors from my office's Special Prosecutions Unit obtained Colorado's first ever jury verdict in a human trafficking case. The defendant later was sentenced to eight years in prison.
- We released a Spanish-language version of our popular Identity Theft Repair Kit, making this valuable resource available to yet another segment of Colorado's population.
- Prosecutors collaborated with local law enforcement and task forces to topple a series of drug rings that imported large quantities of methamphetamine and cocaine into the state.
- We negotiated a deal with Facebook that allowed Colorado government agencies to use the social-media site to reach out to their constituents without granting the company indemnity and, thus, violating state law.

We will continue to provide ethical representation and legal advice of the highest caliber to our client agencies and service of the highest quality to the people of Colorado.

Sincerely,

John W. Suthers

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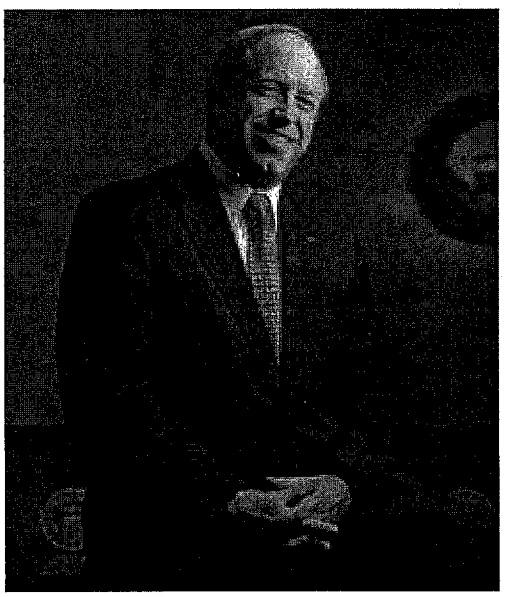
Attorney General John W. Suthers



On January 4, 2005, John W. Suthers was appointed as Colorado's 37th Attorney General. In November of 2006, the voters of Colorado elected Attorney General Suthers by a large margin to serve a full, four-year term. Mr. Suthers was re-elected in November 2010 with more than 960,000 votes — more than any other statewide candidate.

As Attorney General, Mr. Suthers is charged with representing and defending the interests of the people of the state of Colorado, and serves as chief legal counsel and adviser to state government, its statewide elected officials, and its many state agencies, boards, and commissions.

Attorney General Suthers graduated magna cum laude from the University of Notre Dame with a degree in government in 1974, and from the University of Colorado Law School in 1977. From 1977 to 1981, he served as a deputy and chief deputy district attorney in Colorado Springs. From September of 1979 to January of 1981, he headed the Economic Crime Division of the DA's office and co-authored a nationally published book on consumer fraud and white-collar crime.

In January 1981, Mr. Suthers entered private practice as a litigation partner in Colorado Springs firm of Sparks Dix, P.C. He remained with the firm until November 1988, when he ran against and defeated the incumbent district attorney for the 4th Judicial District. He was elected to a second term as district attorney in 1992. After serving two terms in office, he returned to Sparks Dix, P.C.

In 1999, Mr. Suthers was appointed executive director of the Colorado Department of Corrections by Gov. Bill Owens. As head of the state's correctional system, he oversaw an organization with almost 6,000 employees and an annual operating budget of approximately $500 million.

On July 30, 2001, Mr. Suthers was nominated by President George W. Bush to be the United States Attorney for the District of Colorado. He was unanimously confirmed by the U.S. Senate, and represented the United States in all criminal and civil matters within the District.

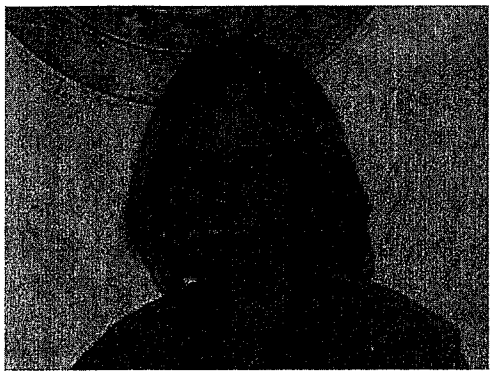
In his tenure as Attorney General, Mr. Suthers has founded a safe surfing initiative to protect Colorado's children from internet predators. He also has convened a Mortgage and Foreclosure Fraud Task Force which has led to several pieces of legislation designed to combat mortgage and foreclosure fraud. Attorney General Suthers has been a champion for Colorado's environment, leading the charge to reclaim damages for the Rocky Mountain Arsenal Superfund site. He serves as co-chair of the National Association of Attorneys General Criminal Law Committee and as a member of the U.S. Attorney General's Executive Working Group.

Mr. Suthers has served on the board of numerous civic organizations. He served as president of the El Paso County Bar Association in 1990-1991, president of the Colorado District Attorney's Council in 1994-1995, and senior vice president of the Colorado Bar Association in 1996-1997. In 1992, Suthers was appointed by the Colorado legislature to serve as a delegate to the National Conference on Uniform State Laws, serving as such until January 1997. In the summer of 2000, Mr. Suthers received a Gates

Foundation Fellowship to attend the Government Executives Program at Harvard University's Kennedy School of Government.

John and his wife, Janet, have been married for more than three decades and have two daughters, Alison, a graduate of Georgetown University Law School and attorney with Holland & Hart in Washington, D.C., and Kate, a Lieutenant J.G. in the United States Navy.

Chief Deputy Attorney General Cynthia Coffman



Cynthia Honssinger Coffman serves as Chief Deputy to General Suthers. She supervises the attorneys and staff and manages all administrative functions of the Department of Law. Before joining the Office of the Attorney General March 2005, Coffman served as chief legal counsel to Colorado Gov. Bill Owens.

Coffman served as Director of Legal and Regulatory Affairs and, later, Deputy Director of the Colorado Department of Public Health and Environment from 1999 to 2003. She previously worked for the Office of Legislative Council and staffed the Senate Judiciary Committee.

Coffman is a native of Missouri and a graduate of the University of Missouri, Columbia. She earned a JD at Georgia State University College of Law and practiced law in Georgia before moving to Colorado in 1997. Coffman worked as an attorney for the Georgia Attorney General and the Atlanta Committee for the Olympic Games.

Solicitor General Daniel D. Domenico

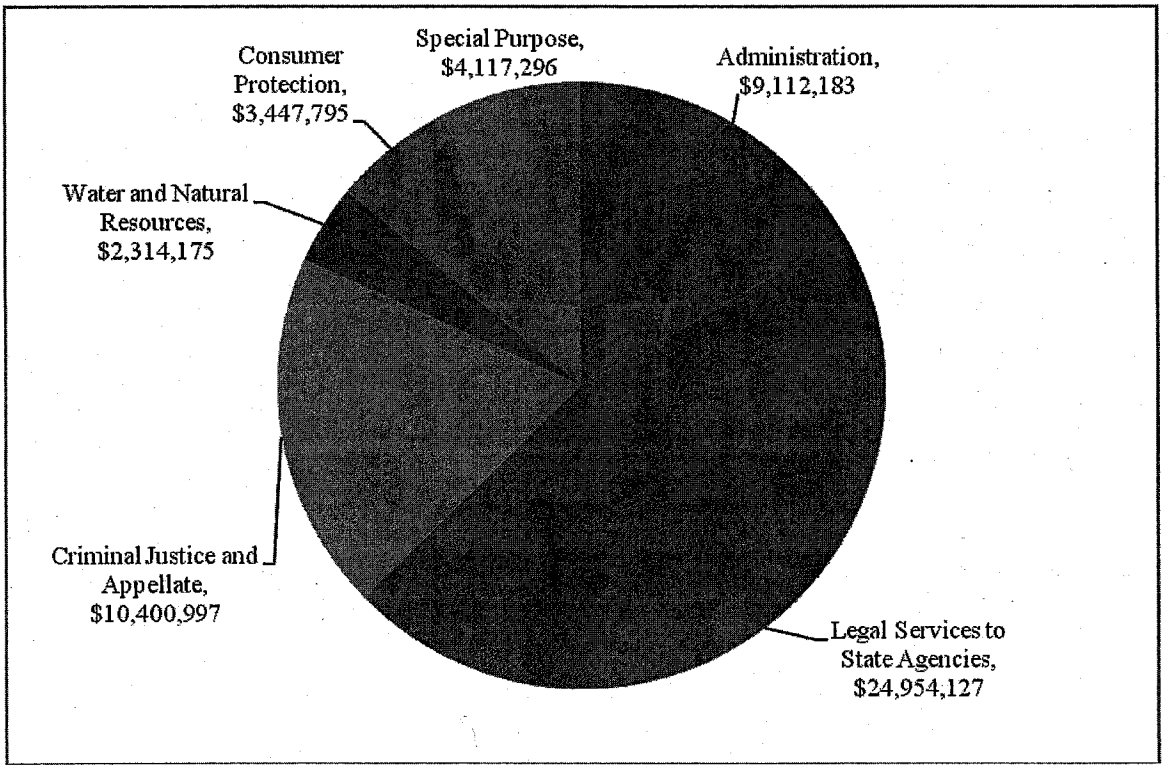
Attorney General Suthers appointed Dan Domenico as Solicitor General of Colorado in April 2006. Before joining the Office of the Attorney General, Domenico was special assistant to the solicitor of the United States Department of the Interior. In that role, he advised the Secretary and senior management of the Department on a wide range of matters relating to National Parks, federal land, water resources, energy production, and other issues important to Coloradans and citizens of the American West.

Prior to his work at the Interior Department, Domenico practiced for several years in the Denver and Boulder offices of the national law firm Hogan & Hartson. He also clerked for Judge Tim Tymkovich of the United States Court of Appeals for the 10th Circuit (himself a former Colorado Solicitor General), and also worked with U.S. Senator John Thune.

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

The Department of Law Budget

Total FY2011-2012 appropriation	$54,346,573
Total full-time employees	419.0



OUR FOCUS

The Colorado Department of Law shall:

- **Uphold** the U.S. and Colorado Constitutions.
- Provide **the highest level of ethical legal service** to the State of Colorado.
- **Defend** the laws and officers of the State of Colorado from legal challenge.
- **Protect and preserve** the quality of Colorado's land, water and air.
- Advocate for policies that help law enforcement **improve community safety**.
- **Protect Coloradans** from consumer scams and fraud.
- Ensure that Colorado's elections remain **free from criminal fraud**.
- Promote **open, accountable** governance.

Consumer Protection Section

The Colorado Attorney General's Office protects Colorado consumers and businesses against fraud and maintains a competitive business environment by enforcing state and federal consumer protection laws; enforcing state and federal antitrust laws; implementing and enforcing provisions of the tobacco master settlement agreements; enforcing state laws on consumer lending, predatory lending, debt collection, rent-to-own, and credit repair; and, advocating for residential, small business, and agricultural public utility ratepayers.

The Attorney General promotes consumer protection through a variety of initiatives and enforcement activities. His consumer protection enforcement activities are handled by four distinct units which he has formed in order to handle the numerous consumer protection laws that have been enacted.

Consumer Fraud

Complaint intake processed a record 6,573 general consumer complaints in 2011. Intake also received 724 mortgage-specific complaints. Consumer complaints are received by mail, e-mail and through the Web site. In addition to these written complaints, intake received 11,871 phone calls and 1,423 pre-recorded message inquiries. During this time, intake evaluated complaint processing procedures and has utilized existing systems to increase complaint processing efficiency, reducing complaint processing times and standardizing data entry processes.

In 2011, complaint intake also continued to develop and issue consumer fraud advisories, consumer fraud awareness newsletters, and other consumer protection Web content that receives more than 1,500 viewers each month. In addition to the consumer protection Web content, intake also developed an electronic notification system to provide consumer complainants updates or changes in pending or resolved cases as well as notification of possible settlement reimbursements.

Mortgage Fraud and Foreclosure Prevention

During 2011 Colorado continued to rank in the top 10 states with the highest foreclosure rate. Foreclosure prevention has been a major focus of the Attorney General's consumer protection work in 2011. The Attorney General continued his work on a national investigation into foreclosure practices of the country's largest loan servicers. This investigation grew out of the "robo-signing" allegations that came to light in late 2010. The Attorney General, in conjunction with other state and federal law enforcement offices, immediately began to investigate the foreclosure practices of these banks. This investigation quickly exposed many of the loan servicing practices that were making it difficult for borrowers trying to save their homes through loan modifications.

Following this investigation, the Attorney General joined a negotiating committee with the Department of Justice, HUD and seven other attorneys

general to explore a resolution with the banks that would end these foreclosure violations and provide a fair process to borrowers trying to save their homes. Throughout 2011 this joint law enforcement team negotiated a deal that would finally establish proper loan servicing and foreclosure practices that the banks must follow.

This office has received hundreds of complaints per year from borrowers who recounted how they lost their homes in foreclosure, even though they were actively engaged in applying for a loan modification. The Attorney General has also set up a complaint escalation system to head off those tragic cases where a borrower unnecessarily loses his or her home while also pursuing a modification with the lender. During 2011 this office assigned one full-time employee to escalate complaints to the banks when it appears that a modification may be possible. More than 400 consumer complaints concerning pending loan modification or other servicing practices were escalated to the major banks. Many of these borrowers were able to receive a resolution that saved their homes. This direct intervention has provided a means of relief when a home otherwise would have been lost.

The Attorney General has also continued to support the foreclosure prevention services offered by the Colorado Foreclosure Hotline. In 2011, the Attorney General committed to provide $600,000 over two years to the hotline. The hotline is an essential service to provide relief to homeowners who may be able to save their homes. Free housing counseling is available through the hotline. It has been shown that 80 percent of borrowers who meet with a housing counselor can find a solution that saves their homes. The funds provided by the Attorney General for support of the hotline has resulted from law enforcement settlements reached with lenders that have violated Colorado's consumer protection and mortgage fraud laws.

In addition to these foreclosure prevention efforts, the Attorney General has continued investigations and lawsuits against local companies that taken advantage of homeowners:

- *State of Colorado, ex rel. Suthers v. Leo Shifrin, Mortgage and Planning Lending Specialists*
  In April, the office obtained a $2.38 million judgment against a mortgage broker and his numerous companies for selling risky option ARM loans to borrowers.
- *State of Colorado, ex rel. Suthers v. Auhll and Associates*
  The office also sued and obtained an injunction against a Castle Rock couple for operating a loan modification company that failed to provide promised results for desperate homeowners trying to save their homes.

Other Consumer Fraud Activities

During 2010, the Consumer Fraud Unit took a series of actions, including:

- *State, ex rel. Suthers v. Raymond Makatura, et al.*
  In October 2011, the Attorney General sued and obtained a preliminary injunction against 21 companies and nine individuals who engage in deceptive magazine telemarketing in various offices in the Denver area. The injunction enjoins the defendants from various tactics that the complaint alleges defendants used to trick consumers into duplicative and expensive "contracts" for magazine subscriptions. The case is currently pending in Denver District Court.
- *Office Depot settlement*
  Following an investigation into

overcharges by Office Depot, Inc. in its sales of office supplies to government agencies and non-profits, on June 3, 2011, the Attorney General entered into an assurance of voluntary discontinuance with Office Depot. Under the agreement, Office Depot agreed to comply with its future contractual obligations and applicable laws and pay $412,000, which was dedicated, in part, to restitution to customers. In total, 93 Colorado government agencies and nonprofits received restitution under the agreement.

- *AstraZeneca Pharmaceuticals LP and AstraZeneca LP*
  Multi-state investigation and settlement with major pharmaceutical manufacturers regarding allegations of false off-label marketing of the prescription drug Seroquel, a drug classified as an atypical antipsychotic.
- *Glaxosmithkline LLC. and Sb Pharmco Puerto Rico, Inc.*
  Multi-state investigation and settlement with major pharmaceutical manufacturers involving unsanitary conditions at Puerto Rico facility.
- *State, ex. rel. Suthers vs. Claims Specialist International*
  The Colorado Attorney General's civil complaint alleged that CSI's door-to-door sales people convinced thousands of homeowners, many of whom were elderly, to sign contracts with CSI and assign to the company more than $1 million in insurance proceeds for roof repairs that CSI never completed. In February, the Attorney General prevailed at trial against CSI's president Glenn Jessen, and obtained a $6.1 million judgment that included more than $1.7 million in consumer restitution. The court's judgment also banned Jessen from future door-to-door sales and from collecting any insurance money before a home improvement job is completed. The Attorney General settled out of court with CSI's other principals for similar injunctive terms.
- *State, ex.rel. Suthers vs. America's Note Network, Russ Dalbey et.al.*
  In a joint filing in U.S. District Court, the Attorney General and the Federal Trade Commission filed a consumer protection lawsuit against a Westminster based national infomercial company whose "get rich quick" misrepresentations enticed more than 500,000 consumers to spend more than $330 million. The complaint alleges that less than 1 percent of these consumers recouped the money they spent for training materials and seminars that Dalbey claimed, in his infomercials, would show them how to get rich by quick brokering personal mortgages and notes. Defendant's corporation has since declared bankruptcy but the Attorney General and FTC will proceed to trial against Russ Dalbey and his wife.

Uniform Consumer Credit Code & Collection Agency Board

The Consumer Credit Unit enforces eight state credit-related laws: the Uniform Consumer Credit Code (consumer finance), including the Consumer Equity Protection Act (predatory lending), and the Deferred Deposit Loan Act (payday loans), the Fair Debt Collection Practices Act (collections), the Debt-Management Services Act (credit counseling and debt settlement), the Credit Services Organization Act (credit repair), the Rental Purchase Agreement Act (rent-to-own), and as of November 1, 2010, the Refund Anticipation Loans Act.

Lending Practices

In 2011, the Unit:

- Regulated and supervised 798 licensed lenders consisting of payday lenders (42 percent), mortgage companies (45 percent), finance companies (12 percent), and small installment and other lenders (2 percent). Enforced credit laws against 1,173 other companies including creditors that sell goods and services on credit, sales finance companies that collect those contracts, and rent-to-own companies.

- Required refunds of $11.4 million to Colorado consumers in excess finance charges and other credit overcharges from compliance examinations, investigations of consumer complaints, lawsuits, and settlements. Collected $21,500 in penalties, costs and fees.
- Conducted 365 compliance examinations of licensed lenders, creditors, and sales finance companies and required them to take corrective action and refund overcharges.
- Investigated 446 written consumer complaints against licensed lenders, creditors, sales finance companies and credit repair companies.
- Investigated or litigated 20 cases against lenders, creditors and credit repair companies.
- Investigated five credit repair companies, obtained a consent decree against *Veracity Credit Consultants, LLC* requiring payment of $400,000 in Colorado consumer restitution, costs, and attorneys fees and a ban on advance fees for credit repair services, and voluntary resolved two other credit repair probes resulting in refunds of $7,725 and penalties of over $4,000.
- Obtained court orders against *Oasis Legal Finance Group, LLC* and *Funding Holding, Inc. dba LawCash* that their litigation funding advances are supervised loans under the Uniform Consumer Credit Code. A trial on damages is set for 2012.
- Obtained a judgment against *Centrix Financial, LLC (Centrix Liquidating Trust)* for more than $87 million representing impermissible finance charges for failing to file required consumer credit notification fees.
- Obtained a Denver District Court order in *Stonepride Financial Corporation* that our rule and interpretation of House Bill 10-1351 correctly required payday lenders to refund the pro-rata portion of the origination fee when consumers prepaid payday loans.
- Litigated the *Cash Advance* and *Preferred Cash* cases in Denver District Court. The case involves the state's ability to investigate unlicensed internet payday lenders that claim to be tribal entities of two Native American tribes. The case was remanded by the Colorado Supreme Court for a determination of whether the entities are "arms of the tribes" entitled to sovereign immunity.
- Passed House Bill 11-1221 to amend various credit statutes to ensure the state's remedies in district court are equal to those in administrative forums.
- Sent eight cease and desist advisory notices to unlicensed payday lenders.

Debt Management

In 2011, the Unit:

- Regulated and supervised 48 credit counseling and debt settlement companies.
- Conducted 12 compliance examinations on registered debt-management providers.
- Investigated 38 written complaints against debt-management providers.
- Investigated or settled 18 cases against debt management companies for excessive fees and unregistered activity resulting in refunds to Colorado consumers of nearly $50,000 and $256,000 in penalties, costs and attorneys fees.
- Filed seven lawsuits against debt settlement companies. Obtained judgments against *Enhanced Servicing Solutions, Inc., Thomas Roland* and *ADA Tampa Bay, Inc. dba American Debt Arbitration, FGL Clearwater, Inc. dba American Debt Arbitration/Glenn P. Stewart* for $147,000 in two cases.
- Passed House Bill 11-1206 to prohibit debt settlement companies from collecting advance fees, settling debt without consumer authorization to all terms at the time of settlement, limiting the law's legal-services and CPA-services exemptions, repealing unnecessary regulatory requirements, and ensuring the state's remedies in district court are equal to those in administrative forums.
- Sent informational memos to all registered providers and those on our "sunshine" list about changes in the law resulting from House Bill 11-1206.
- Sent 86 informational/cease and desist letters about the debt-management law to companies based on Internet searches and media advertisements.

Debt Collection
In 2011, the Unit:

- Regulated and supervised 782 licensed collection agencies.
- Investigated 729 written complaints and inquiries against collection agencies.
- Investigated or litigated 44 cases and obtained $167,339 in fines, payments and consumer restitution through voluntary stipulations and settlements. Many of the actions were for charging consumers impermissible payment "convenience" fees and failure to maintain or disclose on collection notices the required in-state telephone number and address where consumers may make payments and access payment records.
- Obtained a judgment against *Regent Asset Management Solutions, Inc.* for $70,000 in civil penalties and a consent decree against *David Faith Corporation* for $40,000 in civil penalties..
- Resolved administrative charges against *Progressive Financial Services, Inc.*, involving several consumers claiming it contacted them after having been told it had the wrong person. The agency signed a stipulation, and paid a total of $18,000 in fines and custodial funds.
- Issued 79 cease and desist notices to unlicensed collection agencies.

Office of Consumer Counsel

The Office of Consumer Counsel Unit provides legal support and represents the Office of Consumer Counsel. By statutory mandate, the Office of Consumer Counsel Unit advocates on behalf of residential, small business and agricultural interests before the Colorado Public Utilities Commission and in other forums on issues concerning electricity, natural gas, and telephone issues. On behalf of the Office of Consumer Counsel, staff in this Unit appeared or worked on 76 matters before the Public Utilities Commission, including protests, interventions and rulemaking activities.

In fiscal year 2011, consumers realized savings, based on the OCC's representation, of approximately $25.5 million. Significant cases include:

- On September 8, 2008, Qwest Corporation filed an application to set the maximum price for residential basic local exchange service, and for an Order from the commission approving its proposed rates and tariffs for residential basic local exchange service, measured service, message service, the tribal lifeline credit and the low income telephone assistance program. After a hearing the commission set a cap of $16.52 for residential basic local exchange service which will be increased to $17 one year after the effective date of the order. The OCC filed a complaint and writ of certiorari regarding the commission's decision in Denver District Court. On January 6, 2011, Denver District Court Judge Herbert L. Stern, III reversed the commission's decision and remanded it back for further action. On April 22, 2011 the commission appealed the decision to the Colorado Supreme Court.
- On May 17, 2010, the commission issued its order opening a proceeding based on House Bill 10-1365, the Clean Air Clean Jobs Act (CACJA), which was signed into law on April 19, 2010 by Gov. Bill Ritter, Jr. The CACJA required all rate-regulated utilities that owned or operated coal-fired electric generating facilities in Colorado to submit to the commission, on or before August 15, 2010, an Emission Reduction Plan (ERP). Public Service Company of Colorado filed its ERP on August 13, 2010. Forty parties intervened in this proceeding. Public Service's initial ERP Preferred Plan was rejected by the commission because it did not comply with the CACJA, which required the ERP to be fully implemented by December 31, 2017, required that the Colorado Department of Public Health and Environment approve the ERP, and required that the ERP be compliant with "reasonably foreseeable requirements of the Federal Clean Air Act." Public Service submitted a new ERP with additional potential scenarios four days after the start of the hearing. The hearing was

held from October 21 to November 2 and November 18 to 20, 2010. On December 15, 2010, the commission issued its order approving an amended ERP, which included the following: Arapahoe 3 will be shutdown in 2013, Arapahoe 4 will be fuel switched from coal to natural gas in 2013, Cherokee 1 and 2 will be shutdown in 2011, Cherokee 3 will be shutdown in 2015, Cherokee 4 will be converted from coal to natural gas by the end of 2017, Valmont 5 will be shutdown in 2017, Selective Catalytic Reduction (SCR) will be installed on Pawnee in 2014, SCR will be installed on Hayden 1 in 2015, SCR will be installed in 2016 on Hayden 2 in 2016 and a 2x1 Combined Cycle natural gas facility will be installed at Cherokee in 2015. The commission issued its final decision on February 3, 2011. On March 4, 2011, the OCC filed an appeal of the commission's decision to Denver District Court. The issue appealed by the OCC was whether the commission exceeded its statutory authority by ordering Public Service to pay for a consultant to assist the commission staff and by authorizing Public Service to recover such costs from ratepayers. The OCC and the commission have filed their briefs.

- On April 27, 2011, Black Hills/Colorado Electric Utility Company LP filed Advice Letter 642-Electric proposing to change its Energy Cost Adjustment. On April 28, 2011, Black Hills filed Advice Letter 643-Electric requesting a revenue increase of $40.2 million, or an 18.84 percent increase, based on a 2010 historic test year. The commission consolidated these filing into one proceeding. The OCC recommended in its answer testimony that the increase be $15.1 million rather than the $40.2 million proposed by Black Hills. After a partial settlement of some of the issues was reached by the parties and an evidentiary hearing on the disputed issues, the parties filed their statements of position. The OCC's final position was that a revenue increase of $4.5 million was appropriate. The commission issued its decision on December 22, 2011 and authorized a revenue increase of $10.5 million, or a 4.91 percent increase. Black Hills, the OCC and other parties filed RRR Applications regarding this decision. A final commission decision is pending. On November 22, 2011, Public Service filed Advice Letter No. 1597-Electric, PUC No. 7 Electric seeking to increase Public Service's annual base rate electric revenue by $141.9 million, or a 10.6 percent, based on a 2012 forecast test year. The electric rate case has been assigned to an administrative law judge. The OCC will be filing its answer testimony in February 2012. The evidentiary hearing is set for April 2012.
- On November 23, 2011, Public Service filed a Petition for Interim Rate Relief based on its November 22 electric rate case filing pursuant to § 40-6-111(1)(d), C.R.S., which was included in CACJA. Public Service's interim rate relief request was for $100 million. This was the first instance in which an electric utility filed a petition for interim rate relief under this statute. On December 23, 2011, the OCC and other parties filed their responses to the Public Service's interim rate relief request. The OCC argued that normal regulatory lag was not sufficient for interim rate relief and that Public Service had not proven that the amount requested was material, that reliable service would be impaired and that its ability to attract capital would be impaired. The commission orally denied Public Service's petition on January 11, 2012 and issued its order on January 20, 2012. On January 12, 2012, Public Service filed a RRR Application based on the commission's oral decision. The OCC filed its reply to Public Service's RRR application on January 17, 2012. The commission will issue a final decision in early 2012.

Criminal Justice Section

The Criminal Justice Section of the Colorado Attorney General's Office assists local prosecutors and law enforcement agencies throughout the state on matters that occur in more than one local jurisdiction, including presenting cases to the Statewide Grand Jury and serving as special district attorneys as requested. Section members provide special assistance to district attorneys in complex homicides, cold cases, human trafficking cases and large-scale drug conspiracies. The Criminal Justice Section also oversees the Peace Officer Standards and Training Board and provides legal counsel to the Department of Public Safety.

The Section also prosecutes white-collar crimes, environmental crimes and multi-jurisdictional matters through direct filings and the use of the Statewide Grand Jury. The Criminal Justice Section also coordinates the prosecution of foreign fugitives. The Criminal Justice Section is recognized as a premier prosecutors' office in the state.

Special Prosecutions

The Attorney General has statutory authority to prosecute specifically enumerated crimes including environmental violations, tax fraud, mortgage fraud, election fraud, workers' compensation fraud and other types of fraud-related offenses. Additionally, the Attorney General operates as the legal adviser to the Statewide Grand Jury. This function further allows the Special Prosecutions Unit to undertake the investigation and prosecution of complex criminal cases which occurred in multiple judicial districts throughout the state. These complex cases often involve, but are not limited to, criminal enterprises committing narcotics trafficking, identity theft and human trafficking.

The Special Prosecutions Unit, which is comprised of seven attorneys, five investigators and one paralegal, is responsible for many of the multi-jurisdictional matters in Colorado, as well as special investigations referred to it by other state agencies or the governor. Unit attorneys prosecute cases throughout the state, either under the auspices of the Attorney General or as appointed deputy district attorneys in the 22 judicial districts.

In early 2008, then-Gov. Bill Ritter ordered the Attorney General to take lead in the re-investigation of the 1987 murder of Peggy Hettrick in Fort Collins. Timothy Masters had been convicted of the murder in 1999 and sentenced to life in prison without parole. In 2011, the Attorney General formally exonerated Masters.

In September 2010, then-Gov. Bill Ritter also ordered the Attorney General to assume the investigation and prosecution of Myrl Serra, who at the time was the elected District Attorney for the 7th Judicial District on the Western Slope. The prosecution resulted from Serra's sexual offenses against members of his staff. The two criminal cases that were filed against Serra were prosecuted in Montrose District Court. In August 2011, a jury found Serra guilty of all counts, including the felony offense of violation of bail bond conditions. In October 2011, Serra also pleaded guilty

to the felony crime of criminal extortion and to multiple counts of unlawful sexual contact. Serra resigned from elected office in January 2011 and was disbarred by the Colorado Supreme Court in December 2011. Until the appointment of a new district attorney, the first assistant attorney general for the Financial Fraud Unit served as the acting district attorney.

During 2011, a Unit prosecutor continued a two-year effort of identifying and prosecuting multi-jurisdictional human trafficking cases. An example of this important effort was the unit's successful prosecution of Dallas Cardenas in Jefferson County District Court for his role in crimes centered on child prostitution. In 2011, Cardenas was found guilty of various felony sex crimes, such as pimping of a child, and was sentenced to eight years in the Department of Corrections.

The Special Prosecutions Unit also secured an indictment against a group of defendants, led by John Reinholdt II, who used their family's Lafayette-based business to commit a sophisticated multi-million dollar mortgage and bank fraud scheme that occurred throughout Colorado and other western states. The leaders of this scheme were charged under the Colorado Organized Crime Control Act and were successfully prosecuted in the Denver District Court. A jury convicted him of 32 felony counts in January 2011. The court sentenced him to 16 years in the Colorado Department of Corrections in March 2011.

Additionally, multi-jurisdictional cases involving check fraud, credit card fraud, identity theft and mortgage fraud were areas of emphasis for the Special Prosecutions Unit in 2011. Unit attorneys handling these cases appeared in many jurisdictions, including Mesa County, Arapahoe County, Adams County and Boulder County. An example of such a case was a six defendant enterprise that committed a sophisticated credit card fraud scheme throughout many states in the West and Midwest. Five of the six indicted members of the organization have pleaded guilty to various felony charges. The leader of this organization pleaded not guilty and is scheduled for trial in 2012 in Adams County District Court.

The proliferation of narcotics trafficking into Colorado led the Special Prosecutions Unit to initiate a large-scale narcotic distribution investigation that resulted in indictment of 33 defendants. These cases were then prosecuted by a Unit attorney in Larimer County. Additionally, many other narcotics distribution cases were resolved by Unit attorneys in Larimer, Adams and Jefferson Counties. These case dispositions included lengthy sentences to Department of Corrections, more than 40 years for some of the key leaders of the various narcotics trafficking organizations.

Protecting Colorado's citizens from the fraudulent use of state funds is an important function for the Special Prosecutions Unit. Multiple cases, including at least four matters of significant tax fraud were handled by the unit this year. For example, the Unit obtained guilty verdicts on all counts against Douglas Bruce, a Colorado Springs resident, for a sophisticated tax evasion scheme that he orchestrated.

The Unit also successfully prosecuted five individuals for felonies involving unemployment insurance fraud, with more than $55,000 in restitution being ordered by courts. Six filed cases of workers' compensation insurance fraud resulted in convictions and restitution in the amount of $33,000.

Protecting Colorado's natural resources by enforcing federal and state environmental laws also is an important part of this Unit's responsibility. The Environmental Crimes team investigated 11 environmental crimes of significance during the last year and secured numerous convictions.

Auto Theft Initiative

In April, 2010, the Attorney General's Office added an Auto Theft Unit to the Criminal Justice Section through a grant from the Colorado Automobile Theft Prevention Authority. The Auto Theft Initiative consists of a full-time prosecutor and investigator who assist local law enforcement agencies and district attorneys in the investigation of complex crime related to automobile theft through use of the state-wide grand jury. The initiative also provides field-specific training to law enforcement agencies across the state.

In 2011, the Auto Theft Initiative, which is part of the Financial Fraud Unit, opened two new grand jury investigations involving complex multijurisdictional criminal activity. One of those investigations has resulted in two individuals being indicted for a pattern of auto theft through advertisements posted on Craigslist (or other Internet sites) and resale of stolen vehicles at below-market value to unwitting buyers.

Additionally, working in cooperation with the Attorney General's Insurance Fraud Unit, the Auto Theft Initiative shut down an insurance fraud ring that defrauded insurance companies using staged automobile accidents and other fraudulent insurance claims. Mikel Mewbourn and five codefendants were indicted in March 2011 on charges ranging from theft and motor vehicle theft to violations of the Colorado Organized Crime Control Act. The charges were the result of a lengthy investigation into several years of criminal activity. Mewbourn was the orchestrating force behind a series of schemes to defraud several insurance companies for staged automobile accidents, staged motor vehicle thefts and intentionally manufacturing property damage. Insurance companies paid approximately $280,000 on fraudulent claims and had several unresolved claims remaining when the indictment was filed.

In June of 2011, the Unit filed a vehicle identification number alteration and title swapping case involving motorcycles in San Luis. It is currently pending in Costilla County District Court.
As a result of the efforts in this case, the Colorado Attorney General's Office, along with several insurance related entities, was awarded "Team Collaboration Award" for 2011 from the Colorado Auto Theft Investigators.

The Unit's investigator assisted in both developing the curriculum and organizing the annual Colorado Auto Theft Investigators conference.

Homicide Assistance Team

The Attorney General employs an expert team consisting of two attorneys and a seasoned homicide investigator to provide critical support and assistance to the elected district attorneys and to local law enforcement in all aspects of homicide investigations and prosecution. In 2011, members of this assistance team assisted local prosecutors and investigators in many counties, including but not limited to Adams County, Rio Grande County, Costilla County, Conejos County, Arapahoe County, Boulder County, Douglas County, El Paso County and Hinsdale County. The team's two attorneys spent the majority of 2011 in the San Luis Valley, serving as the lead prosecutors in three separate first degree murder cases on behalf of the District Attorney for the 12th Judicial District. Additionally, both attorneys provided specialized advice and support to the District Attorney for the 18th Judicial District (Arapahoe, Douglas, Elbert and Lincoln counties). The attorneys and its investigator are also conduct a variety of trainings for this state's prosecutors and investigators on the topic of complex homicide prosecutions, including cold cases.

Colorado Justice Review Project

From January of 2010 through December of 2011, the Attorney General's Office worked on a Post-Conviction DNA Testing Assistance Program, the Colorado Justice Review Project, awarded by the National Institute of Justice. The goal of the Colorado Justice Review Project was to identify cases in which DNA testing could potentially exonerate a wrongfully-convicted inmate. The Attorney General's Office partnered with the Denver District Attorney's Office on the Colorado Justice Review Project. The Attorney General's Office reviewed cases originating in the 63 counties outside of Denver County while the Denver District Attorney's Office reviewed cases originating in Denver.

The Colorado Justice Review Project began its review by screening nearly 5,000 cases statewide of inmates incarcerated on murder, sexual assault or non-negligent manslaughter convictions. More than 3,800 cases were screened by Justice Review Project staff. Inmates incarcerated on these qualifying offenses were not required to apply for case review. Rather, the cases of inmates with qualifying offenses were automatically screened to determine further eligibility. Only cases of inmates who continuously maintained a claim of innocence throughout the pre-trial, trial and post-trial proceedings received a second level of review, a fact-intensive investigation.

The Colorado Justice Review Project presented an overview of its work and a few specific cases to the Colorado Justice Review Project Panel for discussion in August of 2011.

The Colorado Justice Review Project Panel was comprised of:

- Ron Sloan, Director of the Colorado Bureau of Investigation;
- Gregg LaBerge, Director of the Denver Police Department Crime Laboratory Bureau;
- Dan King, Chief Trial Deputy of the Colorado Public Defender's Office;
- Lindy Frolich, Director of the Alternate Defense Counsel;
- Mitch Morrissey, Denver District Attorney; and,
- Michael Dougherty, Deputy Attorney General.

The Colorado Justice Review Project Panel voted to send one case for DNA testing. The Colorado Bureau of Investigation successfully conducted DNA testing on several pieces of evidence. As a result of this DNA testing, an investigation of the original crime has been re-opened. Disclosure of the results of the DNA testing is pending court action.

The work of the Colorado Justice Review Project was a collaborative effort with the Colorado Department of Corrections, the Colorado Bureau of Investigation, members of the defense bar, the Colorado Public Defenders and the Alternate Defense Counsel, law enforcement agencies across the state and, notably, with the District Attorneys' Offices across Colorado who opened their files to the Colorado Justice Review Project staff. The National Institute of Justice has awarded a second round of funding to the Attorney General's Office and the Denver District Attorney's Office to continue the work of the Colorado Justice Review Project.

Foreign Prosecutions Unit

Foreign prosecutions occur when a victim or defendant is a Mexican national and the offender has fled from the United States to the Republic of Mexico. The fugitive can be subjected to prosecution by Mexican authorities in Mexico under Article IV of the Mexican Federal Penal Code and under mutual agreement through an international treaty. These proceedings are based on casebooks submitted by the Foreign Prosecutions Unit investigator to the Federal Attorney General's Office in Mexico City.

The Foreign Prosecutions Unit has saved Colorado millions of dollars in the apprehension, prosecution and incarceration of fugitives adjudicated and sentenced to a Mexican federal prison under Article IV program of the Colorado Attorney General's Office.

During 2010-2011, the Foreign Prosecutions Unit traveled to Mexico City to present foreign prosecution requests to the Procuraduría General de la República under Article IV. The Foreign Prosecution Unit's investigator prepared and filed Article IV homicide cases for two local law enforcement agencies during this reporting period:

- On March 1, 2003 the body of a female later identified as 28-year-old Maria Soledad Fierro was discovered in unincorporated Adams County. The investigation revealed that, following the murder, the victim had been transported to a remote area and set on fire in order to conceal her identification and to destroy evidence. The suspect has been identified and is believed to be in the state of Chihuahua. After several months of work with local law enforcement, particularly in locating witnesses, an Article IV case was filed in March 2011 with the Procuraduría General de la República in Mexico City, on behalf of the Adams County Sheriff's Office and the 17th Judicial District. As a result, a Mexican federal arrest warrant was issued.
- A second Article IV case was completed and successfully filed in December 2011. The homicide initiated with the Thornton Police Department and the 17th Judicial District. This case originated with the brutal beating and stabbing of Claudia Ceballos, a 39-year-old mother of three. The victim was found by her 19-year-old son when he returned home November 26, 2009. A successful filing was accepted by the Procuraduría General de la República and warrants were issued for the apprehension of the suspect.

The Unit continues to work on open cases, including the Article IV case filings and investigations for Montrose Police Department, Mesa County Sheriff's Office, Weld County Sheriff's Office, Adams County Sheriff's Office and the El Paso County Sheriff's Office. The Foreign Prosecutions Unit investigator is responsible for continued work on the outstanding arrest warrants. She is working with the respective law enforcement agencies to conduct follow up interviews of witnesses and to develop further information on the fugitive suspect.

With the assistance of the Foreign Prosecutions Unit, Mexican authorities apprehended three suspects charged with the murder of Marco Antonio Vargas-Salvador. The homicide occurred in Montrose on October 28, 2006. Miguel Godinez-Marquez, Gilberto Godinez-Marquez, and Luis Antonio Partida are in custody awaiting the federal court's ruling and sentencing.

In addition, a number of U.S. citizens wanted in Colorado were apprehended in Mexico and returned to Colorado. Mexican authorities have supported Colorado law enforcement through extradition or expulsion of suspects. Working with Mexico, and U.S. agencies including HSI/ICE, U.S. Marshals Service and the FBI, the Foreign Prosecutions Unit continues to assist as a liaison for federal, state and local agencies in returning American citizens to the United States.

The Foreign Prosecutions Unit also assisted and facilitated the process to return victims and witnesses to Colorado from Mexico in order to testify in court. When undocumented persons return to Mexico after a crime is committed and are later needed for the prosecution of the defendant, the Foreign Prosecutions Unit can provide assistance to the local district attorneys' offices to return the individuals to Colorado under a significant public benefit parole visa issued through the U.S. Department of Homeland Security and U.S. Department of State. This Unit assisted the Adams County District Attorney's Office, the Arapahoe County District Attorney's Office, and the El Paso County District Attorney's Office with the visa process to allow witnesses to return to Colorado to testify in their respective cases and assist the prosecution of the perpetrators.

Securities Fraud Unit

Pursuant to Colorado law, the Attorney General has original jurisdiction to prosecute criminal violations relating to securities and securities fraud. The Office of the Attorney General independently investigates and prosecutes allegations of securities violations statewide and in cooperation with the Colorado Division of Securities and other law enforcement agencies. The Unit is made up of two attorneys, two investigators, a paralegal and half the time of an administrative assistant.

The Unit, which is part of the Financial Fraud Unit, obtained seven convictions involving securities fraud in 2011. The convictions, all of which were the result of plea agreements, resulted in restitution orders totaling more than $21.5 million on behalf of 244 victims. In each case, the defendants pleaded guilty to one or more charges of class-three felony securities fraud. All seven are first-time criminal offenders. Five were sentenced to the Department of

Corrections. Two defendants, Timothy Burk and David Piatt, each received a one-year deferred sentence.

In 2011, the Unit opened 64 investigations, all but three of which were initiated by the Unit's investigators. Three cases were referred to the Unit by the Colorado Division of Securities.

Noteworthy cases include:

- Jeremy Hart solicited his insurance clients and others to invest in various "alternative" investments, primarily through Dreamweaver (co-defendant Richard Novaria) and American Consumer Wealth Services. Investors were promised high rates of return and given unsecured promissory notes as evidence of their investment, and were never told of any risks. Early investors were paid back with later investor money. In November 2010, Hart pleaded guilty to one count of securities fraud and one count of theft. A first-time offender, he was sentenced in January 2011 to nine years in the Department of Corrections. He owes more than $3.4 million in restitution to 33 victims.
- William Walters offered notes and/or investment contracts to investors while not being licensed. This occurred in several states with a loss of more than $21 million from 40 investors. He used most of the investor funds to pay for his and his wife's personal expenses and to make interest payments and payouts to earlier investors. Walters was extradited from Argentina in August 2010; he pleaded guilty to three counts of securities fraud and one count of theft in April 2011. On June 1, 2011, Walters was sentenced to 40 years in prison. He owes more than $9.5 million in restitution to 22 victims.
- Adam Hirschfeld solicited more than $4 million for "pooled equity vehicles" from more than 100 investors who believed their investments were being used for either foreign currency trading or oil and gas projects. He failed to inform investors of prior losses in the currency trading, misrepresented investor updates to hide the true nature and performance of the various enterprises, and created investor account statements that portrayed erroneous gains. Hirschfeld was charged with two counts of securities fraud in 2009; he pleaded guilty to both counts in January 2011, and in June, was sentenced to four years in the Department of Corrections for the first count, and, consecutive to the first, twelve years probation for the second count. He owes more than $4.6 million restitution to 117 victims.

The Unit tracked restitution payments of 73 defendants during 2011, during which time $398,000 was collected by the courts on behalf of victims.

Insurance Fraud Unit

The Insurance Fraud Unit is part of the Financial Fraud Unit within the Criminal Justice Section of the office. The Unit investigates and prosecutes criminal offenses relating to insurance fraud. Typical cases involve theft and forgeries. The Unit consists of two attorneys, four investigators, one paralegal and half of the time of one administrative assistant. The Unit is uniquely situated to handle insurance fraud cases and our staff is widely regarded as experts in this area.

During 2011, the Unit processed 579 referrals of potential criminal cases relating to insurance fraud. Most of these referrals were made to the Unit by the Colorado Division of Insurance. Other sources of referrals were law enforcement agencies and the National Insurance Crime Bureau.

The Unit continues to work larger, more complex cases both internally and in conjunction with other law enforcement

agencies. In 2011, the Unit conducted several large investigations in the Statewide Grand Jury and also concluded investigations from 2010.

In 2011, the Unit opened 96 new investigations, after screening all of the case referrals. The Unit filed a total of 29 new cases in Colorado courts. The cases were filed in Adams, Arapahoe, Denver, Douglas, El Paso, Morgan, Montrose and Weld Counties. Eight of these cases were initiated by indictments issued by the Colorado Statewide Grand Jury; the other 21 were direct filed by complaint and information. Twenty cases were resolved by guilty pleas and one case was dismissed by this office.

In April 2011, the Unit also successfully indicted two individuals for theft, forgery and violation of the Colorado Organized Crime Control Act (a class-two felony) relating to a glass company's practices of fraudulent billing in two different schemes. The first scheme involved false claims to the insurance companies (through third party administrators), indicating that glass installation had been done in Buena Vista, when in fact none of the work was done in Buena Vista, and the vast majority of the work was done in the Denver, and did not extend beyond Colorado's Front Range. The second scheme was related to the types of vehicle glass that was installed. Insurance companies pay more money for vehicle glass such as side, back, vent and quarter windows, and less money for windshields. The defendants directed employees to submit false claims to the insurance companies (through third party administrators) indicating that glass other than windshields was being installed, when in fact the vast majority of the glass being installed were windshields, and only windshields. These cases are currently pending in Denver District Court.

In the past few years, the Unit has seen an increase in the number of staged accidents of motor vehicles. The Unit has been attempting to coordinate the investigations of staged accident rings with the dozens of insurance companies affected. By working with the National Insurance Crime Bureau, the Unit has been attempting to follow patterns of crime that have not been noticed by the individual insurance companies because the losses have been so spread out among different companies.

During 2011, the Unit supervised the restitution payments of 56 defendants on probation for insurance fraud-related crimes. The Unit collected more than $150,000 in restitution during 2011. Additionally, the Unit achieved new restitution orders totaling $172,887 and cost and fine orders totaling $53,568.

Medicaid Fraud Control Unit

The Medicaid Fraud Control Unit defends the financial integrity of the state's Medicaid program and the safety of patients in Medicaid-funded facilities. It investigates and prosecutes fraud by providers against the Medicaid program. The Unit also investigates and prosecutes patient abuse, neglect and exploitation in Medicaid-funded facilities and serves as an authority and training resource on abuse prevention and investigations. It also pursues civil recoveries and damages against providers under the Colorado False Claims Act, which became law on May 26, 2010.

Colorado pays approximately $4.5 billion per year to more than 10,000 participating providers (such as nursing homes, physicians, psychologists and mental health therapists, dentists, pharmacies, labratories, hospitals, clinics and durable medical equipment companies) on behalf of nearly 675,000 citizens who qualified for Medicaid benefits in 2011. The goal of the Medicaid Fraud Control Unit is to preserve state resources devoted to Colorado's Medicaid program and to protect these funds against fraud.

In 2011, the Medicaid Fraud Control Unit opened 111 new investigations and 17 new criminal cases were filed with the courts throughout Colorado. Twelve criminal convictions and 16 civil settlements were obtained, with recoveries totaling more than $2.3 million. Seventy cases were resolved and closed. The Unit has 182 active civil and criminal investigations.

The Unit also works closely with its counterparts in other states and the federal government on a broad range of fraud cases that span multiple jurisdictions. Several of these cases resulted in regional and national settlements that included activities occuring in Colorado; other cases resulted in federal criminal charges being filed against individuals and corporations. Unit representatives also participate in several working groups of local law enforcement and other agencies dedicated to combating health care fraud.

Significant cases from 2011 include:

- The Unit conducted a joint investigation with the Colorado Department of Revenue of Clair Loren Morrison, the former administrator and owner of the Cedardale Health Care Centre. Cedardale was a skilled nursing home for the elderly in Wray. Morrison had reported false information in the Med-13 Cost Reports for Cedardale prepared at Morrison's direction. This information resulted in Medicaid paying for and reimbursing costs and expenses that were false. Morrison, 72, pleaded guilty in November 2011 to several different felonies, including computer crime, a class four felony, theft-series-over $1,000 but less than $20,000, and two counts of failure to pay over taxes to the Colorado Department of Revenue. Morrison was sentenced to eight years supervised economic probation, 100 hours of useful public service, and restitution of $75,000 to the Colorado Medicaid program and the Colorado Department of Revenue, as well as court costs and fees.
- The Unit entered into a civil settlement with a local agency whose employee submitted several years of false billings for home health care purportedly rendered to her own daughter. The Unit investigation revealed that the employee did not have custody of the daughter during the time frames in question, and was not rendering care. The employee was prosecuted and convicted by the Unit's criminal division. Following the conviction, the civil division demanded repayment of all amounts paid to the agency by the state, along with double-damage penalties for time frames in which the company recklessly disregarded the fact of the employee's lack of custody. The company agreed to all of the amounts demanded, and has repaid more than $250,000 to date.
- At the end of 2011, the Unit joined in a Medicare and Medicaid settlement with a prominent Denver hospital. In the settlement, the state recovered more than $1.1 million in repayment for patients for whom the hospital had billed in-patient admissions. According to the investigation, the patients' hospital visits should have been billed as less expensive out-patient or observation stays. The settlement covered several years of billings, and was the result of intensive audit and

analysis by the Unit, the U.S. Attorney, and the HHS-OIG.

- In September, the State received more than $518,000 from Elan Corporation, PLC and Eisai, Inc. in a global qui tam settlement of allegations of off-label marketing and illegal remuneration. According to the nationwide investigation, the defendants allegedly aggressively marketed the anti-convulsive drug Zonegran to pediatric populations for which it had not been approved, as well as for unapproved conditions including neuropathy, headaches, and obesity. The company also allegedly offered and paid illegal remuneration to health care professionals to induce them to promote and prescribe Zonegran in violation of federal and state anti-kickback statutes. In addition to the civil settlement, one of the companies pleaded guilty to a misbranding criminal charge.

Department of Public Safety

The Colorado Department of Public Safety is the statewide law enforcement agency responsible for providing a leadership role in issues and concerns of law enforcement including statewide commissions and multi-jurisdictional task forces. The Colorado Department of Public Safety includes the Colorado Bureau of Investigation, the Colorado State Patrol, the Division of Criminal Justice, the Division of Fire Safety, the Division of Homeland Security, and approximately 50 boards and commissions.

The Public Safety Unit of the Department of Law consists of one full-time attorney position responsible for providing legal advice, counsel, and representation on issues arising from or out of any of the wide range of Colorado Department of Public Safety areas of responsibility. The attorney for Colorado Department of Public Safety also serves as legal counsel to the Peace Officers Standards and Training Board.

Activities during 2011 include:

- Providing advice to Colorado State Patrol and state officials concerning Occupy Denver encampment on state property, enforcement actions taken, consultation with prosecutors on resulting trials, and legal review of an ACLU open records request.
- Significant and ongoing litigation concerning pre-employment background investigations, including the use of polygraphs.
- Providing legal advice and representation of 15 personnel appeals, including termination of the department's first peace officer to receive an official Brady notification from an elected district attorney.

Peace Officer Standards and Training Board

The Colorado Peace Officer Standards and Training Board manages the training and certification of approximately 15,000 active and reserve peace officers who are appointed to Colorado law enforcement agencies in addition to managing 27 certified police academies in Colorado and approximately $2.2 million in training grants. POST consists of six employees, 61 subject matter experts and 20 appointed POST Board members. Ten of the 11 training regions also have an advisory board. There are more than 100 training advisory board members.

POST's mission is to establish and maintain standards for peace officer training and certification that are relevant, realistic and responsive to our ever-changing world.

The POST Board is composed of 20 appointed members, of which three are

statutory members: the Attorney General, its chairman; 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 three-year terms by the governor and include one local government representative; one member of the general public; six active sheriffs; six active chiefs of police; and three line-level peace officers serving at the rank of sergeant and below.

The POST Unit is divided into several different functions, including:

- *Certifications*
  The Certifications Unit handles a wide variety of certifications for peace officers in Colorado. These include the Unit granting 687 Conditional Peace Officer Certifications and 196 Conditional Peace Officer Authority Extensions. This Unit also processed eight felony certification revocations and five misdemeanor revocations. The Unit granted 26 provisional certifications, 69 reserve certifications and granted 448 full-time certifications.
- *Academies*
  The Academies Unit accomplishments included coordination of the 27 POST approved academies in Colorado. These academies conducted 41 basic academy classes, five reserve academy classes, three lateral academy classes, one refresher academy class and 12 skills instructor programs. There were 12 academy and program inspections and all were found to be in compliance. The Academies Unit also coordinates the four Subject Matter Expert Committees. These committees have a total of 61 subject matter experts in the areas of Curriculum, Firearms, Arrest Control, and Law Enforcement Driving. In 2011, there were eight new subject matter experts were appointed to the various SME committees.
- *POST Testing and Training*
  POST continues to work towards developing an online testing model for the POST certification exam. Once finalized, Colorado will be the 12th state to have online POST Testing.
- The Training Unit disbursed approximately $2.2 million to the training regions (for about 140 training classes), disbursed approximately $50,000 for online training for DNA and Anti Bias Training, facilitated grants of $9,557 for online Law Enforcement Training Network to 33 small law enforcement agents, $42,000 for a Rural Command Staff Institute, $28,000 for four Jail Detention Training Sessions, $40,000 for development of four In-Service Patrol Training Sessions, $3,000 for three training classes on developing Peer Support Teams, $3,000 to send three Law Enforcement Executives to Tools for Tolerance Training, and $10,000 for four Suicide Prevention Training Sessions.

POST Management had a number of other significant accomplishments in 2011, which include:

- Attending 25 outreach meetings;
- Hosting the first-ever meeting with IADLEST Executive Staff in Denver; and,
- Conducting a Sunrise Review Committee meeting.

The Appellate Division

The Appellate Division of the Attorney General's Office is Colorado's prosecutorial authority at the appellate level of the criminal justice system. Division attorneys represent law enforcement when defendants appeal criminal convictions in the Colorado appellate courts. In addition, the division represents the interests of the state in extradition appeals, in selected civil appeals (such as sealing-of-records cases and property and bond forfeiture actions), and in the federal courts in *habeas corpus* actions challenging state criminal convictions.

The state's 22 District Attorneys and the Attorney General employ hundreds of trial level prosecutors to do felony trial work; the Office of the Attorney General's Appellate Division has 26 full-time and four half-time attorneys supported by three staff members to respond to all of the defense appeals generated by those cases. Cases range from relatively minor sentencing and postconviction appeals to complicated white collar crime, homicide, child abuse, sexual assault and death penalty litigation.

Because the division responds to appeals that are filed on behalf of convicted criminals, it cannot control the size of its caseload. The division must provide effective and ethical representation in all cases, which range from relatively simple trial court denials of postconviction relief to more complicated constitutional questions and issues of statutory interpretation and trial practice. In each case, the attorney must read the trial transcript and other pertinent documents, conduct legal research on each defendant's claims, and write an argument explaining why law enforcement should prevail. While a majority of the cases impact only the defendants and the victims directly involved, any given case may result in new published law that has a significant impact on how law enforcement authorities conduct searches and arrests; on procedures for criminal trials and sentencing hearings throughout the state; on the Colorado Department of Corrections; or on probation, parole and community corrections programs.

In addition to their appellate litigation, Appellate Division attorneys share their expertise in criminal law issues with the district attorneys through weekly case law updates, informal advice, and formal presentations at Colorado District Attorneys Council meetings and training sessions.

2011 Caseload

The Appellate Division opened 1,083 new appellate cases in 2011. These cases involved the following convictions:

- 565 assaults or sexual assaults against children
- 391 burglaries and thefts
- 365 homicides and attempted homicides
- 358 kidnappings and assaults
- 267 completed or attempted aggravated robberies
- 264 drug offenses
- 135 sexual assaults on adults
- 995 other offenses (primarily felonies)

Of the Appellate Division cases decided by the various appellate courts in 2011, Division attorneys were successful 90 percent of the time. In managing the appellate caseload, attorneys also performed the following tasks:

- *Motions*
  Monitored and responded as necessary to ongoing pleadings in hundreds of cases in the preliminary stages of the appellate process.
- *Opening and Answer Briefs*
  Filed 975 opening briefs, answer briefs, and answers to orders to show cause.

- *Oral Arguments*
  Appeared at 122 oral arguments to present the State's position and answer questions from the judges. In most instances, panels of three or more division attorneys review the briefs and serve as judges in mock arguments to prepare the attorney handling the case for argument.
- *Petitions for Rehearing*
  Filed 38 petitions for rehearing to try to correct matters that were wrongly decided by the courts.
- *Petitions for Certiorari*
  Asked the State Supreme Court to conduct further review in 13 cases that would otherwise have an adverse impact on law enforcement.

Natural Resources Section

The Natural Resources and Environment Section works to protect and improve the quality of Colorado's natural environment and to ensure intelligent use and development of the state's natural resources. The Section also protects Colorado's interests in its interstate rivers.

The Section provides legal counsel and representation to the Colorado Department of Natural Resources, the Colorado Department of Public Health and Environment, and any other state agency or official with a natural resource or environmental issue. The Section also advocates on behalf of the Colorado Natural Resource Trustees to recover damages for injuries to natural resources and to restore, replace or acquire the equivalent of the natural resources injured.

Federal and Interstate Water

In 2011, attorneys:

- Assisted the State Engineer's Office in a continuing series of public meetings to draft and achieve consensus on rules in Water Division No. 3 to protect senior surface water rights and Colorado's compact obligation while reducing groundwater withdrawals as little as possible to comply with state law.
- Provided advice to the Department of Natural Resources in negotiating various agreements on the Blue River Decree.
- Represented the State Engineer and defended his decision to approve Subdistrict No. 1 in Water Division 3 in a 10-day trial and successfully defended the water court's upholding the State Engineer's actions in the subsequent Colorado Supreme Court appeal.
- Protected the state's interests regarding the Colorado River Compact and the Upper Colorado River Compact.
- Participated in the Aspinall Unit reoperations Endangered Species Act review and National Environmental Policy Act processes for the state.
- Protected the state's interests regarding the Republican River Compact and in the U.S. Supreme Court case *Kansas v. Nebraska and Colorado.*
- Continued to provide legal and policy advice to the Colorado representatives on all of the various interstate Compact and Decree Commissions.

Water Resources and Conservation

In 2011, attorneys:

- Successfully represented the State Engineer by obtaining a water court decision upholding the State Engineer's adoption of rules intended to assist with administration of more than 40,000 oil and gas wells.
- Represented the State Engineer in hundreds of water rights proceedings in Colorado's water courts, including appeals to the Colorado Supreme Court.
- Successfully represented the State Engineer's office with respect to two separate Colorado Supreme Court decisions upholding application of the anti-speculation doctrine. These decisions clarified that a water user may not claim absolute water rights without demonstrating an actual need for such a right, thus protecting the integrity of the Colorado prior appropriation water rights system.
- Successfully represented the State Engineer's office in obtaining a Colorado Supreme Court decision upholding application of the historic use analysis to changes of storage rights. This decision will prevent potential injury to water users across the state by ensuring that water users will not rely on change of water rights proceedings to attempt to expand the historic use of storage rights.
- Obtained a decision from the water court for Water Division 2 affirming the Colorado Water Conservation Board's and the State and Division Engineer's position that a municipal entity could not change its water rights until it found replacement water to fully augment the Colorado Water Conservation Board's instream flow water

rights. The water court also agreed that unless a use has been established, such change would be speculative and result in an inaccurate historical consumptive use analysis. After the water court decision, the applicant provided the State with a plan for replacement water that enabled the Colorado Water Conservation Board to prevent injury and the water provider to move ahead with water development.

- Assisted the Colorado Water Conservation Board, the State Land Board, Colorado Department of Transportation, Department of Corrections, and the Division of Parks and Wildlife in acquiring water rights and protecting existing water rights.
- Successfully obtained instream flow decrees for the Colorado Water Conservation Board, including appropriations in Water Divisions 1, 2, 4, 5, 6 and 7.
- Successfully represented the staff of the Colorado Water Conservation Board in a hearing for an instream flow water rights decree that opposed by multiple water users. Subsequently, represented the Colorado Water Conservation Board in district court for review of the constitutionality of the instream flow statutes and the procedures used at the hearing.
- Provided representation for more than 250 cases for the Colorado Water Conservation Board.
- Successfully represented the staff of the Colorado Water Conservation Board in a hearing opposing a recreational in-channel diversion water right in Division 5 on the basis that the applicant claimed more water than it was entitled to by statute. After the Attorney General's Office filed a Rule 56(h) motion for determination of question of law on the issue, the applicant withdrew the opposed request and resubmitted the application for reconsideration. Similarly, another applicant withdrew a similar request based upon the same issue as set forth in the Rule 56(h) motion.
- Successfully prosecuted enforcement actions against illegal water diverters in all seven water divisions to protect vested water rights holders from injury caused by illegal diversions.
- Assisted the Colorado Water Conservation Board in preparing for sunset review for weather modification statutes and began writing rules to comply with the new law.
- Assisted the Colorado Ground Water Commission Hearing Officer in conducting and ruling on a request for de-designation for a ground water district.
- Assisted the Colorado Water Conservation Board in drafting loan provisions for loans to water users and providers totaling more than $18 million.
- Continued to assist the Colorado Water Conservation Board in the Chatfield Reallocation Project, a $125 million water storage project designed to increase water availability in the South Platte River Basin. Worked with the Division of Parks and Outdoor Recreation to identify their concerns with the reallocation based on their dual role as project participant and the operator of Chatfield State Park.

Oil, Gas and Minerals

In 2011, attorneys:

- Defended the Colorado Oil and Gas Conservation Commission in various litigation pending before the Denver District Court, the Court of Appeals and the Supreme Court related to applications for permits to drill and designated outside activity areas.
- Participated in stakeholder meetings and drafted new regulations for the COGCC to address the disclosure of chemicals used in oil and gas activities, including hydraulic fracturing fluids. Advised the COGCC and worked closely with both industry and environmental representatives during a lengthy rulemaking process. The proposed rules were passed unanimously. The rules were supported by industry and lauded by environmentalists as a model for the nation.
- Assisted the COGCC in implementing its rules promulgated to regulate oil and gas activities.
- Advised the Department of Natural Resources on oil shale issues and participated in federal, state, and local team meetings regarding oil shale development.
- Assisted the Division of Reclamation, Mining and Safety in implementing the regulations the Mined Land Reclamation Board promulgated to regulate uranium mining operations, designated mining operations, and prospecting operations.

- Advised and assisted the Division of Reclamation, Mining and Safety with updates and revisions to many of its financial warranty and permit application/modification forms.
- Advised and assisted the Division of Reclamation, Mining and Safety's Coal Program in developing an electronic permitting option for coal mining operations.
- Continue to advise and defend the Mined Land Reclamation Board in judicial review litigation concerning the new rules and amendments the board adopted to implement legislation on the regulation of traditional and in situ leach uranium mining operations and prospecting activities.
- Assisted the Division of Reclamation, Mining and Safety in rulemaking proceedings to implement changes to the regulations concerning coal mining.
- Defended the division in various litigation related to hard rock and coal mining operations currently pending before the district courts in Denver, La Plata, and Montrose counties. Successfully argued for dismissal of the division from a civil lawsuit alleging substantial damages related to a coal mining operation in Montrose County.
- Successfully prosecuted numerous violators in administrative enforcement actions before the Mined Land Reclamation Board, including the finding of numerous violations and civil penalties at Cotter's Schwartzwalder uranium mine. Successfully defended the division and board in a judicial review lawsuit filed by Cotter in Denver District Court.

State Trust Lands

In 2011, attorneys:

- Advised and assisted the State Board of Land Commissioners on general management of the trust assets it holds, primarily for the benefit of K-12 education, which generated more than $120 million of trust revenue this past fiscal year.
- The State Land Board holds nearly three million acres of land in fee title and approximately four million acres of mineral interest, which generates significant demand for transactional legal services and the resolution of disputes on the transactions. Advised and assisted the State Board of Land Commissioners with specific transactions involving approximately 1,300 acres and more than $6.6 million. These transactions included the first transaction under House Bill 10-1165, which to allow the board to negotiate certain transactions directly with local governments without having to employ the competitive bid process. The State Land Board conveyed 640 acres, the Manitou Section 16 parcel, Colorado Springs, which incorporated the property into its open space program.
- Advised and assisted the State Board of Land Commissioners in the process to create a new land management program for the Hesperus Trust, which supports Ft. Lewis College in cooperation with the board of trustees for the college.
- Advised and assisted the State Board of Land commissioners to develop an updated oil and gas lease form.
- Advised and assisted the State Board of Land Commissioners to develop a process for leasing more than 20,000 acres for oil gas development at the former Lowry Bombing Range, including assisting in developing best management practices and plans to avoid, minimize and mitigate any adverse impacts of the development on the Range's ecosystem.
- Advised and negotiated on behalf of the State Board of Land Commissioners in a multiple private party, multiple governmental entity transaction to convey trust property to the United States for the expansion of the Rocky Flats Wildlife Refuge in return for full value to the trust.
- Advised and negotiated on behalf of the State Board of Land Commissioners the resolution of many long standing issues related to a lease with National Hog Farms and related water rights.
- Continued to represent the State Board of Land Commissioners in court actions related to water rights, land use, lease disputes and other matters related to the ownership and management of the trust lands.
- Continued legal assistance provided to the State Board of Land Commissioners for operational matters including the implementation of a new strategic plan and the initiation of a comprehensive review of its governing policies.

State Parks and Wildlife

In 2011, attorneys:

- Advised and assisted the Division of Parks and Outdoor Recreation and the Division of Wildlife in the implementation of Senate Bill 11-208 merging the operations of Parks and Wildlife into the new Division of Parks and Wildlife and consolidating the Board of Parks and Outdoor Recreation and the Wildlife Commission into the new Parks and Wildlife Board.
- Advised on and facilitated in the acquisition by the Division of Parks and Wildlife of more than $20 million in real property interests, both fee title and conservation easements, that protect and preserve critical wildlife habitat throughout Colorado. Acquisitions were funded by federal fish and wildlife aid, state hunting and fishing license fee revenues and moneys provided by the Great Outdoor Colorado Trust Fund.
- Advised and assisted the Division of Parks and Wildlife in responding to the challenges posed to park and wildlife resources from oil and gas development on state and federal lands within Colorado that also provide critical wildlife habitat for game and threatened and endangered species and significant parks and outdoor recreation opportunities, including the development of cooperative agreements with oil and gas companies and best management practices that assist the companies in avoiding or minimizing impacts to state resources. Such agreements are of particular importance in split-estate situations where the Division of Parks and Wildlife owns fee title to, or controls property, but not the right to develop the minerals underlying state parks and state wildlife areas.
- Advised and assisted the Division of Parks and Wildlife in the development and implementation of fish and wildlife mitigations plans required of applicants for water storage projects in Colorado, including the Windy Gap and Moffat Tunnel firming projects in the Colorado River Basin, and the Chatfield Reservoir reallocation of storage in the South Platte basin. As part of this process, attorneys also assisted in the development of enhancement plans with applicants to provide additional benefits to the Upper Colorado River Basin, which go beyond the mitigation plans required by statute.
- Advised and assisted the Division of Parks and Wildlife with proposals to re-purpose management of Bonny Lake State Park, including local control of a portion of the park property and management of the remaining property as part of the South Republican State Wildlife Area. A management change became necessary to address decreasing water levels in Bonny Reservoir due to compliance issues with the Republican River Compact. The right to use Bonny Reservoir for recreational purposes, which was a key feature to both the operation of the state park and wildlife area, was purchased with federal funds and the change in management required the approval of the National Park Service, the implementing agency for the federal funding program, which was recently obtained.
- Advised and assisted the Division of Parks and Wildlife with all matters involving water rights held by the division. Previously, all such matters were handled by attorneys within the water units also charged with assisting the State Engineer's Office and the Colorado Water Conservation Board. At the request of the Division of Parks and Wildlife, water counsel was added to the Parks and Wildlife Unit and dedicated to representation of the division.
- Advised and assisted the Division of Parks and Wildlife with regard to issues related to the proposed reallocation of additional water storage space in Chatfield Reservoir. The Division of Parks and Wildlife initially sought to participate directly in the reallocation project and sought the right to use some of the additional storage space in Chatfield Reservoir. However, because it also operates Chatfield State Park, which will be impacted by the reallocation project, the Division of Parks and Wildlife recently withdrew from the project to focus on developing mitigation for the impacts to Chatfield State Park associated with the reallocation project.
- Advised and assisted the Division of Parks and Wildlife on responding to requests to develop mineral resources underlying some state parks that are owned by the division.
- Successfully defended against a challenge to the Board of Parks and Outdoor Recreation's authority to modify its off-

highway vehicles grant program, funded by off-highway vehicles registration fees, to include state grants for law enforcement and the closure and reclamation of illegal or unsustainable off-highway vehicles trails.

- Successfully defended against a district court challenge to the Division of Wildlife's use of a lot within a subdivision as an access point to the Dome Rock State Wildlife Area. Teller County District Court.

Air, Land and Water Quality

In 2011, attorneys:

- Assisted the Colorado Department of Public Health and Environment in promulgating its Regional Haze State Implementation Plan, which aims to protect and improve the air quality and scenic vistas in the state's national parks, monuments and wilderness.
- Represented the Air Pollution Control Division and the Governor's Energy Office before the Public Utilities Commission, implementing the Clean Air-Clean Jobs Act.
- Negotiated a compliance order on consent for violations of air quality permits by an asphalt company.
- Assisted the Air Pollution Control Division in developing an analysis regarding potential aggregation of sources for air permitting purposes. The state's analysis responded to an EPA objection concerning a state permit for a natural gas compressor station.
- Assisted the Air Pollution Control Division in resolving asbestos violations involving the demolition of structures at two locations in the Denver Metro Area.
- Helped the Air Pollution Control Division resolve violations associated with a major asbestos spill from a fire at a residence.
- Collected attorney fees for the enforcement of injunctions addressing asbestos spills from an unlawful demolition in Pueblo.
- Assisted the Colorado Department of Public Health and Environment in promulgating the state's counterpart to EPA's tailoring rule for greenhouse gas emissions.
- Assisted the Water Quality Control Division in addressing discharges of uranium and radium from the closed Schwartzwalder uranium mine.
- Settled violations of Colorado's drinking water regulations at several drinking water facilities throughout the state.
- Defended an administrative appeal of the Water Quality Control Division's certification of Colorado Springs Utilities' Southern Delivery System water supply project under the Clean Water Act.
- Continued our involvement in litigation in support of EPA's rule exempting water transfers from Clean Water Act permitting requirements in order to protect Colorado's interests in interbasin water transfers.
- Defended the Colorado Department of Public Health and Environment in issuing the first conventional uranium mill license in the country in 25 years.
- Successfully defended several water quality stormwater enforcement actions in administrative and civil litigation.
- Resolved an enforcement action against a produced water disposal facility for permitting violations, securing production and operations records through subpoena.
- Resolved an enforcement action and obtained penalties against a wastewater treatment facility involving 26 spills.
- Assisted the Colorado Department of Public Health and Environment in its promulgation of water quality financial assurance regulations for Housed Commercial Swine Feeding Operations.
- Assisted the Water Quality Control Division in addressing discharges of uranium and radium from the closed Schwartzwalder uranium mine.
- Settled violations of Colorado's drinking water regulations at several drinking water facilities throughout the state.
- Resolved appeals of drinking water waiver withdrawals, bringing these facilities into compliance with the state's drinking water disinfection requirements.
- Worked with the Water Quality Control Division to develop a new policy regarding whole effluent toxicity, and negotiated with stakeholders and EPA to resolve concerns regarding the policy.
- Used judgment liens against a public water supply system owner/operator to gain compliance with the state's primary drinking water regulations, following lengthy administrative and civil enforcement actions for multiple violations.
- Successfully defended an administrative appeal of the Water Quality Control Division's certification of Colorado Springs

Utilities' Southern Delivery System water supply project under the Clean Water Act. The project is intended to serve Colorado Springs' growing population through additional water storage in Pueblo Reservoir that will be conveyed via pipeline to Colorado Springs. The division's certification includes numerous conditions to ensure protection of water quality in the Fountain Creek and Arkansas River Basins.

- Negotiated a settlement with a major coalbed methane gas company for various construction stormwater violations in Las Animas and Moffat Counties. The agreement included injunctive relief and a large civil penalty, mainly satisfied through the company's donation of funds to the impacted counties for public building efficiency projects.

Hazardous and Solid Waste Enforcement

In 2011, attorneys:

- Negotiated an agreement in principle, favorable to the state, with Adams County and Clean Harbors Deer Trail resolving five lawsuits concerning disposal of low level radioactive wastes at a hazardous waste disposal facility in Adams County.
- Engaged EPA Region 8 and EPA Headquarters to formalize close-out of low-threat groundwater hazardous waste contamination sites through written guidance. In addition to negotiations with EPA, this effort involved sophisticated stakeholder input and balancing competing interests within the Colorado Department of Public Health and Environment.
- Counseled Petroleum Storage Tank Fund Committee, investigated and prosecuted with outside counsel breach of contract, unjust enrichment and fraud claims arising from major oil companies' "double dipping" from Storage Tank Fund and their own insurance coverage. Negotiations to date recovered $6.3 million from one major oil company. Demand letters issued to two others seeking reimbursement and interest of nearly $200 million.
- Counseled the Department of Public Health and Environment on the Hazardous and Solid Waste Commission's adoption of new medical waste regulations, revised recycling regulations, and new waste grease regulations.
- Continued work on significantly revised Liquid Waste Impoundments regulations with adoption anticipated in early 2012. This ongoing stakeholder process involves diverse industry sectors and all three Colorado Department of Public Health and Environment environmental divisions.
- Issued and vigorously prosecuted solid waste enforcement orders to protect construction workers and the public from the illegal disposal of asbestos during construction of RTD's light rail corridors and during renovation and construction activities at the Denver Federal Center.
- Counseled Department of Public Health and Environment throughout evolving release of hazardous petroleum refining waste from the Suncor Refinery to Sand Creek and the Platte River. The release manifested over time, first killing water fowl in a retaining pond, then dispersing into surface water, and later showing up in on-site drinking water and a neighbor's indoor air.
- Continued to improve long term protectiveness of environmental remediation projects in the state by counseling and training the Colorado Department of Public Health and Environment to effectively implement Colorado's unique institutional controls statute.
- Favorably settled a long-standing suit against a western slope brine waste disposal facility requiring cleanup of contaminated groundwater and $50,000 in civil penalties.
- Fought EPA's selection of a natural attenuation with monitoring removal action decision that did not fully contain source contamination before relying on institutional controls, in contravention of EPA guidance.

Natural Resource Damages, Land Cleanup and Restoration

In 2011, attorneys:

- Established work groups to disburse settlement funds received for injuries to groundwater at the Lowry Landfill Superfund Site, and began preparations for projects that will provide groundwater protection and improvements for Platte River basin groundwater.

- Initiated the State's first natural resource damages site under the Oil Pollution Act and Clean Water Act, instead of CERCLA.
- Participated with federal agencies in pursuing insurers of the Standard Metals Company for natural resource damages caused by mining operations near Crested Butte and Silverton.
- Worked with federal trustees to continue restoration projects for the Lake County California Gulch Superfund site, including work on stream restoration, fencing to protect stream areas, noxious weed control, land acquisitions, irrigated pasture revegetation and wetland enhancement.
- Counseled the Colorado Department of Public Health and Environment's CERCLA water treatment plant construction in the North Fork of Clear Creek, which required innovative State application for instream flow rights to protect treated water quality. Negotiations continue to provide cost-effective and efficient acid mine drainage treatment resulting in a fishable stream.
- Continued to represent the Colorado Natural Resource Trustees in their administration of $27.4 million in Rocky Mountain Arsenal natural resource damage funds. This ongoing process has involved working with local governments and non-profits located near the Arsenal to develop an integrated master list of restoration projects worth potentially more than $50 million with matching funds.
- Worked with State Trustee representatives to administer the $1.5 million natural resource damage settlement at the Shattuck superfund site in Denver. The Trustees approved a plan to, together with matching funds, complete several instream restoration projects on the South Platte River.
- Worked towards integrated natural resources restoration at the former Rocky Flats Nuclear Weapons Plant. Efforts included complex negotiations with adverse local interests to protect one square mile of State Land Board land, various parcels previously slated for mineral development, and other properties to enhance the existing U.S. Fish & Wildlife Refuge at the site.

State Services Section

The State Services Section of the Colorado Attorney General's Office represents the governor, other elected state officials, the administrative parts of the judicial branch, the State Board of Education, the Commission on Higher Education, the Department of Higher Education, more than 20 state-supported institutions of higher education, the Public Utilities Commission, the Departments of Human Services, Public Health and Environment, Health Care Policy and Financing, Labor and Employment, and Personnel and Administration.

Public Officials

During 2011, attorneys:

- Represented the Secretary of State in a lawsuit against the Saguache County clerk seeking access to election records.
- Represented the Secretary of State in challenges to campaign finance rules.
- Represented the State Treasurer in lawsuit seeking records from the Colorado Public Employees Retirement Association.
- Handled escheat and unclaimed property matters the State Treasurer.
- Represented the state in federal court in a challenge to certain gun laws.
- Represented the State Board of Equalization in a challenge to the application of the basic equipment rules.
- Represented the state in a challenge to a nurse-anesthetist rule.
- Advised the Division of Housing on public housing legislation.

Constitutional Cases

During 2011, attorneys:

- Successfully defended the state in an open records lawsuit concerning the governor's personal cell phone records in the Colorado Supreme Court.
- Successfully defended a Taxpayer's Bill of Rights challenge to the coal severance tax formula in the Colorado Supreme Court.
- Successfully defended a Taxpayer's Bill of Rights challenge to the method of funding the state's reserve.

Education

During 2011, attorneys:

- Defended the constitutionality of the State's School Finance System in the *Lobato* litigation. The district court's decision that the system is unconstitutional is on appeal to the Colorado Supreme Court.
- Defended the State Board of Education and the Colorado Department of Education in a constitutional and statutory challenge to the Douglas County Option Certificate Pilot Program. The district court decision enjoining the program is on appeal to the Colorado Court of Appeals
- Defended State Board of Education rules requiring school districts to notify parents whenever a teacher is arrested for or convicted of certain felonies. The district court's decision upholding the rules is on appeal to the Colorado Court of Appeals.
- Continued representing the State Board of Education in its general supervision over public schools and the Department of Education in execution of its statutory duties, including open records and open meetings issues, rulemaking, personnel issues, charter school appeals, litigation and general legal advice.
- Continued representing the Capital Construction Assistance Board in general governance matters regarding administration of the Building Excellent Schools Today program, which has completed four rounds of BEST lease purchase financing totaling more than $550 million for K-12 school construction and maintenance.
- Continued supporting the State Board of Education in protecting students by prosecuting disciplinary charges against educator license holders and applicants who violate statutory requirements. Disciplinary actions included charges of sexual misconduct and child abuse.
- Continued representing the Charter School Institute in general governance matters regarding approving and overseeing State

charter schools, including public records and open meetings issues, rulemaking, applications, renewals, closures, appeals, transactions and general legal advice.

- Continued representing the state's public institutions of higher education, including the Auraria Higher Education Center, in general governance matters, including open records and open meetings issues, policy development, faculty dismissal hearings, personnel issues, litigation, transactions and general legal advice.
- Continued representing the Colorado Higher Education Insurance Benefits Alliance Trust in general governance matters, including open records and open meetings issues, policy development, trust amendments, employee benefit issues, transactions and general legal advice.
- Continued representing the Private Occupational School Board in general governance matters including open records and open meetings issues, rulemaking, refund disputes, illegal schools, litigation, transactions and general legal advice.
- Continued supporting the Department of Higher Education, Division of Private Occupational Schools in protecting consumers by prosecuting disciplinary actions against applicants and certificate holders to operate private occupational schools who violate statutory requirements.
- Continued representing the Colorado Historical Society and its board of directors in support of their mission to collect, preserve and interpret the history of Colorado and the West and carrying out other activities and programs authorized by statute or rule, including transactional issues associated with construction and operation of the new Colorado state museum and offices for the historical society.

Human Services

During 2011, attorneys:

- Continued to defend the state in ongoing litigation and records requests involving CBMS, patient deaths at CMHIP, and department rules and procedure in 10 separate cases. Three cases have been defended in the court of appeals this year, involving child care licensing and the Division of Behavioral Health.
- Represented the Department of Human Services in 49 child care licensing cases, including 14 summary suspensions of licenses where providers presented a threat to the health and safety of children.
- Represented the Department of Human Services in 713 child abuse and neglect administrative appeals.
- Defended actions for judicial review and the final agency decisions of the Office of Appeals in 17 cases in district court.
- Represented the Department of Human Services Division of Youth Corrections in 17 district court cases regarding the appropriate sentencing, placement or release of juveniles.
- Represented or advised the Department of Human Services Division of Developmental Disabilities in eight cases involving individuals and providers of services.
- Represented the Department of Human Services Division of Vocational Rehabilitation in seven cases regarding the provision of vocational rehabilitation services or business enterprise program vendors, including one in federal court and before a federal arbitration panel.
- Provided legal advice to the Division of Child Support Enforcement in five cases.
- Defended and represented the State Hospital in Pueblo in seven cases involving records, transfer of a violent patient and allegation regarding the amount of time individuals wait for competency evaluations and restoration treatment.
- Successfully defended the Department of Human Services in a $10 million challenge to the state disability benefits program.

Health Care

During 2011, attorneys:

- Assisted the Department of Health Care Policy and Financing in recovering Medicaid overpayments from providers.
- Assisted the Department of Health Care Policy and Financing in recovering funds from liable third parties in personal injury actions for more than $1.8 million.
- Successfully defended a federal lawsuit against the Department of Health Care Policy and Financing challenging the validity of a Colorado statute that allows the department to recover millions of dollars

each year from liable third parties in personal injury actions.

- Advised and represented the Department of Health Care Policy and Financing in withholding Medicaid payments to providers suspected of fraud.
- Represented the Department of Health Care Policy and Financing in defending the implementation of a new nursing facility reimbursement methodology passed by the legislature in 2008 against a challenge by more than 20 nursing facilities.
- Represented the Department of Health Care Policy and Financing in seeking reimbursement from the representative of a Medicaid recipient who concealed funds available to satisfy the department's lien.
- Successfully defended the Department of Health Care Policy and Financing in numerous trust and probate litigation matters including disputes over sheltering income and assets in trusts.
- Represented the Colorado Department of Public Health and Environment in numerous medical marijuana related matters, including defending against numerous subpoenas to produce confidential information, drafting regulations and defending litigation challenging department regulations.
- Continued to defend against an action regarding the operation of the Colorado Benefits Management System and timely delivery of benefits to recipients.
- Successfully defended the Department of Health Care Policy and Financing at the federal Departmental Appeals Board which reversed $2.2 million of a disallowance related to the CHP+ program.
- Demanded and collected funds from a company that should have paid health benefits instead of Medicaid.
- Advised the board of directors of the Colorado Health Benefit Exchange in establishing their organizational structure.

Labor and Department of Personnel and Administration

During 2011, the State Services Section opened 78 cases to force employer compliance with mandatory workers' compensation insurance statutes. Section attorneys closed 93 cases, either by settlement, the employer's payment of fines, sending the fines to collection, or by the employer obtaining insurance or closing the business. Of these cases, the section initiated three cease and desist cases and independent-contractor cases, collected $53,820 in settlements and fines, and sent more than $1.4 million in fines to collection.

In 2011, attorneys also:

- Opened 30 cases, filed 18 briefs and participated in three oral arguments in appeals for the Industrial Claims Appeals Office.
- Opened 21 cases and closed 31 cases in petroleum storage tank clean up reimbursement protests.
- Handled 77 subpoenas on behalf of the Division of Workers' Compensation and Unemployment Insurance.
- Completed 21 rule opinions for the Division of Labor and Employment and the Department of Personnel and Administration.
- Handled eight subpoena enforcement cases.

Public Utilities Commission

During 2011, attorneys:

- Defended the Public Utilities Commission in 19 court matters.
- Drafted or reviewed and edited approximately 400 Public Utilities Commission decisions and orders.
- Successfully defended the right of the Public Utilities Commission to assert the deliberative process privilege in the context of an open records law suit concerning emails by non-elected officials related to the drafting of legislation.
- Successfully defended the Public Utilities Commission against a claim that e-mails between its commissioners concerning draft legislation violated the Colorado Open Meetings Law and are not protected by the deliberative process privilege.
- Successfully defended the decision of the commission to deny an application for a new authority to operate as a taxicab carrier in the Denver metropolitan area on the grounds that the grant of a certificate would not be in the public interest.

- Defended the governor, the Public Utilities Commission and other state agencies in a federal court action alleging that the Colorado Renewable Energy Standard violates the U.S. Constitution.
- Initiated a Rule 21 proceeding at the Colorado Supreme Court to resolve the question of whether the failure of the petitioners seeking review of the decisions of the Public Utilities Commission concerning the emission reduction plan filed by Public Service Company of Colorado pursuant to the Clean Air Clean Jobs Act to file in the correct district court deprived the district court of subject matter jurisdiction or only of venue.
- Continue to defend the Public Utilities Commission against a broad challenge that it abused its power in approving an increased price cap for Qwest Corporation's basic local exchange service offering.
- Advised the Public Utilities Commission on various new taxicab applications, which are premised on a statutory presumption of public need for additional taxicab companies in metro areas.
- Advised the Public Utilities Commission in various rate proceedings resulting in the denial of a $142 million interim electric rate increase for Public Service Company of Colorado, the approval of a gas rate increase for Public Service Company of Colorado in the amount of $10.9 million instead of the $27.5 million it had requested, and the approval of an electric rate increase for Black Hills Colorado Electric Utility Company in the amount of $10 million instead of the $17.5 million it had requested.
- Advised the Public Utilities Commission in its approval of a proposed transmission line construction project extending from San Luis Valley to Pueblo, which line would support renewable electricity generation.
- Advised the Public Utilities Commission in rulemakings on smart grid data privacy, community solar gardens, and confidentiality protocols specific to electric resource plan approval dockets.

Civil Litigation and Employment Law Section

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

Additionally, Section attorneys provide general legal advice and representation to the Colorado Department of Transportation, the Colorado Transportation Commission, the Colorado Department of Corrections, the Colorado State Board of Parole, the Division of Risk Management, the Colorado Civil Rights Division, the Special Funds Unit of the Division of Workers' Compensation, and the employees of those agencies. The section attorneys provide advice and training to all state agencies and institutions of higher education on a myriad of employment and general liability issues.

Section attorneys handled more than 770 new cases and reviewed more than 625 contracts in 2011.

Corrections

The Corrections Unit defends inmate lawsuits involving various issues, including constitutional rights, time computation, prison discipline proceedings, *habeas corpus* petitions, parole and contract-related matters. Unit lawyers also handle compliance issues and claims filed by inmates in the class action ADA lawsuit, *Montez v. Ritter, et. al.* The lawyers also provide general legal advice to the Department of Corrections and the Parole Board on matters such as open records requests, environmental issues, sentencing issues, internal discipline and procedural matters, and administrative regulations.

In 2011, the Unit:

- Opened 390 new cases.
- Obtained favorable rulings in 215 matters brought by inmates or their attorneys and unfavorable rulings in only nine cases.
- Obtained favorable rulings from appellate courts in 31 of 36 rulings.
- Obtained favorable federal jury verdict in the one case that went to trial.
- Obtained favorable rulings in three of five hearings held in state court.
- Settled two cases for $74,000. While inmates generally seek unspecified damages in their complaints, specified damage requests were in excess of $25 million.

Employment/Personnel, Civil Rights and Special Funds Unit

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

The Unit also provides legal advice to the Colorado Civil Rights Division within the Department of Regulatory Agencies in conjunction with the Colorado Civil Rights Division's investigation of charges of employment, housing and public

accommodations discrimination and prosecutes those cases which have been noticed for hearing by the Colorado Civil Rights Commission. The Unit also defends the Subsequent Injury and Major Medical Insurance Funds which are part of the Special Funds Unit of the Division of Workers' Compensation within the Department of Labor and Employment.

In 2011, the Unit:

- Provided daily front-end employment advice and consultation to state agencies and institutions of higher education concerning hiring, discharging and disciplining employees.
- Coordinated and presented statewide and agency-specific training seminars directed to state officials and managers to effectively educate, train and manage the workforce.
- Provided civil rights advice to the Colorado Civil Rights Division and represented the division at Colorado Civil Rights Commission meetings.
- Defended cases before the State Personnel Board and the Colorado Court of Appeals, including 195 new cases. Won 75 percent of all mandatory hearing cases and obtained denials of hearings in 57 percent of all discretionary hearing cases.
- Prosecuted 16 cases that were noticed for hearing by the Colorado Civil Rights Commission at the Office of Administrative Courts or in state district court.
- Negotiated more than $200,000 in settlement payments to private citizens in employment and fair housing cases. The settlements included provisions requiring that private employers and housing providers receive discrimination training, policy changes and discrimination reporting.
- Defended five Special Funds Unit cases before the Office of Administrative Courts, including seven new cases.

Employment Tort Litigation Unit

The Employment Tort Unit defends state agencies and employees in state and federal employment litigation. The cases involve claims arising under a myriad of federal and state statutes, including Title VII of the Civil Rights Act, the Americans with Disabilities Act, the Fair Labor Standards Act, the Equal Pay Act, the Age Discrimination in Employment Act, the state Whistleblower Act, and other state and federal employment laws. The Unit attorneys also provide advice and training regarding employment law issues to the state agencies.

In 2011, the unit:

- Defended 55 cases filed in state and federal courts, including 25 new cases. The cases involved 239 claims for relief against state agencies and 353 claims for relief against state employees.
- Aggressively sought and obtained early dismissal or summary judgment of 321 claims; 238 claims were dismissed on motions to dismiss before any time or money had been spent on discovery; and another 83 claims were dismissed on summary judgment.
- Won all three appellate cases that were decided during 2011.
- Settled four cases for a total of $280,000, saving the state more than $2.1 million.
- Created and presented training to numerous state agencies and to higher education institutions on the FLSA, the Genetic Information Nondiscrimination Act, supervisor training, and conducting investigations.
- Provided day-to-day advice to state agencies and higher education institutions, including handling performance issues for non-classified employees, responding to EEOC charges, mediating with the EEOC, developing or implementing litigation hold policies, responding to records requests, and reviewing proposed agency policies.

Tort Litigation Unit

The Tort Litigation Unit defends the state of Colorado, its agencies, employees, entities and officials in lawsuits seeking damages for personal injury and property damage, as well as those brought pursuant to federal law, often claiming civil rights violations. The Unit also provides day-to-day advice to agencies, including Risk Management, on questions of liability, coverage, indemnity,

settlements and applicability of the Colorado Governmental Immunity Act.

The Unit has an attorney dedicated to handling conflicts cases in situations where counsel for a regulatory agency or board is conflicted because they are prosecuting a case before the entity. The attorney advises the board on procedure and the board's duties and drafts final agency orders.

In 2011, the Unit:

- Opened 132 new cases including twelve cases in which we are monitoring attorneys fees claims associated with 42 U.S.C. Section 1983 cases seeking injunctive relief.
- Convinced 13 plaintiffs to dismiss their complaints prior to motions to dismiss or before rulings on motions.
- Filed 56 motions to dismiss, of which 32 have been granted or granted in part and three have been denied.
- Filed 11 motions for summary judgment, of which eight were granted and one was granted in part.
- Settled 10 damages cases for a total of $817,000. Plaintiffs in these cases had sought damages totaling more than $2.7 million.
- Settled attorneys fees claims in two cases for $859,000 on a demands totaling more than $1.1 million.
- Appeared in 13 appeals, prevailed in seven, partially prevailed in one, and lost two. Three are still pending.
- Petitions for certiorari in the U.S. Supreme Court were filed against us in four cases and the court denied certiorari in all four.

Transportation Unit

The Transportation Unit advises the Colorado Department of Transportation and Colorado Transportation Commission on a multitude of legal issues. The Unit prosecutes all condemnation actions, defends inverse condemnation actions and handles administrative actions. The Unit also handles administrative appeals involving regulation of access control, billboard location, and relocation benefits. Unit attorneys also deal with the Colorado Department of Transportation procurement protests. The Unit advises the Colorado Department of Transportation in construction matters and represents the Colorado Department of Transportation in construction disputes, claims and litigation.

The Unit also provides advice regarding environmental and real estate issues and defends and negotiates settlements in these areas. Members of the Unit review, revise and approve all Colorado Department of Transportation contracts and assist in rulemaking and approval of regulations. Unit attorneys serve as issuer counsel in public finance transactions. The attorneys also review proposed legislation affecting the Colorado Department of Transportation.

In 2011, the Unit:

- Represented the Colorado Department of Transportation in 16 new condemnation cases and continued to represent the agency in numerous ongoing condemnation, access, relocation, billboard, inverse condemnation, and quiet title cases.
- Settled or resolved by trial 10 condemnation cases, saving the state $1.38 million.
- Reviewed more than 625 contracts for the Colorado Department of Transportation, with an average turnaround time of less than three days.
- Provided legal guidance related to the implementation of two new TABOR-exempt enterprises created by the FASTER legislation, Senate Bill 09-108. The Colorado Bridge Enterprise is currently engaged in re-constructed structurally deficient bridges utilizing auto registration fees authorized by FASTER. The High Performance Transportation Enterprise began actively pursuing its business goals in 2011 by obtaining a federal loan to advance construction of improvements to U.S. Highway 36 between Denver and Broomfield.

Business and Licensing Section

The nine units of the Business and Licensing Section provide legal advice and litigation services to several state agencies including the Department of Regulatory Agencies and its divisions of Banking, Civil Rights, Financial Services, Insurance, Real Estate, Registrations, Securities and the staff of the Public Utilities Commission. The Section also represents the Department of Revenue, the Department of Agriculture, the State Personnel Board and the Independent Ethics Commission.

Real Estate Division

The Unit representing the Division of Real Estate works to protect Colorado consumers from incompetent or deceptive brokers, appraisers and mortgage loan originators. Counsel for the Real Estate Division represents the Real Estate Commission, the Board of Real Estate Appraisers, the Conservation Easement Oversight Commission and the Mortgage Loan Originator Board.

In 2011, the Unit:

- Obtained a favorable court of appeals ruling affirming a Real Estate Commission decision to revoke a license of an individual convicted of attempt to commit sexual assault on a child, a felony.
- Successfully defended a Real Estate Commission decision denying licensure to an individual who pleaded guilty to two counts of manufacturing a Schedule II controlled substance.
- Negotiated a stipulation with a licensee who took large sums of money from clients for loans she never delivered and aggressively advertised for new clients without compliance with advertising regulations. The stipulation resulted in license revocation, an agreement to pay $24,225 in restitution to victims and an administrative fine in the amount of $10,000.
- Aided the Board of Real Estate Appraisers to obtain the license surrender of a certified residential appraiser who had nine separate complaints lodged against his license for violations of appraisers' professional standards of care.
- Provided advice to the Division of Real Estate and the boards and commission housed within the Division regarding the Colorado Open Records Act, open meetings laws, subpoena compliance and enforcement, and related laws.
- Successfully settled a matter with a real estate broker who agreed to the suspension of his license pending payment of restitution in the amount of $106,666.

Revenue Unit

The Department of Revenue's attorneys provide general counsel and litigation support to all of the agency's business groups: taxation, enforcement and motor vehicles. The department's taxation division requires intensive legal services to assure that taxpayers comply with the law and pay the amount owed under the law, thereby protecting the interests of all taxpayers. Tax cases are complex, often involve disputed amounts in the millions of dollars, and must be tried twice: once at the administrative level, and then again in a *de novo* trial in district court. Many also are appealed to Colorado's appellate courts. Once tax is conclusively assessed, the Department of Revenue's attorneys provide legal advice and representation regarding collections. When delinquent taxpayers declare bankruptcy, the department's interest often must be protected in bankruptcy court.

During 2011, Unit attorneys represented the Department of Revenue's taxation divisions in administrative hearings, in state and federal trial courts, and on appeal before state courts. The Unit worked closely with

Department Fact Sheet

COLORADO DEPARTMENT OF LAW

A Fact Sheet

JOHN W. SUTHERS
Attorney General

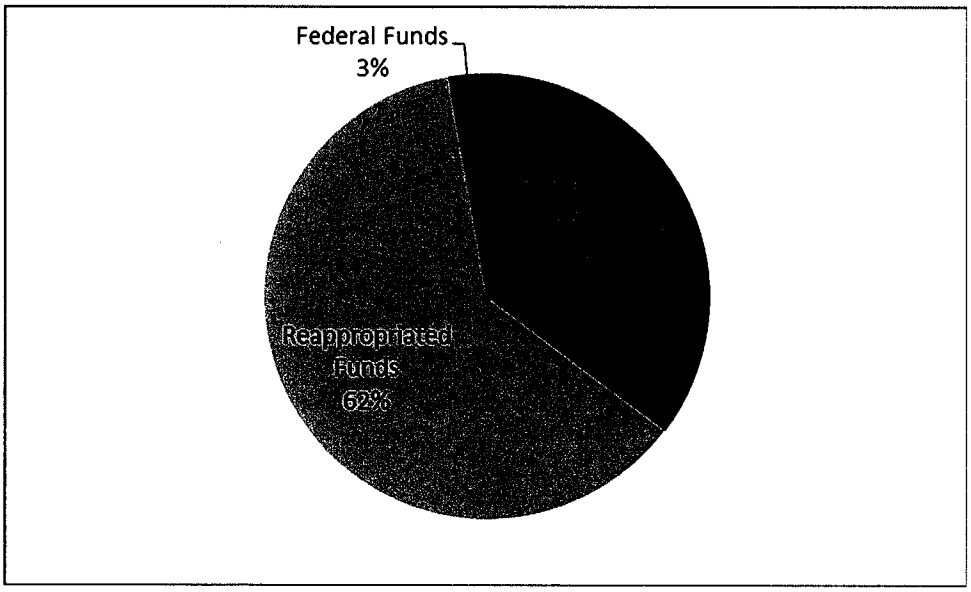
CYNTHIA H. COFFMAN
Chief Deputy Attorney General

Department of Law ***November 2012***

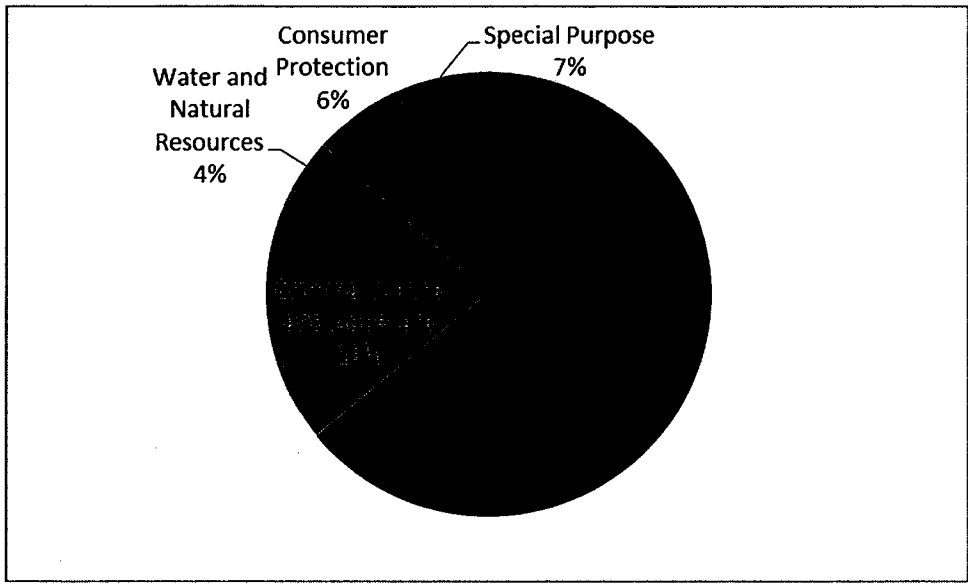
The Department of Law, (often referred to as the Colorado Attorney General's Office), which Attorney General John W. Suthers oversees, represents and defends the legal interests of the people of the State of Colorado and its sovereignty.

FY 2012-13 Appropriation		FY 2013-14 Request	
Total Appropriation	$57,294,289	Total Appropriation	$61,769,338
General Fund Appropriation	$10,416,092	General Fund Appropriation	$11,915,957
Total Full Time Equivalent Employees (FTE):	429.7	Total Full Time Equivalent Employees (FTE):	437.6

FY 2013-14 Request by Fund Source



FY 2013-14 Request by Long Bill Division



Department in Summary FY 2013-14

The Department of Law defends the legal interests of the people of the State of Colorado in the following program areas:

- Criminal Justice and Appellate – Colorado statutes provide that the Attorney General's Office has criminal jurisdiction to: 1) To pursue trial level prosecutions of certain offenses, 2) To oversee certification and training of peace officers, and 3) Provide victim services for Department of Law cases. The Appellate Division – Represents the state on defense appeals of all felony convictions before the state appellate courts or the federal courts.

- Legal Services to State Agencies/ Business and Licensing Section – Provides litigation and legal counsel to State professional licensing and occupational regulatory boards, under the Department of Regulatory Agencies. The section also represents the Department of Agriculture and the Independent Ethics Commission.

- Legal Services to State Agencies/ Revenue and Utilities – Provides litigation and legal counsel representing the Department of Revenue in taxation, bankruptcy and regulatory matters involving the racing, lottery, liquor and motor vehicle dealer boards and commissions. Additionally, this section represents the staff of the Colorado Public Utilities Commission in rate cases, company mergers, licensee matters and performance standards for the telecommunications, electric, gas and transportation companies.

- Legal Services to State Agencies/Natural Resources Section – Protects and defends the interests of the State and its citizens in all areas of natural resources and environmental law. It represents and advises state agencies and boards that regulate and oversee the use and conservation of Colorado's natural resources and the quality of Colorado's environment.

- Legal Services to State Agencies/State Services Section – The Section's work protects children and people at risk. It also conserves the state's fiscal system by reviewing hundreds of state contracts and defending the State against claims typically involving the inadequacy of funding of various programs. The Section also gives legal advice to the statewide elected officials (including the various Governor's offices),and provides legal advice and counsel to the Public Utilities Commission, and the State Higher Education Institutions.

- Legal Services to State Agencies/Civil Litigation and Employment Law Section – Defends State employees and agencies in State and federal courts. Cases may involve personal injury suits, property damage, or employment discrimination among others. The Section also prosecutes civil rights violations in administrative and state courts and provides employment law legal advice to all state agencies.

- Consumer Protection Section – Protects Colorado consumers against fraud and provides a competitive business environment through enforcement of state and federal consumer protection, charitable solicitations, antitrust, consumer lending, fair debt collection practices, and numerous other consumer protection statutes. The Section also represents the state Office of Consumer Counsel, advocating before the Public Utilities Commission on behalf of residential, small business, and agricultural rate payers.

Leading Budget Change Requests for FY 2013-14:

The FY 2013-14 budget request highlights include the following:

- Decision Item #1 – Appellate FTE Increase to Manage Backlog. The department is requesting 5.5 additional FTE and $554,200 spending authority to support the salaries, state paid benefits, and operating expenses for the new FTE. This request will allow the Department of Law, to reduce the growing appeals backlog. The Department witnessed an increase of 210 cases in the backlog, growing from 398 at the beginning of the fiscal year to 608 by the end of FY 2012.
- Decision Item #2 – Additional FTE for Special Prosecution. The department is requesting 1.9 additional FTE and $298,907 of spending authority. This request will allow the Department of Law to better protect Colorado citizens in the investigation and prosecution of complex criminal conspiracies, environmental crimes, and gang activities. This request includes the FTE and spending authority for a First Assistant Attorney and a Program Assistant I. Additionally, this request includes the salary and associated costs for a Criminal Investigator II.
- Decision Item #3 - Tobacco Litigation Funding. The Department of Law (Department) is requesting a refinance of $676,952 GF. This request will allow the Department to continue to advocate for the state's interests on Tobacco Litigation efforts. The department's Tobacco efforts have traditionally been funded by the Tobacco Settlement Defense Account within the Tobacco Litigation Settlement Cash Fund. The department is projecting that the balance within this fund will be exhausted by the end of FY 2012-13, thereby leaving no resources for these efforts moving forward. Because of this, the Department is making a GF request to continue the support of the Tobacco Litigation efforts on behalf of the state.

- Decision Item #4 – Refinance PIO in Administration. The Department of Law is requesting a refinance of the current Public Information Office Position (PIO) from the Consumer Protection/Antitrust line item to the Administration Personal Services Line Item.

- The department's budget request accommodates for additional spending authority associated with statutory increases to state paid benefits for AED and SAED. Additionally, this request includes an increase in state paid Health. Life and Dental insurance contributions for each employee's chosen coverage for the request year. Lastly, this request includes salary survey increases for all state employees at 1.5% and an additional salary increase based on the merit pay system.

Key Issues and Legislation from 2012:

- SB 12-110 modified the fee structure for insurance fraud by providing a tiered fee based on the amount of business each insurance registrant conducts in the state. Additionally, this bill appropriated 2.0 additional FTE to bolster the Department's insurance fraud efforts and administratively allows the Department to bring the 2.5 FTE dedicated to Worker's Compensation Fraud cases traditionally focused on Pinnacol cases to prioritize cases and workload on behalf of the entire state insurance industry.
- HB 12-1248 authorizes the Department to spend gifts, grants, and donations without an appropriation, and it created a new cash fund for purposes of accounting for moneys received from state agencies for the provision of legal services.

For more information about this Department and its programs, please call 303-866-4500.

Links to Additional Fact Sheets and Websites

Colorado Department of Law	http://www.ago.state.co.us/index.cfm
Colorado No Call Web-site	http://www.coloradonocall.com/