



**ATTORNEY GENERAL OF COLORADO**  
Ken Salazar

**STRATEGIC PLAN**

**COLORADO ATTORNEY GENERAL'S OFFICE**

**August 25, 1999**

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August 25, 1999

Dear Colorado Citizen:

The following pages describe the overall plan for the Colorado Attorney General and the Department of Law which I oversee. As a statewide elected official, the Attorney General has the responsibility to ensure that Colorado's laws are enforced in a manner which best benefits the citizens of the State of Colorado. The Colorado Attorney General serves the people of the State of Colorado in the manner described in the Colorado Constitution and the laws adopted by the General Assembly and the people of Colorado since 1876.

Like any plan, this plan will change in the years ahead as we gain experience and as we address the issues raised to the Colorado Attorney General by the Governor, the General Assembly, and the people of the State of Colorado. I recognize that the Governor, the departments of state government, and the General Assembly are partners in the work we undertake. Although this plan will change, I believe it is important for every organization to have a blueprint of what it hopes to achieve. Therefore, this plan constitutes the best efforts of the Colorado Attorney General and his employees to set forth that blueprint.

We look forward to serving the citizens of the State of Colorado.

Sincerely,

KEN SALAZAR  
Colorado Attorney General

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## CHAPTER I

### THE COLORADO ATTORNEY GENERAL AND DEPARTMENT OF LAW

**Executive Summary**  
**Colorado Attorney General's Office**  
**August 25, 1999**

The Colorado Attorney General is one of five independently elected statewide offices in Colorado and was established by the state Constitution upon statehood in 1876.

The Colorado Attorney General and the Department of Law which he oversees (collectively referred to as the Colorado Attorney General's Office) represents and defends the interests of the people of the State of Colorado by executing the responsibilities given to the Colorado Attorney General by the Colorado Constitution, statutes enacted by the Colorado General Assembly and the people of the State of Colorado, and the common law.

The Colorado Attorney General has primary authority to act on behalf of the State of Colorado in certain defined areas. For example, the Attorney General has primary responsibility over consumer protection and antitrust laws, criminal appeals and some complex white collar crime matters, training and certification of peace officers, and certain natural resource and environmental matters.

In many areas, the Colorado Attorney General's Office works concurrently with Colorado's 22 district attorneys and other local, state and federal law enforcement authorities to carry out the responsibilities of the office.

The Attorney General is also the chief legal counsel and advisor to state government including the governor, except as otherwise provided by statute; all of the departments of state government, and to the many state agencies, boards, and commissions.

The following is a summary that describes some of those responsibilities.

#### **Defending the State's Interests and Sovereignty:**

The Colorado Attorney General protects the sovereignty of the State of Colorado. In this regard, the Attorney General, the Solicitor General and lawyers throughout the office participate on behalf of the State of Colorado in numerous cases ranging from the Colorado Court of Appeals to the United States Supreme Court.

### **Protecting the Public Safety:**

The Criminal Justice and Appellate Sections of the Colorado Attorney General's Office work in concert with the Colorado district attorneys and local and federal law enforcement officials to keep Colorado's communities as safe as possible.

During the last year, the Colorado Attorney General's Office filed nearly 800 criminal cases in state and federal appeals courts seeking to uphold the criminal convictions and sentences previously obtained by district attorneys throughout the State of Colorado. Those cases included:

- 158 homicides;
- 220 kidnapping, aggravated robbery, serious assaults or sex assaults against adults;
- 110 assaults or sexual assaults against children; and
- 177 burglaries, thefts, and drug felonies.

The Criminal Justice Section in the Attorney General's Office targets specialized areas of white collar crime and works with local district attorneys and law enforcement on multijurisdictional matters. Those matters include the use of the statewide grand jury, securities fraud, insurance fraud, workers' compensation fraud, Medicaid fraud, tax fraud, election fraud and environmental crimes. Recent efforts of the Section have included:

- A joint law enforcement effort to obtain a 14-year prison term and \$950,000 fine against a company which had polluted a large area near Clear Creek over the last 25 years;
- A 37-count racketeering case involving a motor vehicle theft ring;
- Fifteen cases involving tax protesters;
- Twenty-one workers' compensation fraud cases;
- Twenty-four investigations in cases concerning insurance fraud;
- Eleven investigations concerning securities fraud; and
- Sixteen investigations and cases concerning (1) patient abuse in Medicaid funded facilities, and (2) financial fraud by service providers under the Medicaid program.

The Criminal Justice Section also helps create safe communities in Colorado through:

- Working with the local district attorneys on death penalty cases;

- Overseeing the training and certification of 10,000 peace officers and 1,000 reserve police officers in Colorado;
- Providing crime victims assistance in specialized cases for 1500 victims and family members; and
- Providing legal counsel to the Colorado Department of Public Safety and its agencies including the Colorado Bureau of Investigation and the Colorado State Patrol.

### **Protecting Colorado's Consumers and Businesses:**

The Colorado Attorney General's Office protects Colorado consumers and businesses against fraud and maintains a competitive business environment by: (1) enforcing state and federal consumer protection and antitrust laws; (2) enforcing state laws on consumer lending, debt collection, rent-to-own, and credit repair; (3) educating consumers through outreach and educational programs; and (4) advocating for public utility ratepayers. These efforts include:

- Handling up to 40,000 consumer telephone inquiries per year;
- Investigating and disposing of approximately 4,000 consumer complaints per year;
- Targeting fraud against senior citizens;
- Study competition issues within the gasoline industry in certain parts of Colorado;
- Study competition issues within the airline industry;
- Licensing of over 1200 supervised lenders who make personal and automobile loans, payday loans, home equity loans and second mortgages;
- Leading Colorado's efforts in the \$2.8 billion recovery against the tobacco industry; and
- Prosecuting civil rights cases on behalf of the Colorado Civil Rights Commission.

### **Protecting Colorado's Natural Resources and Environment:**

The Natural Resources and Environment Section protects and defends the interests of the state on matters concerning water, the clean-up of polluted lands, the disposal of hazardous waste, and providing quality legal services to the Colorado Departments of Public Health and Environment and Natural Resources. The Natural Resources and Environment Section works on many matters including:

- Participating in nearly 1,000 water rights cases filed in Colorado’s water courts including approximately 10 appeals annually to the Colorado Supreme Court;
- Protecting Colorado’s interests on each of its rivers that flow across state lines including litigation in three separate United States Supreme Court cases involving Kansas, Nebraska, and Wyoming on the Arkansas River, Platte River, and Republican River;
- Implementing the Indian reserved rights settlement in southwestern Colorado;
- Participating in the litigation concerning federal reserved rights claims and federal regulatory efforts to obtain water from the Rio Grande, Colorado River, Arkansas River, and South Platte River Basin;
- Participating in federal interstate proceedings and negotiations on issues involving endangered species;
- Participating in administrative and court proceedings concerning air quality, water quality, and state land use regulatory matters;
- Participating in the management of potentially dangerous wastes;
- Participating in the clean-up at over 100 contaminated sites across the state, including the Rocky Mountain Arsenal, Rocky Flats, California Gulch, the Globeville Smelter site, Lowry Bombing Range, the Pueblo Chemical Depot, and the Summitville Mine.

**Providing Quality Cost-Effective Legal Services to State Government:**

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, over 20 Colorado-supported universities, colleges, and community colleges, and the Departments of Human Services, Health Care Policy & Financing, Labor & Employment and General Support Services. Some examples of the work in the State Services Section include:

- Defending the constitutionality of the Fair Campaign Practices Act, the Parental Notification Act, and the Federal Court constitutional challenge to ballot initiatives;
- Providing legal guidance to the Public Utilities Commission on gas, electric, telephone and transportation matters;
- Providing legal counsel to over 20 Colorado-supported universities, colleges and community colleges;

- Providing legal counsel to the Department of Labor on workers' compensation, employment security, labor relations and the Labor Peace Act;
- Representing the state on purchasing and procurement matters including review for legal sufficiency of 2800 contracts each year;
- Representing the Department of Human Services including handling over 300 child protection cases every year; and
- Providing legal assistance on Medicaid and public assistance issues to the Departments of Health Care Policy and Financing, Human Services, and Public Health and Environment.

**Protecting the State Against Civil Lawsuits:**

The Colorado Attorney General's Office through the Civil Litigation Section (1) defends the State of Colorado and Colorado's taxpayers against lawsuits; and (2) represents the Departments of Corrections and Transportation on inmate litigation and condemnation litigation.

The Civil Litigation Section is responsible for handling approximately 700 active cases, including:

- Defending the state in approximately 165 new lawsuits per year and continuing to work on another 250 tort cases in various stages of litigation;
- Defending the State of Colorado on about 300 inmate lawsuits filed each year; and
- Representing the Colorado Department of Transportation in approximately 100 cases.

**Helping State Government Effectively Manage its Workforce:**

The Personnel and Employment Law Section of the Colorado Attorney General's Office helps state government manage its workforce of over 30,000 employees by:

- Defending the State of Colorado against lawsuits filed by its employees which currently includes defending approximately 105 cases before the State Personnel Board and the Colorado Court of Appeals and defending approximately 72 cases in state and federal courts; and
- Providing "front-end" proactive employment advice concerning hiring, discharging, and disciplining employees and addressing issues involving workplace violence, Title VII, Americans



with Disabilities Act, Age Discrimination in Employment Act, Fair Labor Standards Act, Family Medical Leave Act, Title VII, and alcohol and drug testing.

**Protecting Consumers of Professional Services and Licensed Professions and Businesses:**

The Business and Licensing Section of the Colorado Attorney General's Office helps Colorado citizens by providing legal counsel in the regulation of numerous professions including doctors, dentists, nurses, realtors, and hearing aid dealers. Highlights of this Section's responsibilities include:

- Representing 28 state professional licensing boards such as medical and real estate licensing boards, including participation annually in over 500 professional license disciplinary proceedings, 150 license revocations, including those of 19 doctors and 38 nurses, and 160 license suspensions;
- Providing legal advice to the staff of the Public Utilities Commission regarding electricity, gas, telecommunications, water and public transportation utilities; and
- Providing assistance in the regulation of banking, credit unions, and other related businesses.
- Bringing disciplinary actions against licensees in the motor vehicle dealer, liquor, gaming, and racing industries for regulatory violations.
- Representing the Department of Agriculture to enforce regulations involving pesticide and chemigation applicators, pet animal care facilities, agricultural market orders, and livestock fraud and health laws.

## CHAPTER II

### **DEPARTMENT OF LAW** **GOALS AND OBJECTIVES**

**GOAL #1: Deliver Timely and Efficient Legal Representation to the Clients of the Department of Law.**

- Objective 1: Provide quality legal services at reasonable costs.
- Objective 2: Provide the expertise and resources necessary to assure that the State is properly represented in all litigation.
- Objective 3: Expedite preparation of formal and informal legal opinions of the Attorney General.

**GOAL #2: Adopt a Proactive, Problem-Solving Approach to Legal Issues Facing the Public and Our Clients.**

- Objective 1: Work with the Governor's Office and the executive agencies to develop proactive approaches to resolution of legal disputes.
- Objective 2: Ensure government compliance with the law through enforcement and counseling of client agencies.
- Objective 3: Create a forum on legal issues between municipal and county attorneys and the Colorado Attorney General.

**GOAL #3: Keep the Governor and General Assembly Informed of the Activities of the Department of Law.**

- Objective 1: Develop an annual report to the Legislature and the Governor about the Department of Law.
- Objective 2: Develop annual legislative recommendations for the Department of Law.
- Objective 3: Address budget issues related to the statutory duties of the Department of Law and its clients.

**GOAL #4: Ensure Quality Appellate Advocacy.**

- Objective 1: Provide quality control for all civil and criminal appeals in which the State of Colorado is a party.

- Objective 2: Defend the sovereignty of the State of Colorado in selected appellate proceedings in the Colorado Supreme Court and Federal Courts including the United States Supreme Court.
- Objective 3: Participate as Amici in selected cases around the country which advance the interests of the State of Colorado.

**GOAL #5: Exhibit Professionalism to Courts, Clients, and the Public.**

- Objective 1: Create the position of Ethics Counselor in the Department of Law.
- Objective 2: Establish conflicts counsel procedures in the Department of Law.

**GOAL #6: Create a Management Ethic for the Department of Law That Serves the Citizens of the State of Colorado with Efficiency and Integrity.**

- Objective 1: Finalize performance plans for department lawyers based on the Department of Law Strategic Plan.
- Objective 2: Improve case management and docketing.
- Objective 3: Improve the client billing system.
- Objective 4: Implement a Department of Law records management policy.

**GOAL #7: Encourage Teamwork and Communication Throughout the Department of Law.**

- Objective 1: Encourage professional collegiality and mutual respect among employees of the Department of Law.
- Objective 2: Organize the sections and units of the Department of Law to work more efficiently.

**GOAL #8: Provide Training in Ethics, Professionalism, and Substantive Law to Employees of the Attorney General's Office.**

- Objective 1: Develop a continuing legal education program at the Department of Law.
- Objective 2: Encourage participation of Department of Law attorneys in state and local bar associations and other professional organizations.
- Objective 3: Educate Department of Law attorneys on the legal needs of their clients to better serve those needs.

**GOAL #9: Help Resolve Federal and State Legal Issues to Benefit Colorado’s Citizens.**

Objective 1: Work with state agencies and the United States Department of Justice and other federal agencies to help resolve issues affecting Colorado such as Indian reserved water rights and consumer protection initiatives.

Objective 2: Work with state agencies and Colorado’s congressional delegation on federal legislation involving legal issues important to Colorado.

**GOAL #10: Help Colorado Address Issues Relating to Diversity and Equal Opportunity.**

Objective 1: Strive to create a Department of Law that is enriched by its diverse workforce.

Objective 2: Work with law schools and bar associations to recruit a diverse group of law students for internships in the Attorney General’s Office.

Objective 3: Develop a small number of paid internships for low income law students.

**GOAL #11: Plan and Implement a Workplace-Based Initiative to Curb Family Violence.**

Objective 1: Work with public and private sector partners on a statewide conference on domestic violence.

Objective 2: Coordinate with public and private sector partners to implement workplace based strategies to curb family violence.

## CHAPTER III

### **CRIMINAL JUSTICE SECTION** **GOALS AND OBJECTIVES**

**GOAL #1: Help Prevent Youth Violence and Gang Activity in Colorado.**

- Objective 1: Facilitate a state summit with the Governor to formulate policies for the prevention of youth violence.
- Objective 2: Use the Attorney General's Office to help local prosecutors deal with gang activity.
- Objective 3: Assist in instituting a statewide gang information system.
- Objective 4: Develop an advisory group to address statewide problems with gangs.

**GOAL #2: Enhance Victim Services Provided by the Attorney General's Office.**

- Objective 1: Provide assistance and continue to support district attorney and law enforcement efforts to obtain a continuous and enhanced statewide victim notification system.

**GOAL #3: Help the District Attorneys Implement a Viable Death Penalty Law in the State of Colorado.**

- Objective 1: Assist prosecutors in reaching a just result in death penalty cases by developing investigative resources and legal expertise in capital cases.
- Objective 2: Assist prosecutors in developing a reasoned response to capital issues generated by changes in statutes, rules and capital jurisprudence.
- Objective 3: Assist prosecutors in protecting death penalty verdicts on appeal by developing appropriate trial records and creating research resources in capital jurisprudence.
- Objective 4: Assist prosecutors in utilizing the legislative process to ensure the viability of the death penalty in Colorado.

**GOAL #4: Protect Our Natural Resources by Prosecuting Environmental Crimes in Colorado.**

- Objective 1: Address environmental crimes in collaborative efforts with district attorneys, the Colorado Department of Public Health and Environment, EPA, and the Department of Justice.
- Objective 2: Develop an information exchange protocol between law enforcement, emergency response agencies and regulatory agencies to help identify and address environmental areas of concern.

**GOAL #5: Bring to Justice Fugitives Who Have Committed Crimes and Fled Back to Mexico.**

- Objective 1: Sponsor a pilot program for test cases to be prosecuted under U.S.-Mexico treaty provisions.
- Objective 2: Examine the feasibility of a standing Task Force in conjunction with local, federal, and Mexican law enforcement authorities.
- Objective 3: Work with the Governor to strengthen the extradition of criminal suspects in Mexico to the United States.

**GOAL #6: Institute Peace Officer Standards and Training (“P.O.S.T.”) Policies that Satisfy the Needs of Law Enforcement Officers Throughout the State.**

- Objective 1: Strengthen the P.O.S.T. Program to ensure that the officers being certified meet the public safety needs of citizens across the State.
- Objective 2: Maximize the talent and time contributed by P.O.S.T. Board members.
- Objective 3: Revise the rules to maintain standards but provide flexibility in training and testing.
- Objective 4: Advise the Governor and the Executive Director of the Colorado Commission on Higher Education on the efficiency of P.O.S.T. training and certification by the community college system and the issue of reestablishing a Colorado Law Enforcement Training Academy.

**GOAL #7: Create and Improve Access to Statewide Criminal Justice Information Systems.**

- Objective 1: Develop a uniform system of on-going information exchanges on criminal cases -- both within the AG’s Office and with other prosecution offices.
- Objective 2: Develop databases and periodic status reports that are current and uniform for all Attorney General criminal cases.

**GOAL #8: Increase the Efficiency of the Filing Process for Criminal Cases.**

- Objective 1: Standardize filings so outside agencies receive notice of additional investigation requirements.
- Objective 2: Prepare a charging manual that is specific to the Attorney General’s Office.

**GOAL #9: Successfully Investigate and Prosecute Criminal Cases in Which the Attorney General’s Office Has Jurisdiction -- Such as White-Collar Fraud and**

**Racketeering, and Multi-Jurisdictional Crimes in Cooperation With the District Attorneys.**

- Objective 1: Utilize the state grand jury as appropriate to obtain felony indictments.
- Objective 2: Open new investigation files, file new cases in state court and obtain felony convictions.
- Objective 3: Increase the recovery of restitution, fines and cost recoveries.
- Objective 4: Participate in multi-jurisdictional case-driven task forces and information-exchanging work groups.
- Objective 5: Continue involvement in the criminal justice system by lecturing in training seminars, law enforcement academies, college programs, or other professional training.

**GOAL #10: Deter Securities Fraud, Facilitate Restitution to Victims, and Punish Offenders.**

- Objective 1: Investigate multi-jurisdictional securities fraud cases in the grand jury, and obtain indictments if appropriate.
- Objective 2: Investigate and file new cases in court and obtain felony convictions.
- Objective 3: Increase orders of restitution, fines and reimbursement for the cost of investigations.

**GOAL #11: Detect, Investigate and Prosecute Medicaid Providers Who Defraud the Colorado Medical Assistance Program.**

- Objective 1: Review and improve case management system for Medicaid fraud.
- Objective 2: Improve communication and coordination with the Department of Health Care Policy and Financing (“HCPF”), the Program Integrity Unit, and the Office of Medical Assistance.
- Objective 3: Bring the Medicaid Fraud Control Unit (“MFCU”) fully on line with HCPF and its fiscal agent to make access to necessary data available to every MFCU investigator from his/her desktop computer.
- Objective 4: Rewrite and update the Memorandum of Understanding between the departments.
- Objective 5: Conduct joint training of MFCU and HCPF personnel in fraud detection, investigation and prevention.
- Objective 6: Obtain convictions of providers found to have defrauded the program and obtain restitution for overpayments.

**GOAL #12: Protect the Safety and Property of At-Risk Persons in Medicaid-Funded Facilities.**

- Objective 1: Investigate and prosecute abuse and neglect of patients in Medicaid-funded facilities.
- Objective 2: Investigate theft of patient funds and property in Medicaid-funded facilities.
- Objective 3: Investigate and prosecute allegations of physical or sexual assault and criminal neglect in Medicaid-funded facilities.

**GOAL #13: Deter Insurance Fraud.**

- Objective 1: Investigate multi-jurisdictional cases in the grand jury and obtain indictments where appropriate.
- Objective 2: Investigate and file new cases in court and obtain felony convictions.
- Objective 3: Increase orders of restitution, fines, and reimbursement for the cost of investigations.

**GOAL #14: Deter Workers' Compensation Fraud.**

- Objective 1: Increase the number of cases under investigation and the number of active filed cases.
- Objective 2: Bring cases to trial, obtain felony convictions and increase orders for restitution, costs recoveries and fines.

**GOAL #15: Strengthen Law Enforcement in Rural Colorado.**

- Objective 1: Work with the Governor and the Executive Directors of the Departments of Public Safety and Corrections to develop recommendations to strengthen law enforcement and legal support to prosecutors in rural Colorado.



## CHAPTER IV

### **CRIMINAL APPELLATE DIVISION** **GOALS AND OBJECTIVES**

**GOAL #1: Maintain the Continued Imprisonment of Colorado's Most Serious Offenders and Beneficially Affect the Future of the Law Governing Law Enforcement Efforts in this State.**

- Objective 1: Hire and retain the best lawyers possible to write and argue criminal appeals.
- Objective 2: Provide adequate and ongoing training to lawyers on brief-writing, oral advocacy, and substantive and procedural matters.
- Objective 3: Assign cases involving either the most serious offenders or the greatest potential for making new law in the state to the most effective appellate advocates.

**GOAL #2: Improve the Effectiveness and Timeliness of Our Response to a Dramatically Increased Caseload.**

- Objective 1: Develop a long-term plan for effectively and timely dealing with the backlog and with the huge number of new cases.
- Objective 2: Move away from contract appropriations, and toward wholly in-house handling of the high volume of cases.
- Objective 3: Work with the Governor and the Executive Director of the Colorado Department of Corrections to develop recommendations on reducing prisoner litigation, including post-conviction motions.

**GOAL #3: Expand Our Service to the People of the State of Colorado as Represented Most Directly By the Elected District Attorneys and Victims of Crime.**

- Objective 1: Develop, in conjunction with the Criminal Justice Section, a monthly newsletter for distribution to the elected District Attorneys at their monthly Colorado District Attorneys Council meeting.
- Objective 2: Develop panel discussions and accompanying materials on timely topics for presentation at the annual fall Colorado District Attorneys Council training conference.
- Objective 3: Develop a system for ensuring more regularized contact with trial prosecutors about pending appellate cases.

Objective 4: Establish a “Trial DA Coordinator” position, to, e.g., a) respond to trial DA inquiries about trials and appeals; b) learn of Trial DA concerns and convey them to members of staff; and c) work on establishing a better DA service program.

Objective 5: Maintain relationships with and responsiveness to victims of crime through the Victim Services Coordinator.

**GOAL #4: Improve Our Relationships with State Appellate and Federal Courts.**

Objective 1: Set up regular meetings and an ongoing dialogue with chief judges/justices to assess the needs of the system and the strengths and weaknesses of the Attorney General’s Office performance before those courts.

## CHAPTER V

### **CONSUMER PROTECTION SECTION** **GOALS AND OBJECTIVES**

**GOAL #1: Establish an Elder Fraud Prevention Program to Protect Colorado’s Senior Citizens.**

- Objective 1: Develop office-wide outreach and educational efforts, including sponsoring senior citizen forums throughout the state directed to the elderly population, their families and other care givers.
- Objective 2: Develop additional resources for an elder fraud program through partnerships with other government agencies, senior citizen organizations, business and industry leaders and the news media.
- Objective 3: Design information systems to collect information and to identify the nature and extent of the frauds victimizing elderly citizens; and to investigate and aggressively prosecute under consumer protection statutes cases causing the most injury to the elderly.
- Objective 4: Work cooperatively with the criminal prosecutors in the Attorney General’s Office and with the district attorneys in Colorado to identify the most serious cases of fraud to refer for criminal prosecutions, to develop expertise in criminal fraud matters, and to examine whether the Attorney General’s Office could render more assistance in this area.

**GOAL #2: Attack the Most Serious Fraudulent Business Practices Victimizing Colorado Citizens.**

- Objective 1: Each year, identify and publish a “top 10” list of consumer frauds in Colorado, design strategies to address select problems, including prosecutions against promoters of these frauds.
- Objective 2: Maximize enforcement efforts by joining federal law enforcement agencies in “sting” operations and by participating with other state attorneys general to prosecute multi-state consumer protection cases against companies engaging in nationwide frauds.
- Objective: 3 Examine different industries each year to pursue enforcement actions and consumer credit licensing compliance actions to provide consumer education and awareness and deter unlawful business practices in Colorado.

**GOAL #3: Design Improved Consumer Complaint Intake and Mediation Services, and Streamline Department of Law Business Registration and Licensing Procedures.**

- Objective 1: Redesign the Consumer Protection telephone, mail and computer systems to expedite the handling of consumer complaints and business responses, to streamline all license application processes and to gather useful complaint data for detecting cases to investigate and prosecute.
- Objective 2: Expand office intervention and provide more complete mediation services to resolve consumer complaints.
- Objective 3: Seek alternative staffing resources through grants and partnerships with outside entities to enhance consumer complaint intake and expand public information services.

**GOAL #4: Seek Appropriate Legislation and Trade Rules Where Necessary to Protect Consumers and to Eliminate Unnecessary Business Regulations.**

- Objective 1: Continue to provide expert legal analysis and technical assistance to the Colorado legislature with respect to any consumer protection or trade regulation bills.
- Objective 2: Form legislative advisory committees made up of industry leaders and consumer advocacy groups to consider proposed legislative amendments including significant revisions to the Uniform Consumer Credit Code and other consumer protection statutes, as necessary.
- Objective 3: Provide formal written comments to proposed trade rules in rulemaking dockets before various state and federal consumer and utility regulatory agencies.

**GOAL #5: Provide Expanded Public Information Services to Consumers, Business and Other Law Enforcement Agencies.**

- Objective 1: Update existing consumer protection brochures.
- Objective 2: Consult with consumer and business leaders from throughout Colorado to identify problem areas affecting consumer confidence and design ways to address the identified problems.
- Objective 3: Expand the existing Department of Law web site to provide additional public information services on consumer protection.
- Objective 4: Establish statewide informational networks, especially in rural areas of Colorado, with local law enforcement agencies, community organizations and business leaders to provide consumer protection

advocacy and educational services to detect fraudulent practices and to prevent financial losses.

**GOAL #6: Preserve Competition in Marketplaces Affecting Colorado Businesses and Consumers by Addressing Conduct Which May Unreasonably Restrain Trade in Colorado.**

- Objective 1: Study competition issues within various industries providing necessary goods and service throughout Colorado.
- Objective 2: Conduct investigations of localized antitrust conspiracies utilizing, as appropriate, the statewide grand jury to investigate possible criminal antitrust violations.
- Objective 3: Participate in select multi-state investigations involving regional or national conspiracies restraining competition.
- Objective 4: Participate in select joint state-federal antitrust investigations involving local, regional or national markets.
- Objective 5: Participate in educational outreach programs designed to inform state and local purchasing offices about bid-rigging detection and prevention techniques.

**GOAL #7: Provide Expert Legal Services for the Office of Consumer Counsel to Ensure That Colorado's Utility Rates Remain the Most Reasonable and Affordable for Colorado Consumers and to Promote Enhanced Utility Service Quality in Colorado.**

- Objective 1: Intervene in cases that may increase telephone, natural gas or electric rates of Colorado residential, small business and agricultural consumers.
- Objective 2: Take active role in rulemaking hearings and other proceedings before the Public Utilities Commission that may affect or impact the level of service quality utilities provide to Colorado consumers.
- Objective 3: Develop working relationships with other state utilities consumer advocates, and with the consumer protection and antitrust unit within the Department of Law to identify the most common service quality and marketing practices complaints, and the most effective methods of addressing these problems.
- Objective 4: Obtain feedback from utility consumers' board, other consumer-related groups and from the utilities industry to identify issues and problems in the area of regulated utilities in Colorado.

**GOAL #8: Address Unlawful Employment and Housing Discrimination in Colorado.**

- Objective 1: Participate in educational outreach and in-service training efforts as preventive measures against unlawful discrimination.
- Objective 2: Promote alternative dispute resolution procedures as an effective and efficient alternative to costly litigation.
- Objective 3: Develop and utilize legal expertise to prosecute employment and housing discrimination cases investigated by the Colorado Civil Rights Division.

**GOAL #9: Vigorously Defend Claims Against the Subsequent Injury and Major Medical Insurance Funds.**

- Objective 1: Develop and utilize legal expertise to defend claims against the subsequent injury and major medical insurance funds.

## CHAPTER VI

### NATURAL RESOURCES AND ENVIRONMENT SECTION GOALS AND OBJECTIVES

#### GENERAL

**GOAL #1: Protect and Defend the Interests of the State of Colorado and its Citizens in the Areas of Environmental Law and Natural Resources Law.**

Objective 1: Provide high quality, timely, and effective legal representation to the Governor and the Departments of Natural Resources (“DNR”), Public Health and Environment (“CDPHE”), and Labor and Employment (“DOLE”) on natural resources and environmental matters.

#### WATER MATTERS

**GOAL #2: Interstate Compacts -- Protect State’s Interests in all Interstate Compacts and Equitable Apportionment Decrees for Interstate Rivers.**

Objective 1: Continue to vigorously represent state interests in all pending interstate litigation to which Colorado is a party, including:

- a. *Kansas v. Colorado*: Resolve 15-year litigation on Arkansas River including (i) limiting Kansas’ claims for damages against Colorado, and (ii) developing an appropriate process to resolve or avoid future controversies between Kansas and Colorado over the Arkansas River.
- b. *Nebraska v. Wyoming*: Monitor litigation to ensure protection of Colorado’s rights in the Platte River.
- c. *Kansas v. Nebraska*: Monitor litigation to ensure Colorado’s interests in the Republican River are protected.

Objective 2: Continue to monitor, and if appropriate participate in, quiet title action brought by the United States in federal district court in New Mexico, involving title to and operation of Elephant Butte Reservoir on the Rio Grande.

Objective 3: Continue representation of the state’s interests on the legal committee of the Upper Colorado River Compact Commission.

Objective 4: Defend Colorado’s equitable apportionment and interstate compact entitlements to waters of interstate rivers.

**GOAL #3: Work With the Department of Natural Resources, the State Engineer, and the Colorado Water Conservation Board (“CWCB”) in Proactively Addressing the Major Legal Battles Concerning Water Supplies Needed for Colorado’s Existing Uses and Growth.**

- Objective 1: Provide quality legal representation to the State of Colorado in approximately 1,000 active water cases.
- Objective 2: Work with the Governor and the DNR Executive Director to support efforts to implement solutions to future metro water supply challenges as set forth in the report of the *Metro Water Supply Initiative*.
- Objective 3: Work with the Governor and the DNR Executive Director to support alternatives to reliance on unreplaced mining of non-renewable ground water resources in the Denver Basin, such as integration or “conjunctive use” of surface and ground water supplies.
- Objective 4: Support efforts with Arapahoe County, Douglas County Water Authority, and other south metro water suppliers, to encourage reasonable-cost and reliable long-term water supply alternatives to the Union Park Reservoir project.

**GOAL #4: Animas - La Plata (“A-LP”) Project -- Help Resolve Indian Reserved Rights Issues in Southwestern Colorado by Implementing the Settlement on the Indian Reserved Rights Litigation.**

- Objective 1: Work with the Governor, DNR Executive Director, and the CWCB to provide strong and public state support for the project in the configuration agreed upon to implement the settlement of the Indian reserved rights litigation.
- Objective 2: Work with the parties to Indian reserved rights litigation and settlement to complete implementation of settlement.
- Objective 3: Work with the Departments of Interior and Justice to encourage their support of A-LP.

**GOAL #5: Federal Reserved Rights -- Push for Resolution of Federal Reserved Water Right Claims of the U.S. Forest Service (“USFS”) in Water Divisions 2, 3, And 7.**

- Objective 1: Vigorously pursue quantification and eventual resolution of the USFS claims in Divisions 2, 3 and 7.



Objective 2: If quantification or other issues cannot be resolved, vigorously litigate in opposition to the USFS claims in any or all of Divisions 2, 3, and 7.

**GOAL #6: Endangered Species Recovery Efforts -- Work With the Department of Natural Resources to Protect Colorado's Interests in Endangered Species Recovery Efforts in the Colorado River System, the Platte River System, and the Rio Grande System.**

Objective 1: Support the Department of Natural Resources in its work with state and federal agencies, together with interested water users to implement species recovery efforts in the Colorado, Platte, and Rio Grande basins.

**ENVIRONMENTAL MATTERS**

**GOAL#7: Cleanup and Reuse of Lands of Statewide Significance -- Facilitate Timely and Effective Cleanup of Contaminated Sites, and Help Create Opportunities at Those Sites for Future Land Uses that Protect and Enhance Colorado's Quality of Life.**

A. *Rocky Mountain Arsenal Site -- Support local, state and Congressional efforts to make the Rocky Mountain Arsenal the cornerstone of an integrated open space system for the northeastern metropolitan area.*

Objective 1: Continue to provide legal support to CDPHE in interpreting and implementing the Record of Decision ("ROD"), including design and workplan document review, compliance monitoring, and coordinating site-wide clean-up strategies.

Objective 2: Assist CDPHE in ensuring that the Potentially Responsible Parties ("PRPs") establish a Trust Fund for long-term O&M at the site as required by the ROD.

Objective 3: Provide legal support for the delisting and transfer to Commerce City of the "Western Tier" parcel.

Objective 4: Explore opportunities to integrate the 26-square-mile Rocky Mountain Arsenal with open space and river corridor protection efforts in surrounding jurisdictions.

B. *Rocky Flats Site -- Expedite cleanup and closure efforts at the Rocky Flats Environmental Technology Site, and help make Rocky Flats the cornerstone of an integrated open space system for the northwestern metropolitan area.*

- Objective 1: Provide legal support to ensure Rocky Flats is cleaned up in a manner that ensures reliable long-term protection of human health and the environment including future uses of the site and neighboring communities.
- Objective 2: Ensure the availability of Waste Isolation Pilot Project (“WIPP”) to receive shipments of transuranic (“TRU”) and mixed-TRU wastes from Rocky Flats by working with CDPHE, other sending states, New Mexico and DOE to resolve disputes over shipments to WIPP.
- Objective 3: Together with the Governor, Congressional delegation and local governments, support coordinated planning efforts for future land uses at and around Rocky Flats.

C. *California Gulch Site -- Support state efforts to expedite cleanup and delisting of the California Gulch Site in Leadville and Lake County, and work with local government and other stakeholders on river restoration efforts in the Upper Arkansas River.*

- Objective 1: Together with CDPHE, promote a prompt, effective, and cost-effective remedy for each of the 12 operable units that will protect human health and the environment.

D. *Summitville Site -- Vigorously pursue parties responsible for environmental contamination at the Summitville Mine Site, and help local community in their efforts to restore the Alamosa River.*

- Objective 1: In cooperation with co-plaintiff United States, vigorously pursue the litigation of *United States and State of Colorado v. Robert Friedland* in the U.S. District Court for the District of Colorado to recover costs and natural resources damages incurred by the state as a result of activities at the Summitville mine.
- Objective 2: Resist plaintiffs’ petition for certiorari to the Colorado Supreme Court in *Aztec Minerals Corporation et al. v. State of Colorado*, and pursue execution of judgment awarding the state its attorneys’ fees, as warranted.

E. *Cleanup of Other Federal Facilities in Colorado --*

- Objective 1: Work with CDPHE to evaluate, enforce, implement, accelerate, and/or monitor cleanup at numerous federal facilities (e.g. Pueblo Chemical Depot, Air Force Academy, Lowry Bombing and Gunnery Range, Buckley Field, Lowry Air Force Base, Fitzsimons Army Hospital, Denver Federal Center, and other “formerly used defense sites” and closing military bases).
- Objective 2: Work with the National Association of Attorneys General (“NAAG”), the Governor, CDPHE, and Colorado’s Congressional delegation to

lobby for legislation clearly establishing the Comprehensive Environmental, Response, Compensation and Liability Act of 1980 (“CERCLA”) sovereign immunity waiver.

Objective 3: Work with NAAG, the Governor, CDPHE, and Colorado’s Congressional delegation to lobby for adequate funding for cleanup of federal facilities (particularly DOE and DOD facilities).

F. *NRDs at Non-Federal Sites --*

Objective 1: Work with CDPHE and DNR to identify and evaluate contaminated facilities where the state may be able to recover natural resource damages.

G. *“Hazardous Substance Easement” Legislation --*

Objective 1: Assist in the preparation and passage of state legislation authorizing the establishment of recordable “hazardous substance easements” to create effective, enforceable institutional land-use control over property with residual contamination.

H. *Institutional Controls --*

Objective 1: Participate in national policy dialogues (e.g. NAAG, Council of Western Attorneys General (“CWAG”), Western Governors, EPA, Congress) regarding the development of effective and enforceable institutional controls at federal facilities and elsewhere.

I. *CERCLA Program Funding --*

Objective 1: Work with Department of Law budget staff, JBC analyst, and legislative leadership on long-term funding at an appropriate level for the state’s CERCLA activities.

**GOAL #8: Hazardous Waste Programs -- Protect Colorado’s Citizens and Lands from Dangers of Hazardous Wastes.**

Objective 1: Assist the Hazardous Materials and Waste Management Division (“HMWMD”) in developing and implementing a model hazardous waste management and enforcement program.

Objective 2: Assist HMWMD in developing streamlined regulatory approaches to corrective action.

Objective 3: Revamp and refocus hazardous waste compliance and enforcement programs, and establish a reliable and sufficient funding source to support these programs.

Objective 4: Together with HMWMD, obtain any necessary legislative changes to implement program and funding initiatives.

**GOAL #9: Conflicts With EPA -- Resolve Controversies with the Department of Justice and U.S. Environmental Protection Agency so as to Develop and Maintain Effective and Productive Working Relationship With EPA.**

Objective 1: Together with the Governor, CDPHE and DOLE, work with EPA and interested stakeholders to resolve EPA's objections to Colorado's environmental self-evaluation privilege and immunity statute.

Objective 2: Together with the Governor, CDPHE and DOLE, obtain EPA approval of pending program delegations and program amendments.

Objective 3: Together with the Governor and CDPHE, attempt to resolve disputes with EPA over EPA's enforcement overfilings and other unnecessarily restrictive and intrusive oversight of delegated environmental programs.

**GOAL #10: Corporate Hog Farms - Air and Water Quality Regulation -- Provide Legal Support to the Air Quality Control Commission ("AQCC") and Water Quality Control Commission ("WQCC") with Respect to Rules Promulgated to Implement Amendment 14 (1998).**

Objective 1: Provide Formal Opinion on Legal Requirements of Amendment 14 on air and water quality regulations.

Objective 2: Work with the WQCC and AQCC in litigation brought to challenge the rules adopted to implement Amendment 14.

## CHAPTER VII

### STATE SERVICES SECTION GOALS AND OBJECTIVES

**GOAL #1: Provide Quality Legal Services to the Governor.**

- Objective 1: Coordinate with the Governor's Chief Legal Counsel in the provision of timely and effective legal advice to the Governor.
- Objective 2: Continue weekly briefing sessions by State Services to the Governor's Chief Legal Counsel on matters of mutual concern.

### PUBLIC EDUCATION MATTERS

**GOAL #2: K-12 Education -- Resolve the School Finance Litigation.**

- Objective 1: Develop team of attorneys, paralegals, and experts to handle the Giordino case.
- Objective 2: Aggressively defend the case through discovery, motions and trial.
- Objective 3: Keep the Governor and General Assembly fully informed as to the status of the case.

**GOAL #3: Teacher Licensing and Private Occupational School Certification -- Help To Improve the Quality of Educational and Vocational Instruction in Colorado.**

- Objective 1: Assist the Colorado Department of Education in policing teacher certification and improve discipline and oversight of Colorado teachers.
- Objective 2: Assist the Colorado State Board of Education in connection with legal challenges to charter schools, including those designed to assist at-risk children.
- Objective 3: Work with the Division of Private and Occupational Schools to monitor schools offering vocational training in Colorado, including denying certification to or closing substandard schools.
- Objective 4: Advise school district reorganization committees.
- Objective 5: Work with the Colorado Department of Education in the implementation of the Colorado Student Assessment Program.

**GOAL #4: Education and Higher Education --Help Clients to Comply With State and Federal Laws By Keeping Them Advised of New Developments in Law and Legislation.**

- Objective 1: Draft and circulate a quarterly newsletter regarding new cases, statutes, regulations or issues that have been addressed in the Education Unit.
- Objective 2: Provide clients with practical advice on day to day compliance issues regarding state and federal law, particularly the Open Records Act, Family Educational Records Privacy Act, and Americans with Disabilities Act.

**PROTECTION OF OUR ELDERLY, OUR CHILDREN, AND OUR DISABLED**

**GOAL #4: Protecting Our Elderly -- Assist the Appropriate State Departments in Protecting Elderly or Disabled Long-Term Care Clients by an Aggressive Program of Enforcement of Nursing Facility Standard of Care Requirements.**

- Objective 1: Aggressively defend the appeal brought by O'Hara Rehabilitation Center of the sanction imposed for failure to conform with nursing facility standards.
- Objective 2: Assist the appropriate departments in developing more successful strategies for implementing nursing facility sanction alternatives.
- Objective 3: Assist the state long-term care ombudsman's office in enforcing and defending their federal and state confidentiality mandates regarding patient and family questions and complaints regarding nursing facilities.

**GOAL #5: Protecting Our Children -- Help to Protect the Children of Colorado from Abuse and Neglect.**

- Objective 1: Assist in enforcing the Children's Code by maintaining a complete and accurate Central Registry of Child Protection by resolving the hundreds of appeals filed each year through settlement negotiations, mediation and litigation.
- Objective 2: Provide input and advice to the state's child fatality review and institutional abuse teams.

**GOAL #6: Child Care -- Help to Provide Safe, Licensed Child Care in Colorado.**

- Objective 1: Assist the Division of Child Care by prosecuting actions to suspend and revoke licenses or impose fines when licensed child care providers consistently or willfully violate pertinent rules.
- Objective 2: Assist the Division of Child Care in suspending and revoking licenses of Child Placement Agencies that certify foster care homes and Residential Child Care Facilities.
- Objective 3: Seek injunctions or fines against those who provide child care without obtaining licenses required by law.
- Objective 4: Develop a tracking system for new requests for child care licensing actions to make certain such actions are processed in a timely manner.

**GOAL #7: Youth Corrections -- Assist the Division of Youth Corrections in Adhering to the Objectives of the Juvenile Justice System.**

- Objective 1: Provide litigation support and legal advice as needed.

**GOAL #8: Protecting the Disabled -- Assist the Division of Vocational Rehabilitation in Enforcing the Randolph-Sheppard Act and Other Rehabilitation Laws and Programs.**

- Objective 1: Defend state statutes and regulations regarding training and employment of legally-blind individuals.

**HEALTH CARE**

**GOAL #9: Health Care Policy and Financing -- Assist the Department of Health Care Policy and Financing in Implementing Programs to Maximize Access to Needed Medical Care for Low-Income Individuals While Preserving Public Funds.**

- Objective 1: Defend the integrity of the Medicaid program's capitation rate setting from challenge by a health maintenance organization (HMO) in *Rocky Mtn. HMO v. Department of Health Care Policy and Financing*.
- Objective 2: Continue to vigorously defend state statutes regarding the counting of trusts for purposes of Medicaid eligibility.
  - a. *Andrews, et al. v. Rizzuto*: Challenge of state laws regarding disability trusts.
  - b. *Sewell, et al. v. Rizzuto*: Challenge of state laws regarding income trusts.

- c. *Ramey, et al. v. Rizzuto*: Challenge of state laws regarding Medicaid qualifying trusts and SSI/Medicaid eligibility.
- Objective 3: Continue to pursue repayment of public funds expended to provide medical benefits from estates, trusts and responsible third parties.
- a. *Third party recoveries*: Recovery of Medicaid payments from personal injury settlements.
  - b. *Alberico v. Department of Health Care Policy and Financing*: Continue defense of state's right to collect estate recovery lien on house placed in a living trust.
  - c. *Harris v. Owens, et al.*: Vigorously defend asserted claims against Colorado's tobacco settlement.
- Objective 4: Continue to defend appeals brought by providers of Medicaid services seeking higher reimbursement or payment of improperly submitted claims.
- a. *Nursing home appraisals*: Defend the Department of Health Care Policy and Financing from nursing facilities challenge of their appraisals in order to get higher Medicaid reimbursement.
- Objective 5: Assist in providing access to health care insurance for Colorado children.
- a. Assist the Department of Health Care Policy and Financing in the development of rules for implementation of the Children's Basic Health Plan.
  - b. Assist the Children's Basic Health Plan Policy Board in adopting the necessary rules to implement the plan.

**GOAL #10: Human Services -- Assist the Department of Human Services in Supervising the Provision of Public Assistance Benefits to Qualified Individuals Throughout the State in a Manner Consistent with State Law and Budgetary Constraints.**

- Objective 1: Continue to vigorously defend the challenge to the Colorado Works Program in *Weston, et al. v. Hammons, et al.*
- Objective 2: Resolve litigation with federal Department of Health and Human Services regarding payment of administrative costs for the food stamp program.
- Objective 3: Continue to defend *Gonzales v. State of Colorado* where the attorneys of recipients of interim assistance seek to have their fees paid from the state's recoveries of retroactively granted SSI payments.



Objective 4: As requested by the Governor, assist the Division of Child Welfare in helping to strengthen notification systems for law enforcement, district attorneys and others for escapees who potentially threaten the community.

**GOAL #11: Colorado Mental Health Institute -- Help to Maintain an Independent Colorado Mental Health Institute at Pueblo with the Flexibility and Discretion to Provide Services to its Patients.**

Objective 1: Vigorously defend the challenges to the condition at CMHIP in *Neiberger v. Hawkins, et al.*

**PUBLIC UTILITIES COMMISSION**

**GOAL #12: Telephone Matters -- Assist the Commission in Continuing to Implement Federal and State Mandates to Promote Competition in the Local Exchange and Toll Markets, While Preserving the Availability, Affordability, and Reliability of Telephone Service to the Public.**

Objective 1: Continue to represent the Commission in the consolidated arbitration appeals pending in the United States District court in *U S WEST v. PUC, et al. (97-D-152)*. Provide representation, as appropriate, in the upcoming pricing phase of the appeal.

Objective 2: Provide legal assistance in new interconnection agreement/arbitration cases involving U S WEST as these cases come to the Commission.

Objective 3: Provide legal assistance in cases involving rate reductions by U S WEST, including the rate cases which offset Colorado High Cost Funding (*e.g.* switched access rate case, general rate reductions to residential and business customers).

Objective 4: Provide legal assistance in complaint cases involving toll competition, including the disputes between AT&T/MCI and U S WEST concerning slamming and inappropriate “freezing” of customer accounts.

(See Chapter V, Goal 7 on Office of Consumer Counsel)

**GOAL #13: Electric Matters -- Assist the Commission in its Efforts to Ensure Reliable Electric Service at Reasonable Rates.**

- Objective 1: Provide legal assistance in proceedings concerning Public Service Company's short-term electric supply, particularly relating to the adequacy of supply for the Denver Metro area.
- Objective 2: Provide legal assistance in upcoming proceedings concerning the appropriateness of Public Service Company's Integrated Resource Planning process to ensure the company is purchasing or acquiring adequate electric resources at the least cost.
- Objective 3: Provide legal assistance in rate proceedings involving Public Service Company, including the pending air quality emissions rider case.
- Objective 4: Provide legal assistance regarding the Enron Federal Solutions petition for declaratory order concerning whether non-utility entities can purchase distribution facilities at federal military bases, under federal privatization statutes, without Commission approval.

**GOAL #14: Gas Matters -- Assist the Commission in its Efforts to Ensure Reliable Gas Service at Reasonable Rates.**

- Objective 1: Assist the Commission, as necessary (*e.g.* participation in rulemaking proceedings or in applications by specific utilities), in implementing the new statute allowing for customer choice for the gas commodity.
- Objective 2: Provide legal assistance in the pending rate case for Public Service Company. This involves completion of the revenue requirement phase of the proceeding, as well as the rate design phase.

**GOAL #15: Transportation Matters -- Assist the Commission in its Efforts to Ensure Reliable Passenger Transportation Service at Reasonable Rates.**

- Objective 1: Provide legal assistance in applications for new carrier authority, both permanent and temporary, and in carrier complaint cases against other carriers.

## LABOR AND INDUSTRY REGULATION

### **GOAL #16: Workers' Compensation -- Prosecute Employers Who Fail To Maintain Required Workers' Compensation Insurance.**

- Objective 1: Assist client in the continued development of more aggressive use of its investigatory and case development powers.
- Objective 2: Where possible, utilize aggressive prosecution and effective settlement agreements to ensure future compliance with a minimum of trial time and expense.
- Objective 3: In appropriate cases, vigorously pursue new penalties permitted by recent legislation.

### **GOAL #17: Federal False Claims Act -- Resist Federal Government Abuse of the Federal False Claims Act Against Colorado and Other States.**

- Objective 1: Successfully defend Colorado's unemployment program in the case of *U.S. ex rel. White v. Colorado*
- Objective 2: Confer with the Governor and Colorado's U.S. Senators and Representatives regarding support for current Congressional initiatives to amend the Federal False Claims Act.

### **GOAL #18: State Oil Inspection -- Assist State Oil Inspector in Protecting the Environment and Citizens of Colorado Against Dangerous and Leaking Fuel Storage Tanks.**

- Objective 1: Aggressively prosecute violations of fuel storage tank laws in behalf of the State Inspector of Oils.
- Objective 2: Help pursue the Environmental Protection Agency's approval of the Colorado Oil Inspector's application for State Plan Approval regarding enforcement of underground storage tank violations.
- Objective 3: Assist Oil Inspector as required to coordinate any required action by the executive and legislative branches to obtain any legislation required to ensure program approval.

### **GOAL #19: Employment Service -- Help the Employment Service Program to Ensure Compliance With Federal Grant Requirements.**

- Objective 1: Assist with evaluation of alleged county violations of federal merit system requirements.

## **SUPPORT FOR GENERAL STATE SERVICES**

### **GOAL #20: Contract Review -- Improve State Procurement and Contracting Functions.**

- Objective 1: Continue appropriate oversight of contracts based on risk.
- Objective 2: Continue developing “best practices” forms and guidance for recurring situations.
- Objective 3: Continue training and education.
- Objective 4: Push for improved coordination between fiscal and purchasing functions.
- Objective 5: Review final contracts for the State Controller as expeditiously as possible in 5 calendar days or less.

### **GOAL #21: Employee Benefits -- Facilitate Timely Implementation of State Employee Benefit Programs.**

- Objective 1: Assist the Deferred Compensation Plan (§ 457) with application of increased employer contributions from the State, pursuant to SB 99-90.
- Objective 2: Assist with procurement and contracting activities associated with the next 5-year award cycle for health, dental, life and other insurance benefits contracts.

### **GOAL #22: Pay For Performance -- Assist With Successful Implementation of Pay for Performance in the State Classified Work Force, Known as “Colorado Peak Performance.”**

- Objective 1: Assist the Director with appropriate revisions to policies and practices in light of actual agency experience.
- Objective 2: Defend the State Personnel Director’s new procedures against legal challenge.
- Objective 3: Assist the Director with necessary revisions to procedures for contracting out government services.

## **INFORMATION TECHNOLOGY**

### **GOAL #23: Citizen Access to Government -- Assist efforts to Increase Citizen Access to Government Through “On-Line” Information and Services.**

- Objective 1: Assist with timely implementation of rules for the new Government Electronic Transactions Act, HB 99-1337.

**GOAL #24: Information Technology -- Maximize the Effectiveness of State Information Technology Dollars.**

- Objective 1: Facilitate implementation of New Century Colorado and the Governor's Office of Innovation and Technology by providing creative and timely legal advice on matters of procurement, fiscal, and contract management.
- Objective 2: When the Uniform Electronic Transactions Act is adopted, assist with tailoring this model law to Colorado's unique needs.
- Objective 3: Educate client agencies on new and emerging legal issues and trends that affect their ability to utilize interest-based and other networked information systems.

**PUBLIC OFFICIALS AND LEGISLATIVE MATTERS**

**GOAL #25: Initiatives -- Preserve the Initiative Process and Defend Initiatives that Have Been Passed by the Voters.**

- Objective 1: Represent the state interests in the title-setting process by defending the actions of the title board before the state supreme court.
- Objective 2: Defend initiatives passed by Colorado voters in federal and state court, including:
  - a. *Campbell v. Buckley*: Defend challenges to the single subject requirement and the title-setting process in the Tenth Circuit.
  - b. *Planned Parenthood v. Owens*: Defend a challenge to the constitutionality of the Parental Notification statute passed by the voters in 1998.
  - c. *Morrisey v. State*: Defend a challenge to the constitutionality of the congressional term limits provision passed by the voters in 1998.
- Objective 3: Analyze constitutional and statutory provisions to streamline the review and hearing procedures.

**GOAL #26: Bingo-Raffle -- Assist the Secretary of State in the Implementation of the New Bingo-Raffle Statute.**

- Objective 1: Review and analyze the statute, assist in the promulgation of new rules and assist the bingo advisory committee.

Objective 2: Continue to prosecute violators of bingo-raffle laws.

**GOAL #27: Open Records -- Provide Advice and Litigation Assistance to Clients Who Have Open Records Requests From the Public.**

Objective 1: *Office of the State Court Administrator v. Background Information Services*: Prosecute the state's appeal of the decision which would require state agencies to delete confidential information from bulk records which legitimately include both confidential and non-confidential information.

Objective 2: Help clients identify information which should be deemed confidential to protect the privacy interests of citizens.

Objective 3: Assist clients in the formulation of open records policies.

**GOAL #28: Americans With Disabilities Act Compliance -- Help Clients Comply With the Americans With Disabilities Act.**

Objective 1: *Jane Doe v. Colorado Supreme Court* -- Defend a challenge to the requirement that applicants disclose histories of mental illness or drug abuse in bar applications.

Objective 2: Assist clients in the development of plans to ensure that their programs are accessible to the public.

## CHAPTER VIII

### LITIGATION SECTION GOALS AND OBJECTIVES

**GOAL #1: Develop and Maintain a Cost-Effective and Efficient Litigation Capability.**

- Objective 1: Develop a litigation information management system that contains case summaries, due dates, and other key information necessary to manage cases.
- Objective 2: Centralize litigation intake function, develop policy for early case consultation with assigned attorneys, and develop best strategies for prompt disposition of appropriate cases.
- Objective 3: Develop a centralized brief bank.
- Objective 4: Develop a process for reviewing appellate briefs and substantive motions.
- Objective 5: Improve the quality of oral arguments.
- Objective 6: Record lessons-learned in cases by administrative assistants, legal assistants, and attorneys that highlight needed improvements in managing litigation.
- Objective 7: Assist in developing office information and database capabilities that can be used by legal assistants and attorneys to support litigation.
- Objective 8: Assess and develop a directory of capabilities and likely costs of legal and consulting services available from local firms for litigation support. Develop suitable legal services and expert witness agreements for effectively managing outside counsel/consultants that may be needed.
- Objective 9: Identify and attend recurring CLEs, assemble relevant materials, and develop structured, abbreviated in-house training for administrative and legal assistants and other OAG attorneys that may assist in litigation.

**GOAL #2: Provide Proactive Advice to Clients and Communicate Lessons-Learned in Litigation and in Transactional Matters to Minimize Future Risk.**

- Objective 1: Encourage and participate in client training and seminars that promote preventive law objectives.
- Objective 2: With input from the federal district court, reevaluate and adapt the current process and procedures for screening, processing, and serving pro se inmate cases to assist in disposition of these cases.

- Objective 3: Attend annual state judicial conferences to assist judges in current developments on recurring and problematic legal issues concerning inmate litigation.
- Objective 4: Provide expertise to state agencies and institutions in construction disputes. Provide preventive law assistance including: construction and procurement dispute seminars, on-site assistance in construction disputes, management/correspondence drafting, early case evaluation in mature disputes, assistance in establishing negotiation objectives and settling disputes
- Objective 5: Develop additional training on the use of ADR in appropriate cases.
- Objective 6: Identify opportunities to work with other OAG units to achieve preventive law objectives, e.g. recurring First Assistant Attorney General dialogues and information crossfeed between the Litigation Section, Personnel and Employment Section, and the Contracts Unit
- Objective 7: Provide quality legal advice in drafting legislation, rules, agreements and other legal documents to achieve agency goals and objectives while minimizing the risk of legal challenges.
- Objective 8: Require that Department of Law employees be appropriate advocates for their clients at all times and provide education and training on client advocacy.

**GOAL #3: Foster Effective Communications with Clients and External Media in Order to Maximize Litigation Success, Achieve Preventive Law Goals, Encourage Adequate Estimates of Legal Services Needs, and Enhance Client Satisfaction.**

- Objective 1: Canvass client expectations and requirements concerning their information needs during on-going litigation, as well as information required to support budget decision items.
- Objective 2: Enhance client relationships by working closely with agency officials to gain greater participation in the decision-making and handling of legal matters.
- Objective 3: Based on client input, develop a section policy concerning content and timing of reports and other communications to the client, and develop a structured process for legal assistants' involvement in client information exchange.
- Objective 4: Assist the Department in effectively using office automation tools to provide reports and communications to clients.
- Objective 5: Develop a meaningful system for measuring performance effectiveness, e.g. client satisfaction and internal process surveys.



## CHAPTER IX

### PERSONNEL & EMPLOYMENT LAW SECTION GOALS AND OBJECTIVES

**GOAL #1: Provide Quality Legal Employment Representation to Facilitate the Effective Management of the Nearly 30,000 State Employees to Increase the Efficiency of State Government.**

- Objective 1: Improve the quality and depth of our representation of the State by specializing in areas of employment law to provide efficient, result-oriented representation in employment matters.
- Objective 2: Monitor and advise the State of trends in employment law in the public and private sector in Colorado and in other jurisdictions.
- Objective 3: Create a database of personnel board and state and federal cases to monitor, track and advise the State on trends in decisions before the personnel board and in state and federal courts.
- Objective 4: Provide counseling to State government in exploring ways in which innovative labor policies and procedures can facilitate employee productivity.
- Objective 5: Re-examine approach to representing the State before the personnel board by considering offering expert testimony in cases and aggressively conducting discovery against the complainant.
- Objective 6: Provide a specialization in defending employment cases in the higher education context to address specialized needs of the state universities.
- Objective 7: Monitor and provide an accurate estimate to State agencies of the resources spent on employment matters to facilitate sufficient budgeting of resources and efficiency.
- Objective 8: Develop litigation procedures for discovery, motions practice, trial strategies to facilitate aggressive representation of the state in employment matters.
- Objective 9: Develop case presentation procedures to facilitate communication and case preparation in employment cases.
- Objective 10: Develop a database of expert witnesses and consultants to serve as a resource to the State in employment disputes.

**GOAL #2: Provide Proactive Training to the State to Decrease Employment Claims Before the Personnel Board and in State and Federal Government.**

- Objective 1: Develop a tracking mechanism to monitor employment disputes of agencies by substantive area in order to develop and tailor training programs to address specific needs of the agencies.
- Objective 2: Develop training programs for executive directors, division directors, managers and staff of agencies through seminars, courses, speeches, small group sessions and brown-bag luncheons.
- Objective 3: Coordinate training efforts with the trainers from various agencies and experts in fields, such as workplace violence and disability discrimination to provide a comprehensive approach to employment disputes.
- Objective 4: Prepare and disseminate a quarterly newsletter on new cases, decisions and issues in employment law.
- Objective 5: Prepare policies, procedures and handbooks for state government to manage the workforce.

**GOAL #3: Explore the Development of an Internal Mediation Program for State Government.**

- Objective 1: Examine the feasibility of a mediation program in state government that will facilitate the resolution of employment cases at the early stages of a dispute.
- Objective 2: Explore the feasibility of state government's use of mediation through the Colorado Bar Association's Alternative Dispute Resolution Committee's program.
- Objective 3: Educate clients on the benefits of mediation.

**GOAL #4: Create a Workplace Violence Task Force for State Government to Study Workplace Violence Issues and to Provide for a Coordinated and Consistent Approach to Workplace Violence.**

- Objective 1: Identify and study cases involving workplace violence issues to determine the magnitude of the problem and appropriate approaches to resolving issues surrounding workplace violence.
- Objective 2: Convene an informational meeting on a Domestic and Workplace Violence Conference, consisting of executive directors, appointing authorities and managers, human resource professionals and workplace

violence experts from the public and private sector to study issues concerning workplace violence in various State agencies, and to formulate policies and procedures that will detect and defuse violent and aggressive behavior in the workplace, and provide for a mechanism to decrease incidents of workplace violence.

Objective 3: Work with the Governor to develop a statewide workplace violence policy that addresses detection and resolution of workplace violence incidents and that addresses plans for state government in the event of workplace violence and prevention of workplace violence.

## CHAPTER X

### **BUSINESS AND LICENSING SECTION** **GOALS AND OBJECTIVES**

**GOAL #1: Improve the Efficiency and Effectiveness of Client Representation, with Emphasis on the Disciplinary Boards and Commissions.**

- Objective 1: Work with the Department of Regulatory Agencies (“DORA”) during its budget review of legal services to include:
- a. Review of other disciplinary procedural models, existing in other state agencies or states;
  - b. Review of the enabling statutes of various DORA Boards to determine whether the Boards have powers that will lead to greater efficiency in procedures, while maintaining fairness to the licensee;
  - c. Review the internal rules and policies of the high volume boards, to seek methods of streamlining procedures;
  - d. Involve the relevant boards in the above review process and gain approval from them for any necessary policy, rule or statutory changes.
- Objective 2: Develop a case tracking system or data base that will keep track of the age and progress of cases and provide data on the disciplinary outcomes achieved to help measure the effectiveness of regulation.
- Objective 3: Establish standards for case management to provide consistency in the Section’s legal service product and to prevent backlogs in disciplinary proceedings.
- Objective 4: Establish timelines for settlement discussions and for the filing of charges for disciplinary boards that either have case backlogs or high volumes so as to ensure timely resolution of disciplinary matters.
- Objective 5: Work with client agencies to improve the effectiveness of investigations and case preparation by the agencies before referral to the OAG.

**GOAL #2: Improve Communications and Teamwork with Client Agencies.**

- Objective 1: Ask the clients to evaluate legal services and obtain on-going feedback.
- Objective 2: Emphasize team work with clients through proactive involvement in preventing legal problems.

- Objective 3: Develop and implement regular communication channels through the Section newsletter and by providing educational seminars for agencies and periodic update meetings with clients.
- Objective 4: Work with client agencies to identify any changes to their enabling laws that enhance consumer protection.
- Objective 5: Work with DORA to deliver its “How to Be a Board Member” seminar with emphasis on rule making and adjudication of disciplinary matters.

**GOAL #3: Improve the Quality of Legal Services to Agencies.**

- Objective 1: Resolve conflicts between agency goals.
- Objective 2: Evaluate alternative budget models that will assure clients needed legal services.
- Objective 3: Establish formal mentoring and training programs that will ensure the best use of experience and provide continuity in client representation.
- Objective 4: Enhance research banks of existing documents so that attorneys have the benefit of previous work by others on similar issues, such as pleadings, discovery, and trial and appellate briefs.
- Objective 5: Upgrade DOL information technology resources to increase productivity, especially with more on-line research tools, litigation support software, and a “user friendly” billing program.