

Long Range Program Plan

FY 2011-12 through FY 2015-16



**Department of Legal Affairs
Office of the Attorney General**

**PL 01 The Capital
Tallahassee, Florida 32399-1050**



BILL McCOLLUM
ATTORNEY GENERAL
STATE OF FLORIDA

OFFICE OF THE ATTORNEY GENERAL

John L. Hamilton
Director of Administration

The Capitol
Tallahassee FL 32399-1050
Telephone (850) 414-3300, SunCom 994-3300

Long Range Program Plan

Department of Legal Affairs

Tallahassee

September 30, 2010

Jerry L. McDaniel, Director
Office of Policy and Budget
Executive Office of the Governor
1701 Capitol
Tallahassee, Florida 32399-0001

JoAnne Leznoff, Council Director
House Full Appropriations Council
221 Capitol
Tallahassee, Florida 32399-1300

David Coburn, Staff Director
Senate Policy and Steering Committee on Ways and Means
201 Capitol
Tallahassee, Florida 32399-1300

Dear Directors:

Pursuant to Chapter 216, Florida Statutes, or Long Range Program Plan for the Department of Legal Affairs is submitted in the format prescribed in the budget instructions. The information provided electronically and contained herein is a true and accurate presentation of our mission, goals, objectives and measures for the Fiscal Year 2011-12 through Fiscal Year 2015-16. This submission has been approved by Attorney General Bill McCollum.

Sincerely,

A handwritten signature in black ink, appearing to read "John L. Hamilton", with a large, sweeping flourish at the end.

John L. Hamilton
Director of Administration

AGENCY MISSION

People's Law Firm

Program: Office of the Attorney General Goals

Goal #1: To improve the quality of legal services provided on behalf of the state of Florida

Goal #2: Protect children from those who would prey upon them through the Internet

Goal #3: Improve service delivery to all crime victims

Program: Office of the Attorney General Objectives

Goal #1: To improve the quality of legal services provided on behalf of the state of Florida

Objective A: Decrease state's reliance on costly outside legal Counsel

Objective B: Broaden scope of experience and specialization levels of legal staff

Objective C: Increase client satisfaction

Objective D: Improve recruitment and retention of highly skilled Attorneys

Goal #2: Protect children from those who would prey upon them through the Internet

Objective A: Expand programs that safeguard children from predatory criminals

Goal #3: Improve service delivery to all crime victims

Objective A: Increase efficiency in processing victim compensation claims

Objective B: Increase the outreach of VOCA grant program

Program: Office of the Attorney General

Service Outcomes and Performance Projections Tables

Goal #1: To improve the quality of legal services provided on behalf of the state of Florida

Objective A: Decrease state’s reliance on costly outside legal Counsel

Outcome: Percent of state agencies contracting with the Office of the Attorney General for all legal services

Baseline/Year 2001	FY 2011- 12	FY 2012-13	FY 2013-14	FY 2014- 15	FY 2015- 16
30%	60%	60%	62%	62%	62%

Objective B: Broaden scope of experience and specialization levels of legal staff

Outcome: Of eligible attorneys, percent who have attained AV rating, BV rating, and/or board certification

Baseline/Year 2001	FY 2011- 12	FY 2012-13	FY 2013-14	FY 2014- 15	FY 2015- 16
70%	72%	72%	73%	75%	75%

Objective C: Increase client satisfaction

Outcome: Percent increase in client satisfaction

Baseline/Year 2001	FY 2011- 12	FY 2012-13	FY 2013-14	FY 2014- 15	FY 2015- 16
90%	98%	98%	98%	98%	98%

Outcome: Maintain a practice standard of 1800 hours per year per attorney

Baseline/Year 2003	FY 2011- 12	FY 2012-13	FY 2013-14	FY 2014- 15	FY 2015- 16
1600+	1800+	1800+	1800+	1800+	1800+

Objective D: Improve recruitment and retention of highly skilled Attorneys

Outcome: Increase average salary of the OAG attorneys to achieve salary level within the 90th percentile of

average salaries paid to other executive agency attorneys

Baseline/Year 2001	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16
60th percentile	85th percentile	90th percentile	90th percentile	90th percentile	90th percentile

Goal #2: Protect children from those who would prey upon them through the Internet

Objective A: Expand programs that safeguard children from predatory criminals

Outcome: Increase number of active CyberCrime cases

Baseline/Year 2006	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16
40	105	105	110	115	115

Goal #3: Improve service delivery to all crime victims

Objective A: Increase efficiency in processing victim compensation claims

Outcome: Decrease average turnaround time from receipt of claim to payment

Baseline/Year 1999	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16
19.8 weeks	4.7 weeks	4.6 weeks	4.5 weeks	4.5 weeks	4.4weeks

Objective B: Increase the outreach of VOCA grant program

Outcome: Increase number of agencies participating in the VOCA grant program

Baseline/Year 1999	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16
253	270	275	280	285	285

Outcome: Increase number of subgrantees serving minorities and underserved victims

Baseline/Year 1999	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16
46	53	54	55	56	57

Program: Office of the Attorney General Trends and Conditions Statements

The Attorney General is the Chief Legal Officer for the State of Florida. The Office of the Attorney General is composed of several units whose chief goal is to economically and efficiently provide the highest quality legal services to the State of Florida and its agencies for the benefit of all Floridians.

Specific responsibilities enumerated in Article 4, Section 4 of the Florida Constitution and in Chapter 16, Florida Statutes, have been expanded through the years by the Florida Legislature and by amendment of the Constitution, for the protection of the public's interests. The functions of the Office of the Attorney General range across the legal landscape, from Capital Appeals and Medicaid Fraud to Child Support Enforcement, and Economic Crimes. However, the functions can most simply be divided into four broad categories: Civil Enforcement; Constitutional Legal Services; Criminal and Civil Litigation; and Victim Services.

Economic Crimes Division

The Economic Crimes Division is charged with protecting consumers from fraud and other financial exploitation. The division's attorneys, investigators and staff work in bureaus located throughout the state with primary focus on the following areas of practice:

Deceptive and Unfair Trade Practices

The division targets those who prey on consumers through the enforcement authority of Chapter 501, the Florida Deceptive and Unfair Trade Practices Act ("FDUPTA" or "little FTC Act"). The division initiates investigations through subpoenas and legal actions against entities that commit unfair methods of competition and unfair practices in the conduct of any trade or commerce. The division investigates the activities of businesses and individuals involved in multi-circuit activities, as the State Attorneys have primary jurisdiction for single circuit activity. This includes price gouging enforcement during a declared state of emergency. Although the number of cases varies from day to day the current number of active Economic Crimes cases is 391.

Florida's large and growing elderly population is a particular target for consumer fraud. Focusing on the elderly as a special "at-risk" group has enhanced the ability of the division working in cooperation with senior advocate organizations, to prevent, identify and prosecute fraudulent scams directed at older victims. In areas with high concentrations of seniors, the Economic Crimes Division places a particular focus on consumer fraud and economic crimes against the elderly.

The Internet and other advances in rapid communication are generating an increased number of fraudulent schemes. Use of the Internet is growing exponentially, and the potential for illegal activity on the Internet is enormous. As use and availability of the Internet continue to expand, increasing numbers of individuals are certain to become victims of fraud. The ability to stem this growing problem will be a critical issue in the years ahead. To combat the trend in Internet Fraud, the Economic Crimes Division has established a CyberFraud Section to protect Florida consumers from these scams. This section has been highly successful to date, with recoveries of over \$17 million since December, 2007.

With natural disasters such as hurricanes and devastating wildfires come the recurring problems of home repair scams, price gouging, job scams, advance fee loan scams and door-to-door sales schemes. To curb these predatory practices and enforce Florida's price gouging statute, this office has established a toll-free hotline that is activated in times of natural disaster. Notices alerting consumers to potential scams and informing them of this hotline are widely distributed to the news media, cooperating retail merchants and other public locations in areas affected by the disaster. Historically, thousands of complaints have been received, many as a result of these consumer awareness initiatives.

The number and ever-changing variety of fraudulent schemes serve as a constant challenge. Current problems that will remain the focus of enforcement efforts are numerous, but they include mortgage fraud, timeshare resale scams, telemarketing fraud, travel scams, debt relief

and credit repair scams, negative option sales tactics, automobile sales and leasing practices, warranty sales practices, mortgage fraud, multi-level marketing and charitable solicitation scams. Many of these investigations, both multi-state and Florida only, produce large settlement agreements that direct substantial funds to the state or individual Florida consumers, while putting a halt to improper trade activities. This past year, the Economic Crimes Division returned more than 200 million dollars to consumers as restitution.

These consumer fraud issues will continue to require substantial and meaningful investigation and preparation. At current staffing levels, the Economic Crimes Division is under constant pressure to muster the necessary resources to combat these ever-increasing avenues of consumer fraud. Any reduction in attorneys, investigators or support staff would seriously hamper our efforts. Accordingly, the need to ensure adequate resources to properly investigate and prosecute consumer fraud will continue to be a significant priority.

RICO

The Florida Racketeer Influenced and Corrupt Organization Act (RICO), Chapter 895, Florida Statutes, authorizes the Attorney General's Office to investigate RICO violations and institute civil proceedings to enjoin such violations. Section 895.02 (1), Florida Statutes, defines "racketeering activity" to mean "to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit" a series of crimes ranging from offenses against the environment to computer-related crimes. Civil remedies under RICO include injunction, forfeiture and disgorgement.

Other statutes such as civil theft laws and the False Claims Act (Section 68.081, Florida Statutes) also provide for civil remedies, and in some circumstances the common law authorizes the Attorney General's Office to act.

The focus in RICO actions historically had been on enterprises associated with importing, delivering and distributing illicit drugs. While these efforts met with a great deal of success, the number of such cases referred to this agency by various law enforcement offices have significantly declined. Instead, these cases are now taken to federal agencies that can offer local authorities a greater share of forfeiture proceeds and do not have to follow Florida's sentencing guidelines, discovery procedures and homestead protections. As a result, the role of the Attorney General's Office in RICO matters has shifted toward the civil prosecution of legal corporate enterprises engaged in theft or various schemes to defraud.

Complaints indicated that much of this conduct previously was ignored or handled administratively with little effect, but because they involve criminal activity they are better addressed by sanctions available under the RICO Act. These practices exist in otherwise legitimate business, including financial institutions, utility companies, medical providers, insurance companies and transportation firms. They typically affect large numbers of people, suggesting that even more citizens can benefit from additional resources directed against corporate "white collar crime" that has long been undetected, ignored or ineffectively addressed.

While the number of cases involving major corporate targets has grown significantly, the efforts of this section are limited by existing resources and the time-consuming nature of these cases.

Nevertheless, because of the positive impact these cases have on so many individual consumers, the Economic Crimes Division will continue to address corporate misconduct. Reductions in staff or other investigative resources would jeopardize several existing cases and severely limit the ability of this office to proactively pursue those perpetrating widespread schemes to defraud the public.

Antitrust (and Multistate Litigation) Division

Antitrust Enforcement

The Antitrust Division of the Attorney General's Office is responsible for enforcing state and federal antitrust laws and works to stop violations that harm competition and adversely impact the citizens of the state. Under Chapter 542, Florida Statutes, the Attorney General has the authority to bring actions against individuals or entities that commit state or federal antitrust violations, including bid-rigging, price-fixing, market or contract allocation, and monopoly-related actions. The efforts of the Attorney General's Office under the statute over the past three decades have yielded hundreds of millions of dollars in recoveries for various public entities and for Florida's consumers. The Antitrust Division (not including the Multistate Unit, discussed below) currently has 24 FTEs, 11 attorney and 13 support staff, all based in Tallahassee.

Securities Enforcement, Mortgage Fraud, and Complex Civil Enforcement

In reaction to the significant amount of fraud and scams arising from the financial crisis in Florida, in FY 2008-09, it became necessary for the Antitrust Division to devote resources to investigations of mortgage fraud and mortgage foreclosure rescue scams, pursuant to Chapter 501, Part II (the Florida Unfair and Deceptive Trade Practices Act). This effort has supplemented that of the Economic Crimes Division. Additionally, in FY 2009-10, pursuant to changes made to Chapter 517, Florida Statutes, the Antitrust Division added securities enforcement, in conjunction with the Office of Financial Regulation, the primary enforcing authority of the state securities laws. Three attorneys, a research economist, two paralegals and a financial investigator have devoted a significant amount of time over the past two years working in these two new areas.

Finally, in FY 2009-10, the Division also commenced a number of complex matters involving potential violations of Unfair and Deceptive Trade Practices Act. Two attorneys have been assigned to handle these matters as they arise.

Multistate Consumer Protection Enforcement

In April 2008, the Division absorbed the Multistate Litigation Unit which was transferred from the Economic Crimes Division. This Unit consists of five FTEs: a chief, an Assistant Attorney General, and two paralegals operating out of Fort Lauderdale and one Special Counsel working in Jacksonville. The Unit focuses exclusively on multistate consumer protection matters under the Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes, (FDUPTA) and typically takes a leading role in such matters, obtaining significant recoveries for Florida.

Statutory Authority

Under his antitrust enforcement authority, the Attorney General is broadly authorized to institute or intervene in civil proceedings and seek the "full range of relief" afforded by Chapter 542 or by federal laws pertaining to antitrust or restraints of trade. Chapter 542 also grants the Attorney General certain specific authority, including the power to target restraint of trade activities (Section 542.18, Florida Statutes); to investigate monopolies or conspiracies to establish monopolies, including the authority to review proposed mergers that may have a potential anti-

competitive impact upon the state and its citizens (Section 542.19, Florida Statutes); to investigate potential violations of state or federal antitrust laws (Section 542.27(3), Florida Statutes); to issue investigative subpoenas, called Civil Investigative Demands, to anyone believed to be in possession, custody, or control of any documentation or other information relevant to an antitrust investigation (Section 542.28, Florida Statutes); and to bring actions on behalf of the state, public entities, and/or natural persons to recover damages and/or civil penalties, as warranted, and to obtain the appropriate injunctive or other equitable relief (Sections 542.27(2) and 542.21-23, Florida Statutes).

Likewise, through his Multistate Litigation Unit, the Attorney General has broad authority, under FDUPTA (Chapter 501, Part II, Florida Statutes) to investigate and bring a variety of actions either as “the enforcing authority” or on behalf of one or more consumers or governmental entities to obtain damages, restitution, or other appropriate relief. (Sections 501.206, 501.207, 501.2075, Florida Statutes). This is the same authority upon which the Antitrust Division’s mortgage fraud and other civil complex enforcement efforts are based.

With respect to the Attorney General’s authority to enforce the securities laws, in 2009, the Legislature amended Chapter 517, the state securities law, to give the Attorney General’s Office the authority to undertake securities enforcement in conjunction with the Office of Financial Regulation. The law went into effect in July, 2009.

Active and Closed Case Counts and Current Trends

It is a priority of the Antitrust Division, in its primary role as the state’s antitrust enforcer, to ensure that those responsible for rigging bids on public entity procurement contracts, unlawfully fixing prices, or illegally monopolizing or attempting to monopolize a particular market or industry be held fully accountable for the overcharges or other harm suffered by Florida’s public entities and citizens as a result of the unlawful conduct. In its multistate and consumer protection roles, it is a priority of the Division to ensure that the State, its governmental entities, and its consumers are properly redressed for any unfair or deceptive trade practices and any unlawful conduct is stopped.

Trends and conditions pertaining to the Division’s enforcement efforts are assessed on an annual basis through an analysis of the number of active cases worked. The number of antitrust, securities, and mortgage fraud cases worked by the Division during Fiscal Year 2009-10 remained about the same, with 100 being worked, slightly down from the 103 worked in FY 2008-09. For the Multistate unit, the number of active cases worked grew from 28 to 48, for a total of 148 active cases for the Antitrust/Multistate Division as whole. This represents a total increase in active cases compared to last fiscal year. The number of closed antitrust, securities, and mortgage fraud matters handled decreased from 42 to 23, while the Multistate Unit closed 28 cases compared to 17 in 2008-09, for a total of 51 cases closed for the entire Division, down slightly from 59 in FY 2008-09.

Recoveries

In FY 2009-10, the Antitrust Division recovered \$7,103,448.32 from four major antitrust and mortgage fraud cases, down from \$7,476,163.54 from five major cases in 2008-09. This downturn in antitrust recoveries was bolstered somewhat by the Multistate unit’s recovery of

\$1,879,647 from three major cases, down from last year's multistate total of \$8,609,013 in six major cases. (These are Florida-only numbers and do not reflect the national multistate totals). The total for Antitrust and Multistate together for FY 2009-10 is \$8,983,095.32 from seven major cases, down from \$16,085,177 from eleven major cases in FY 2008-09. These monies were recovered on behalf of public entities and consumers, as civil penalties, or as reimbursement for attorneys' fees and costs, after the matter was resolved. Nearly \$2.5 million in recoveries were obtained from judgments that may not be easy to collect as the companies are now defunct or otherwise judgment-proof.

Recent Developments Affecting the Division

Several recent developments have resulted in a significant increased need for consistent and effective state antitrust, securities, complex civil and multistate consumer protection enforcement. At least six trends or conditions are apparent. **First**, in the antitrust area, there has been a **dramatic increase over the last five years in the number of proposed mergers, acquisitions, and joint ventures**. As the growth of the economy has slowed over the last year, corporate America has sought to consolidate. While not all proposed mergers and acquisitions are reviewed by the Attorney General's Office, those that may have a particular anti-competitive impact in Florida, thereby affecting Florida consumers, are closely scrutinized by the Antitrust Division. These reviews are necessary and in the public interest but do not generate any funding for the Legal Affairs Revolving Trust Fund, since fees and costs are not typically compensable.

A **second** recent development is a direct result of the souring economy. **As an economy worsens, it is expected that companies and individuals may be more likely to collude with competitors to fix prices, rig bids or otherwise violate the antitrust laws in order to maximize profits or preserve their financial status**. As potentially anticompetitive conduct increases, it is important that antitrust enforcement agencies do everything possible to stay vigilant and visible in their enforcement efforts. Doing so not only gives rise to significant recoveries for Floridians and Florida governmental entities but also, hopefully, creates a deterrent effect as well. The Antitrust Division is in the early stages of developing several promising hard-core price-fixing or bid-rigging cases that hopefully will bear fruit in the not too distant future.

A **third** trend that has been in place for the last few years with respect to antitrust enforcement is that **the federal antitrust enforcement agencies have not been as aggressive, as in years past**, in enforcing the federal antitrust laws. This has required state attorneys general to step up and fill the void wherever possible. Consequently, the Division has done everything possible to marshal available resources and fulfill its enforcement mandate for the benefit of Floridians.

This latter trend is also an important recent development with respect to multistate consumer protection enforcement, although not as apparent as it is with antitrust enforcement. What is deeply affecting consumer protection efforts as a whole, and our multistate efforts in particular, is the downturn in the economy, which will always result in a substantial increase in scams and other consumer protection violations.

Related to this is a **fourth** major trend: **the devastating effects of the financial crisis**. Florida has been number 1 in mortgage fraud and number 2 in mortgage foreclosures for more than a

year and it has often been at the center of controversy when it comes to state and federal securities law violations. Neither of these areas has traditionally been the primary enforcement responsibility of the Attorney General's Office. Mortgage-related enforcement issues have typically been handled, depending on the offending party, by the Department of Financial Regulation (mortgage brokers), the Office of Financial Regulation (banks) or the Department of Professional and Business Regulation (realtors, appraisers, title insurance companies). Likewise, under Florida law, the Office of Financial Regulation is tasked with enforcement of the state securities laws.

However, with the beginning of the financial crisis came every scam imaginable. In the mortgage area, fraud was rampant as were mortgage foreclosure rescue scams. In the securities area, Ponzi schemes and other get-rich quick schemes together with more sophisticated violations of state securities laws became prevalent. It was important for state enforcers to respond by strengthening existing enforcement statutes and increasing, where possible, the resources devoted to uncovering unlawful schemes. This task was not easy to accomplish in a bad economy with no General Revenue dollars available to fund new positions. **Instead, the Attorney General went to the Legislature and, in 2007, successfully beefed up his ability to pursue mortgage foreclosure rescue scams under Section 501.1377, Florida Statutes. In 2008, he was successful in obtaining jurisdiction over enforcement of the state securities laws in conjunction with the Office of Financial Regulation.** These were important developments that allowed the Office to successfully pursue civilly several mortgage fraud and mortgage foreclosure rescue cases as well as securities cases. The downside of these initiatives was twofold: First, resources were expended that otherwise would have been applied toward antitrust and other kinds of consumer protection enforcement. Second, while mortgage fraud and securities cases often result in bad conduct being stopped, they do not typically result in collectable money judgments. Accordingly, there is no opportunity for the enforcer to collect fees and costs to compensate for the time and resources put into the enforcement activity. This is not a sustainable model long-term, since the Antitrust Division is currently the unit handling the majority of these matters and is entirely trust-funded.

The Attorney General's Office, wherever possible, does everything it can to reduce duplication of effort and otherwise preserve its limited resources. For example, the unit often combines resources with other state Attorneys General, certain other state regulators, and the federal enforcement agencies where appropriate. This consolidation of limited resources has allowed the Attorney General's Office to more thoroughly address antitrust, securities, mortgage fraud and multistate consumer protection concerns than would be possible without such a cooperative effort.

Through this cooperative effort with other agencies, the Multistate Litigation Unit had a good year in recoveries, obtaining almost \$2 million for Florida from just three multistate cases in which they were a co-lead state. Over \$1.5 million of this sum came from just one case, Pfizer-Geodon, involving the off-label marketing of pharmaceuticals.

Despite good collaborative efforts with other enforcement agencies, the sheer complexity and size of the types of cases undertaken by the Division can constitute a significant resource drain and can take years to resolve. Currently, the Division is deeply immersed in significant

discovery on behalf of several state agencies that purchased Vioxx based upon unlawful off-label marketing of the prescription pain-reliever. The case is scheduled to go to trial next Spring and is currently a significant drain on resources with no guarantee, at this time, of a successful result. Complaints have also been filed in two other complex litigation matters, Filters and LCDs, which also will soon be in discovery. The unit can therefore expect an increase in the coming fiscal year in its litigation expenses, but has an excellent record of eventually recouping these expenses at the successful conclusion of a case. However, such a result can take years to achieve.

Related to the complexity of the case is a **fifth trend** that is affecting the Division's performance. **Recent federal court decisions, particularly in the antitrust area, have not been generally favorable to plaintiffs including enforcers.** In many instances, the bar has been raised when it comes to what degree of evidence is required to survive dismissal and summary judgment and certain kinds of damages cases have resulted in complicated settlement allocation and distribution schemes that can be difficult to achieve and expensive to administer. More and more, it is becoming too costly to pursue lengthy antitrust cases when it is less likely that the consumers and public agencies the Division represents will be anywhere near fully compensated. This hopefully is temporary as it remains important that the Division continue its antitrust enforcement mandate, particularly given the many devastating effects of the current poor economy combined with the continuing financial crisis.

Finally, a **six development** that limited what the Division could accomplish came at the very end of the fiscal year: **the Deepwater Horizon Oil Spill.** Because civil complex litigation is certain to result from this tragedy, three of the Division's lawyers gave nearly 100% of their time during the months of May and June 2010 and it remains an agency priority.

Division Highlights

In addition to the Multistate Geodon matter mentioned above, the Division also attained some significant antitrust recoveries during the fiscal year. First, the Division successfully resolved an extremely resource-intensive case against Abbott Laboratories, involving the cholesterol-lowering drug, Tricor. Florida was the lead in the federal multistate antitrust lawsuit and led the settlement negotiations, resolving the matter for \$22.5 million. Florida's share was \$3,607,455, which went to reimburse public entities for overcharges paid for the drug and to cover fees and costs incurred by the Division. This case was just the latest in a long list of successful antitrust cases against pharmaceutical manufacturers for anticompetitive conduct. Additionally, the Division recovered over \$1 million from a manufacturer of marine equipment. The company allegedly rigged bids on port authority contracts at four ports in Florida.

Not all antitrust cases generate dollars nor are they expected to. In addition to the cases that are opened and then closed when it is determined that no action is warranted, it is important to note that eleven of the 100 active cases worked by the Division in FY 2009-10 were merger reviews, three more than in FY 2007-08. Such reviews, intended to ensure that the proposed mergers will not adversely affect competition, typically do not result in dollar recoveries, but, can, nonetheless, be very resource-intensive and time-consuming, despite our best efforts to share resources with other states or federal agencies also reviewing the proposed transaction.

Also in FY 2009-10, the unit pursued a number of mortgage-related matters and was able to obtain over \$2.5 million in recoveries from three cases, but only about \$87,000 of that amount was non-judgment-proof. These cases are important to pursue for their deterrent effect and because very little is being done elsewhere in state or federal government, but the Division will not be able to continue to do so in the long-term without general revenue funding.

The same is true for certain kinds of securities enforcement. For example, in April 2010, the Division was able to uncover a Ponzi investment scheme involving a Florida-based investment company called Botfly, LLC before it collapsed and successfully obtained a court order freezing over \$4 million in assets that eventually will be returned to investors. While an important case to bring, it will likely not be one where the significant fees and expenses incurred by the Division will ever be recovered. Again, without some change in funding source, the Division will not be able to handle these cases for the long-term.

Effects Staff Reduction

Any permanent reduction in staff, particularly since, due to budget constraints, there have been minimal staff increases authorized for the Division since 2000, would greatly impede the Attorney General's Office enforcement efforts on behalf of the people of Florida. Complex enforcement cases, by their very nature are time-consuming, resource-draining, and extremely document-intensive. They can take several years to resolve. This is certainly the case now with several cases currently in intensive discovery.

Given the many new and increasing resource demands on the Division, as it continues to make every effort to meet the needs of Florida citizens and aggressively pursue potential violations of the law that harm consumers and competition, any further reduction in staff would greatly impact the Division's enforcement efforts, especially at this time of economic unpredictability and anticipated resulting increase in unlawful activity. Investigations would not be brought; litigation would not be filed; significant financial recoveries for the benefit of the General Revenue Fund, state and local public entities and consumers would be lost; and mergers would be consummated without adequate review, all to the detriment of the state and its citizens.

Child Predator CyberCrime Unit

History & Responsibility

The Child Predator CyberCrime Unit (CPCU) began as a pilot program in 2005 with one supervising attorney, one lieutenant and two investigators. The need for law enforcement to patrol the internet was made apparent based on the alarming increase in internet crimes against children as well as Florida's rank as 4th in the nation for the volume of child pornography images trafficked online. Based on the pilot's swift success, CPCU was established by the Florida Legislature through passage of Florida Statute §16.61 in April 2006:

16.61 Cybercrime Office. There is created in the Department of Legal Affairs the Cybercrime Office. This office may investigate violations of state law pertaining to the sexual exploitation of children that are facilitated by or connected to the use of any device capable of storing electronic data.

The Cybercrime Office is referred to now as the Child Predator CyberCrime Unit (CPCU); it was placed in the Department of Legal Affairs to ensure fulltime dedication to the pro-active investigations and a high level of legal skill applied to these new technology based crimes against children. Funding to expand the unit to cover the entire state was approved by the Legislature in 2007. The plan called for 7 offices and 56 staff made up of skilled prosecutors, law enforcement, victim advocates and support staff. Expansion began in August 2007. A grant to fund a team of cybercrime victim advocates for the unit was also awarded the same year. Full expansion was later modified due to economic changes. The current structure of the unit consists of five small teams in the following offices statewide: Milton (NW FL), Jacksonville (NE FL), Orlando (CE FL), Tampa (CW FL) and Fort Lauderdale (S FL). See Exhibit A (CPCU Organizational Chart).

Recognition & Acclaim

CPCU's multidisciplinary team of prosecutors, law enforcement investigators, and victim advocates has been nationally recognized as a model for the nation. The unit has received national and international recognition, including the appearance of the Director and the Chief of Law Enforcement as guests of the Oprah Winfrey show (March 2009), the Director's presentation to Home Secretary Alan Johnson of the United Kingdom (August 2009), and the request of the team to share expertise and information with members of RTE TV in Ireland, (April 2010). In addition, members of the unit have been invited to present at numerous national forums, including: the National Association of Attorneys General (March 2010), National District Attorneys Association (Sept 2009) Conference. The unit has also been called on to share information and techniques with representatives from several other states.

Current Operation

The unit operates on a taskforce model, both internally, with a diverse team of experts, and externally, with multiple outside agencies. The mission of the team is:

Protecting children from computer facilitated sexual victimization by working cooperatively on a statewide basis with law enforcement and prosecution agencies to share resources and expertise, while serving the needs of child-victims or childhood victims of cybercrime and preventing the spread of these crimes through education and community awareness.

Working cooperatively is critical to success. It is imperative that information and skills needed to respond to cybercrimes effectively is shared with all prosecutors and law enforcement in Florida. For this reason, attorney Section Chiefs share resources and expertise with local assistant state attorneys; CPCU law enforcement help local law enforcement who are not familiar with digital evidence; and victim advocates attend local schools to identify victims of cybercrime and provide resources and training to other professionals about new types of cybercrimes, such as cyber-stalking, cyber-bullying, and the most recent developments of “sex-ting” and “sex-tortion.”

Three (3) attorney section chiefs and the Director review all cases sent to prosecution. With their oversight, the team has a 100% conviction rate on all cybercrime arrests for fiscal year 2009/2010. As experts in this field, they have conducted training for local prosecutors, judges, law enforcement, as well as similar national and international professionals. Section Chiefs have been cross-sworn to assist as local assistant state attorneys, assistant statewide prosecutors and as special designated assistant U.S. attorneys.

Fourteen (14) sworn investigators under the supervision of one Chief conduct pro-active investigations on the internet in order to stop predators before they reach another child. This unit is the ONLY such team in the state able to do this on a fulltime basis. In a few short years, CPCU has arrested over 220 predators. In FY 2009/2010, they arrested seventy-five (75) predators. In addition to opening pro-active investigations, law enforcement investigated fifty-seven (57) “cybertips” referred by the national hotline run by the National Center for Missing and Exploited Children, and opened 80 cases to assist agencies outside. To ensure officer safety and increase resources, CPCU creates taskforces with other local agencies. The unit has cross-sworn forty-one (41) local law enforcement, thereby, erasing jurisdictional barriers and strengthening police presence on the internet. To date, the unit has assisted over 100 different local, federal, and state law enforcement agencies in cybercrime cases. There are currently twenty-six (26) partnership agreements with outside state, local and federal law enforcement. See Exhibit B (List of Memorandums of Understanding).

Seven (7) victim advocates and one (1) volunteer coordinator under the supervision of one chief advocate serve the child victims of cybercrime for the state. This team is 100% funded by a grant from the Victims of Crime Act (VOCA). Because of the grant structure, advocates must dedicate all their time to providing “direct victim services”, and they do that by serving victims who are identified either by law enforcement or through self-report after seeing the cyber safety presentation at their school. In the past few years, the unit has reached over 700,000 children with its interactive and effective cyber-safety presentation conducted at middle and high schools throughout the state of Florida. A total of eighty-five (85) children have reported their abuse after seeing the cyber safety presentation. In addition to these 85 victims, over 20,000 students who attended a school presentation disclosed that they too were victimized online through either the receipt of pornography or a direct sexual solicitation online. Victim advocates provided these

children with information and education and, when needed, therapeutic services and support. To date, the unit has opened over 290 individual cases for abused children and provided the needed services for each child and his or her family.

Additionally, CPCU created the first and only online notification system for victims of child pornography through the award winning website VICTRE.com. Further described below, this website is managed by CPCU pursuant to Florida statutes § 874.002 (3):

847.002 Child Pornography Prosecutions

(3) In every filed case involving an identified victim of child pornography, as Defined in s. 960.03, the prosecuting agency shall enter the following information into the Victims in Child Pornography Tracking Repeat Exploitation database maintained by the Office of the Attorney General:

- (a) The case number and agency file number.***
- (b) The named defendant.***
- (c) The circuit court division and county.***
- (d) Current court dates and the status of the case.***
- (e) Contact information for the prosecutor assigned.***
- (f) Verification that the prosecutor is or is not in possession of a victim impact statement and will use the statement in sentencing.***

Initially the advocates were responsible for providing services to thirty (30) victims of child pornography; however, in just two years that number has tripled. Currently, there are one-hundred (100) children who have been victimized by the creation of child pornography images of their sexual abuse. This number increases every day.

CPCU is committed to stopping the sexual exploitation of children on the internet through the aggressive arrest and prosecution of the offenders, and through diligent educational outreach to all relevant groups.

2009- 2010 Outcomes & Achievements

COPS Grant and Forensic Vehicles

In the past fiscal year CPCU applied for and was awarded federal grant funding from the COPS Office in the U.S. Department of Justice. This grant provided funding for two mobile forensic vehicles/lab units, a cost savings of \$208,000. The two mobile forensic vehicles will be used by CPCU law enforcement teams during search warrant executions. These mobile labs will better the efficiency and quality of cybercrime investigations by facilitating on-scene forensic previews and interviews with relevant parties. They will also allow law enforcement in CPCU to provide high technology assistance to other local agencies.

ECRA as a National Model

The CyberCrime Unit is a pioneer in the field of child pornography victim rights. During the 2008 legislature, CPCU was instrumental in passing Florida's Exploited Children's Rights Act (ECRA), which took effect October 2008. ECRA is a "first of its kind" law that provides victims of child pornography with a mechanism for participating in the legal system. ECRA allows victims to be heard and considered by the court during the prosecution of individuals possessing images of the victim's sexual abuse, as well as providing the victims the ability to sue the

offender in civil court for damages related to the possession and distribution of the images. Additionally, the Attorney General’s website V.I.C.T.R.E.com can be used nationwide as a notification system for victims of child pornography whose abuse images are found on the computer of a criminal defendant in Florida.

The news has received much attention and is a national model for the development of rights for victims of child pornography. Other states, including Massachusetts, Michigan and Washington regularly contact CPCU for advice about deploying similar laws in their own states. Members of CPCU have been invited to present the features of this new law at several conferences, such as the National Association of Attorneys General’s (NAAG) Presidential Initiative in 2010, the Florida Network of Child Advocacy Center’s Annual Conference (2010), and the Unsafe Havens Course run by the National District Attorneys Association and the Center for the Prosecution of Child Abuse (2009).

In 2008 there were only thirty victims of child pornography in the state of Florida; there are now over 100 such victims, several of whom are subjected to continued exploitation by the distribution of images of their abuse. This initiative continues to develop. Developments for the future include filing the first civil claim on behalf of these victims. The unit is prepared to move forward on this in the coming months.

2009- 2010 Statistics:

Law Enforcement & Prosecution Statistics	
Arrests	75
Cases Opened	302
Assists to other Agencies	80
Search Warrants Executed	147
Forensic Exams Completed	218
Cyber Safety Presentations	99
For Youth	22
For Adults	77
Conviction Rate	100%
Victim Advocacy Statistics	
Students Reached	259,714
Students Victimized Online	4,197
Received Pornography	1,869
Solicited Online	2,328
Presentations given	2,754
Presented by OAG	1,570
Presented by SRO	1,176
SROs Trained 09/2010	313
SROs trained YTD	1,070

Program Plan for Sustained Success

The CyberCrime Unit has been a success and will continue to be a success. To bring about the very best protection of Florida's children, improvements are needed to continue the sustained success of Florida's expert cybercrime team.

CPCU was selected for a routine audit by the OAG Inspector General in 2009. The audit resulted in a positive report on CPCU operations. Additionally, the audit report provided CPCU leadership with direction on areas needing development. The primary areas where development and oversight is needed include: upgrading unit equipment and evidence; hiring a logistics coordinator; hiring an attorney bureau chief; expanding victim advocate duties; and completing the unit build-out.

Conclusion

Our team members deal daily with the most heinous form of contraband existing in the criminal world. The world of online sexual exploitation of children contains shocking and horrific abuses of children, often more graphic than any citizen can image, and more pervasive than anyone would want to know. Child pornography is defined as visual images of infants, toddlers, and children under 18, in graphic sexual positions or being subjected to explicit sexual activity. Child pornography consists of both photos and videos of actual child rape, molestation, and sexual abuse. These crime scene photos and movies depict violence such as bondage, rape, bestiality, or torture of children as young as infants. Studies have shown that over 54% of those offenders arrested for possession of child pornography, have images of prepubescent children. In fact 6% of those arrested now have images of infants and toddlers being subjected to sexual abuse. Being exposed to this material has a negative consequence for our team, but being able to specialize is what allows CPCU to maintain its expertise, therefore, preserving Florida's leadership in cybercrime.

Medicaid Fraud Control Unit

The Medicaid Fraud Control Unit (MFCU) is responsible for investigating fraud committed by upon the Medicaid Program by providers, as well as fraud in the administration of the program. This authority is granted under both federal and state law (Section 1903 of the Social Security Act, Section 42 of the Code of Federal Regulations, and Chapter 409, Florida Statutes).

The MFCU investigates a diverse mix of health care providers, including doctors, dentists, psychologists, home health care companies, pharmacies, drug manufacturers, laboratories, and more. Some of the most common forms of provider fraud involve billing for services that are not provided, overcharging for services that are provided, or billing for services that are medically unnecessary.

The MFCU is also responsible for investigating the physical abuse, neglect, and financial exploitation of patients residing in long-term care facilities such as nursing homes, facilities for the mentally and physically disabled and assisted care living facilities. The quality of care being provided to Florida's ill, elderly, and disabled citizens is an issue of great concern and a priority within the MFCU.

In 2004, MFCU implemented its PANE (Patient Abuse, Neglect and Exploitation) Project in Miami-Dade County. This project is a collaborative effort among several agencies to address the abuse and exploitation of patients in long term care facilities and results have been very positive. PANE was expanded during fiscal years 2005 and 2006 to Tallahassee, Tampa, Jacksonville, Orlando, West Palm Beach and Pensacola. The PANE project continues to operate statewide.

Medicaid providers and others who are arrested by MFCU personnel are prosecuted by local state attorneys, the Office of Statewide Prosecution, the United States Attorney or occasionally, MFCU attorneys who are Special Assistant State Attorneys or Special United States Attorneys as cross-designated by those agencies. During Fiscal Year 2009-2010, the Medicaid Fraud Control Unit had 95 warrants issued for arrests, and reported 90 convictions/pre-trial interventions. Sometimes cases that may not be suitable for arrest and criminal prosecution are litigated by MFCU attorneys using a variety of civil statutes. The MFCU recovered more than \$143 million during FY 09-10.

The MFCU also continued its leadership role in a variety of multi-state false claims investigations. The pharmaceutical industry is the subject matter of many of these investigations and several of these investigations have resulted in multi-million dollar settlements for Florida. In addition to its role in multi-state investigations, MFCU is actively litigating cases against major pharmaceutical manufacturers in Leon County, Florida. The MFCU has determined that the defendant drug manufacturers artificially inflated the prices of their drugs in a scheme that has cost the Florida Medicaid Program millions of dollars.

Ongoing Inter-Agency State/State & State/Federal Working Groups

NORTHERN REGION –

The North Florida Health Care (Fraud) Task Force – 9 members

Florida Medicaid Fraud Control Unit (MFCU)

Federal Bureau of Investigation (FBI)
Office of the United States Attorney for the Northern District of Florida (USAO)
Drug Enforcement Administration (DEA)
Florida Department of Health (DOH)
Florida Department of Law Enforcement (FDLE)
Florida Department of Financial Services - Division of Insurance Fraud
Defense Criminal Investigative Service
US Department of Health and Human Services, Office of Investigations, is an occasional participant in this Task Force.

Northeast Florida Healthcare Fraud Interagency Work Group - 5 members

Florida Medicaid Fraud Control Unit (MFCU)
Agency for Health Care Administration (AHCA)
Department of Children and Families (DCF)
Long Term Care Ombudsman
Agency For Persons With Disabilities (APD)

Northeast Florida Interagency Task Force - 10 members

Florida Medicaid Fraud Control Unit (MFCU)
Federal Bureau of Investigation (FBI)
Office of the United States Attorney for the Middle District of Florida (USAO)
Drug Enforcement Administration (DEA)
Florida Department of Health (DOH)
Florida Department of Law Enforcement (FDLE)
Florida Department of Financial Services - Division of Insurance Fraud
Jacksonville Sheriff's Office
Department of Homeland Security
US Department of Health and Human Services, Office of Investigations, is an occasional participant in this Task Force.

CENTRAL REGION –

TAMPA

Federal Health Task Force – 8 members

Florida Medicaid Fraud Control Unit (MFCU)
Federal Bureau of Investigation (FBI)
Office of the United States Attorney for the Northern District of Florida (USAO)
Drug Enforcement Administration (DEA)
Florida Department of Health (DOH)
Florida Department of Law Enforcement (FDLE)
US Department of Health and Human Services - Office of the Inspector General - Office of Investigations
Internal Revenue Service (IRS)
Food Drug Administration (FDA)
Local Law Enforcement as needed

HHS/MFCU Medicare/Medicaid –3 members

Florida Medicaid Fraud Control Unit (MFCU)
US Department of Health and Human Services - Office of the Inspector General - Office of Investigations
Federal Bureau of Investigation (FBI)

ORLANDO

Volusia County Task Force – 7 members

Florida Medicaid Fraud Control Unit (MFCU)
Volusia Bureau of Investigations
Florida Department of Law Enforcement (FDLE)
Volusia County Sheriff's Office
Orlando Metropolitan Bureau of Investigation (MBI)
Orlando Police Department
Orange County Sheriff's Office

HHS/MFCU Medicare/Medicaid –3 members

Florida Medicaid Fraud Control Unit (MFCU)
US Department of Health and Human Services - Office of the Inspector General - Office of Investigations
Federal Bureau of Investigation (FBI)

SOUTHERN REGION –

South Florida Health Care Fraud Working Group

Florida Medicaid Fraud Control Unit (MFCU)
Federal Bureau of Investigation (FBI)
Office of the United States Attorney for the Southern District of Florida (USAO)
Florida Department of Health (DOH)
Florida Department of Law Enforcement (FDLE)
Office of the Attorney General, Statewide Prosecutor
US Department of Health and Human Services - Office of the Inspector General - Office of Investigations
Agency for Health Care Administration (AHCA)
Centers for Medicaid/Medicare (CMS)

Medicare-Medicaid (Medi-Medi)Steering Committee -

Florida Medicaid Fraud Control Unit (MFCU)
Agency for Health Care Administration (AHCA) – Medicaid Program Integrity (MPI)
US Department of Health and Human Services - Office of the Inspector General - Office of Investigations

ZPiC Zone & Meeting – 7 members

Florida Medicaid Fraud Control Unit (MFCU)
Federal Bureau of Investigation (FBI)
Office of the United States Attorney for the Southern District of Florida (USAO)
Florida Department of Health (DOH)
US Department of Health and Human Services - Office of the Inspector General - Office of Investigations
Agency for Health Care Administration (AHCA)
Centers for Medicaid/Medicare (CMS)

West Palm Beach Health Care Task Force – 8 members

Florida Medicaid Fraud Control Unit (MFCU)
Federal Bureau of Investigation (FBI)
Office of the United States Attorney for the Southern District of Florida (USAO)
Florida Department of Health (DOH)
Florida Department of Law Enforcement (FDLE)

Palm Beach County Sheriff's Office
 Multiple Palm Beach County Police Departments (varies)
 Office of the Attorney General, Statewide Prosecutor
Multi-Agency Diversion Task Force - Palm Beach County Sheriff's Office
 Florida Medicaid Fraud Control Unit (MFCU)
 Federal Bureau of Investigation (FBI)
 U.S. Department of Justice
 Florida Department of Health (DOH)
 Collier County Sheriff's Office
 South Florida HIDTA
 Broward County Sheriff's Office
 Florida Atlantic University (FAU)
 Indian River County Sheriff's Office
 Martin County Sheriff's Office
 Florida Department of Law Enforcement (FDLE)
 Office of the Attorney General, Statewide Prosecutor
 St. Lucie County Sheriff's Office
STATEWIDE -
Case Staffing and Fraud Initiatives – Interagency Program
 Florida Medicaid Fraud Control Unit (MFCU)
 Agency for Health Care Administration (AHCA) – Medicaid Program Integrity (MPI)
Case Staffing and Projects– Interagency Program
 Florida Medicaid Fraud Control Unit (MFCU)
 Agency for Health Care Administration (AHCA) – Office of Inspector General
Managed Care Projects & Staffing– Interagency Program
 Florida Medicaid Fraud Control Unit (MFCU)
 Agency for Health Care Administration (AHCA) – Managed Care Unit
 Department of Financial Services – Division of Insurance Fraud
Department of Health Projects & Staffing– Interagency Program
 Florida Medicaid Fraud Control Unit (MFCU)
 Florida Department of Health (DOH)
Agency for Persons with Disabilities– Interagency Program
 Florida Medicaid Fraud Control Unit (MFCU)
 Agency for Persons with Disabilities (APD)
 Agency for Health Care Administration (AHCA) – Medicaid Program Integrity (MPI)
Interagency Fraud Initiatives and Trends – Managers Meeting and Briefing
 Florida Medicaid Fraud Control Unit (MFCU)
 Agency for Persons with Disabilities (APD)
 Agency for Health Care Administration (AHCA) – Medicaid Program Integrity (MPI)
 Florida Department of Health (DOH)
 Department of Elder Affairs
FDLE Fusion Intelligence Center
 Florida Medicaid Fraud Control Unit (MFCU)
 Florida Department of Law Enforcement (FDLE)
 Federal agencies, state multi-disciplinary partners and includes outreach to private sector entities

Medicare-Medicaid (Medi-Medi) Steering Committee
Florida Medicaid Fraud Control Unit (MFCU)
Agency for Health Care Administration (AHCA) – Medicaid Program Integrity (MPI)
US Department of Health and Human Services - Office of the Inspector General - Office
of Investigations

Lemon Law

Florida's Lemon Law, Chapter 681, Florida Statutes, allows consumers to receive replacement motor vehicles or a refund of their purchase price when their new or demonstrator motor vehicles are subjected to repeated, unsuccessful warranty repairs for the same defect or are constantly in the shop for repair of one or more different defects. The Attorney General's Office enforces manufacturer and dealer compliance with the Lemon Law. The office also provides a forum for resolution of disputes between consumers and manufacturers that arise under the Lemon Law. Additionally, the office is statutorily responsible for approving and monitoring the RV Mediation/Arbitration Program, an industry-sponsored dispute resolution program currently administered by the Collins Center for Public Policy.

The New Motor Vehicle Arbitration Board, which is administered by the Lemon Law Arbitration division, conducts arbitration hearings throughout the state to resolve disputes arising between consumers and car and light truck manufacturers under the Lemon Law. Members of the New Motor Vehicle Arbitration Board are appointed by the Attorney General. Appointments are made annually in June for terms beginning July 1.

Manufacturers and sellers are required to disclose defects in repurchased "lemons" to consumers before selling them as used vehicles. Manufacturer compliance with statutory resale notification requirements remained strong in FY 2009-10. Information from these notices is researched, entered in a database and transferred to the Attorney General's website for use by consumers as they shop for used motor vehicles. It is also a starting point for determining whether the subsequent buyers of these vehicles received disclosure notices from the sellers. The division has continued to monitor, notify and enforce manufacturer and seller practices in this area.

The bankruptcies of two major manufacturers, GM and Chrysler, along with the economic recession, resulted in reductions in new motor vehicle sales which significantly reduced program revenues and the arbitration caseload during FY 2009-10. The Lemon Law Arbitration division continued to monitor the manufacturer-sponsored RV Mediation/Arbitration Program in FY 2009-10, which experienced a drastic reduction in caseload attributable to the recession and the bankruptcies or closings of numerous RV manufacturers.

Open Government Mediation

Open government litigation can be costly to both the citizen and the public agency that serves as the custodian of the record being sought. Florida laws covering public access to meetings and documents are among the broadest in the nation, and court decisions have afforded a liberal interpretation to the rights of access set forth in these laws. The Government in the Sunshine Law (Section 286.011, Florida Statutes) establishes a right of access to meetings of governmental boards or commissions, while the Public Records Law (Chapter 119, Florida Statutes) provides that public records shall be available for inspection or copying by any member of the public.

Both the Sunshine Law and the Public Records Law provide that a willful violation constitutes a misdemeanor, and violations can also be prosecuted by the State Attorney as noncriminal infractions. The two laws contain provisions providing for the payment of attorneys' fees in the event that a governmental agency denies access and is the losing party in subsequent litigation.

The consequences befalling an agency that violates the public records law are significant and potentially quite expensive. To address this problem, the open government mediation program was established within the Attorney General's Office to serve as an alternative to litigation in open government disputes. A 1995 article in the Brechner Report, published by the Freedom of Information Center at the University of Florida, estimated that the program had saved thousands of dollars in public funds that otherwise might have been spent on legal fees in public records cases.

The open government mediation program is set forth in Section 16.60, Florida Statutes. The goal is to provide a vehicle for the government and a citizen to resolve public access controversies quickly and inexpensively. This priority ensures that the program can be an effective tool for those who are seeking to promptly address a dispute. No monies have been appropriated to fund this program, but in 1996 the program received a Davis Productivity Award in recognition of its effectiveness in averting litigation and saving public funds that might otherwise have been spent for payment of attorneys' fees. Attorneys in the Opinions Division serve as mediators under the program established pursuant to section 16.60, Florida Statutes.

Civil Rights

The Office of Civil Rights (the Office or OCR), created in 1992, operates under Section 16.57, Florida Statutes, and the Florida Civil Rights Act, Chapter 760, Florida Statutes. OCR enforces civil rights laws on behalf of the State of Florida through litigation, education and outreach, and legislative proposals.

Civil rights enforcement continues to be a top priority for the Agency. The Attorney General has authority to file civil actions for damages and injunctive relief in cases where there is a pattern or practice of discrimination or that raises an issue of great public interest. Our office is committed to developing and prosecuting cases and partnering with divisions and agencies, where appropriate, to improve civil rights enforcement.

Due to the continuing housing crisis in Florida, OCR remains focused on protecting the citizens of Florida and enforcing the laws under the Florida Fair Housing Act. Specifically, we are looking at mortgage lending and servicing cases, discrimination in sales, rentals and policies, and discrimination against persons with disabilities. Our office's education and outreach continues to focus on Preventing Bias crimes.

Cases

The Office uses aggressive investigation and litigation strategies to enforce civil rights. It uses non-traditional civil rights statutes, where appropriate, in addition to traditional civil rights laws to maximize opportunities for success. It also uses its pre-suit subpoena power to investigate cases where voluntary compliance is not received.

Examples of recent litigation or case settlements include:

Milsap v. Cornerstone Residential Management, Inc.

This past year, the Office of Civil Rights successfully argued in Federal Court that a private individual has a right to file a civil action for discrimination directly in State or Federal Court under the Florida Fair Housing Act without exhausting their administrative remedies.

On May 5, 2008, the Court granted in part and denied in part Defendants' Motion to Dismiss Third Amended Complaint in *Milsap v. Cornerstone Residential Management, Inc.*, No. 05-60033-CIV, a housing discrimination case alleging discrimination against families with children. In the Motion to Dismiss, the Defendants argued that Plaintiffs' Florida Fair Housing Act (FFHA) claim was barred because Plaintiffs had failed to exhaust their administrative remedies. The Plaintiffs had filed their action in federal court without first filing with the federal or state administrative agency - the U.S. Department of Housing and Urban Development or the Florida Commission on Human Relations, respectively.

The Court dismissed all claims under the FFHA without prejudice, relying on *Belletete v. Halford*, 886 So. 2d 308 (Fla. 4th DCA 2005) (the language in the FFHA which provides that any person "may file a complaint" with the Florida Commission on Human Relations, means that

the person must exhaust administrative remedies as a statutory prerequisite for filing a civil action for discrimination under the FFHA.

The Attorney General moved to intervene for the limited purpose of presenting argument that the *Belletete* opinion was wrongly decided and that, therefore, the Court should revisit its order requiring exhaustion of administrative remedies under the FFHA.

After briefing and argument of counsel on behalf of the Attorney General and the parties, the Court held that “were this issue before the Florida Supreme Court, that Court would not follow the *Belletete* decision on this narrow issue, and that this Court’s ruling dismissing the FFHA claims for failure to exhaust administrative remedies based on *Belletete* was incorrect.” *Milsap v. Cornerstone Residential Management, Inc.*, 2010 WL 427436 (S.D. Fla. 2010).

This is an important win for the citizens of Florida because the *Milsap* Order and Opinion is of first impression for the federal courts and its holding allows FFHA claims to be brought in federal court without exhaustion of state administrative remedies.

Wheat v. Bayou Breeze

Manning v. The Links North

These two cases involved familial status discrimination. In both cases the condominiums’ rules and regulations were discriminatory against families with children. Both condominiums enforced restrictive rules and regulations even though they were not registered as 55 and older communities. Each party filed a complaint through the Florida Commission on Human Relations and subsequently the Attorney General was elected to enforce the cause findings. Settlements were eventually reached which included monetary damages, as well as revisions to both condominiums’ rules and regulations so that families with children would not be discriminated against in the future.

Keenan v. Seaside Resort, Inc.

Marengo v. Fraser

These matters involved disability discrimination. Both parties requested certain reasonable accommodations so that they may afford the equal opportunity to use and enjoy their dwelling. Upon denial of those requests, complaints were filed with the Florida Commission on Human Relations. Shortly thereafter, the Commission issued findings of reasonable cause, and the Attorney General Office of Civil Rights was elected to enforce the finding. Settlements were reached which included monetary damages, injunctive relief, plus fees and costs.

Education and Outreach

Attorneys lecture around the state as part of the Office of Civil Right’s Education and Outreach program. For over a decade, the Office has had a Hate Crime Training Program for law enforcement officers as well as training for community leaders. The Office has trained more than 200 law enforcement departments throughout the state. Other educational programs have included presentations on Fair Housing, Human Trafficking and Enforcement Strategies for Civil Rights cases.

Florida Commission on Human Relations

This Office of Civil Rights works with the Florida Commission on Human Relations (Commission) to enforce the provisions of the Florida Fair Housing Act. It receives housing cases from the Commission where “cause” has been determined and the parties are unable to resolve the case amicably.

The types of cases and projects initiated by the Office of Civil Rights are often time consuming and document intensive. Its attorneys travel throughout the state to attend hearings, meet with witnesses, and provide training and education for various organizations. The Office of Civil Rights is currently comprised of two attorney positions, which include the Director and an Assistant Attorney General, plus two support staff positions, a legal assistant and an administrative assistant. Any reduction in resources would severely impair the Office’s ability to enforce the civil rights laws on behalf of the citizens of Florida.

Solicitor General

The primary responsibility of the Office of the Solicitor General (OSG) is to represent the State of Florida in significant litigation affecting the powers, duties, and responsibilities of all branches of state government. The Solicitor General directs, coordinates, and represents the State in cases of constitutional importance before the United States Supreme Court, the Florida Supreme Court, the Eleventh Circuit Court of Appeals, and the Florida district courts of appeal. The Solicitor General also is involved at the trial level in significant civil litigation cases of statewide impact. The Solicitor General also reviews and prepares amicus curiae briefs in support of State policy goals in state and federal appellate court cases, and advises the Attorney General on legal and policy issues affecting the State.

A national trend favors the establishment of a state-level office of Solicitor General, particularly among states that are proactively involved in protecting the interests of their respective states in state and federal courts.

The Office of the Solicitor General was established in the General Appropriations Act on July 1, 1999, as requested by the Attorney General's Office in conjunction with The Florida State University College of Law. The current authority for the office is outlined in: 1) Appointment by the Attorney General to the Solicitor General; and 2) Semester Assignment letters from Dean of The Florida State University College of Law to the Solicitor General. The Solicitor General holds the Richard W. Ervin Eminent Scholar Chair at the College of Law and teaches one course of approximately 15 students during the Fall and Spring semesters. The Solicitor General's academic position at The Florida State University is subject to the Rules and Regulations of the Florida Board of Education and The Florida State University, as well as the Constitution and Laws of the State of Florida.

The office has a system to identify, review, track, and monitor all state and federal civil cases that meet the criteria for potential interest or impact, based on the inclusion of constitutional issues or issues of great importance to the State of Florida or the Attorney General's Office. The OSG also facilitates communication with state agency directors, general counsels, the Governor's legal staff and the legislative branch to evaluate the progress and policy decisions involving all cases in which the Solicitor General is involved.

The cases in which the Solicitor General participates, by their nature, have statewide impact. In most instances, the impact of these cases on the public at large is indirect because they involve abstract, but important, constitutional issues such as the distribution of powers between the State and federal governments or among the branches of state government. In some instances, however, the Solicitor General will represent the State where its interests or the interests of its citizens will be directly affected by the outcome of the case.

The OSG currently consists of the Solicitor General, a chief deputy solicitor general, four deputy solicitor general positions, and two full-time support staff positions. The unit draws assistance from other units of the Attorney General's Office on a case-by-case basis to maximize the range of legal expertise and minimize budgetary impacts. Reduction of attorneys or staff would

negatively impact the Attorney General's ability to focus highly-trained lawyers on the state's most important lawsuits and would greatly reduce the agency's ability to monitor and supervise all civil appeals, amicus curiae cases, and constitutional challenges.

Opinions

The responsibility of the Attorney General to provide legal opinions is set forth in Section 16.01(3), Florida Statutes. Official written opinions are issued to state and local officials, boards, agencies, and their attorneys in response to questions of state law regarding their official duties.

In addition, the Attorney General is authorized by Sections 16.08 and 16.52(1), Florida Statutes, to provide legal advice to the state attorneys and to Florida's representatives in Congress.

The Attorney General's opinion process provides a direct means for obtaining legal advice as an alternative to expensive litigation. The strategic objective of the Opinions Division is to resolve requests for opinions in a timely manner. The number of requests received by the Opinions Division has remained relatively constant in recent years, as has the time frame for responding to such requests. This has been accomplished largely through the expanded use of computerized databases and email for tracking files, the peer review process, internal communication, and research. A newly implemented records management system will also result in faster retrieval of older files that are needed periodically for current projects.

Copies of recent and historical Attorney General Opinions are now widely available in various print and electronic formats. In many instances, earlier opinions prove relevant to the resolution of an agency's current legal question, thus eliminating the need for an opinion request.

The Opinions Division also annually updates the Government in the Sunshine Manual and the Law Enforcement Guide to Public Records to reflect recent changes in the law as well as recent case law and Attorney General Opinions.

Cabinet Affairs

In addition to his duties as the state's chief legal officer, the Attorney General serves as a member of the Florida Cabinet. He is also regularly called upon by the Florida Legislature to discuss and provide advice on relevant issues and pending legislation.

The Governor and Cabinet, as a collegial body, conduct Executive Branch business in the following capacities including, but not limited to the: State Board of Executive Clemency; Agency for Enterprise Information Technology; Division of Bond Finance; Department of Veterans' Affairs; Department of Highway Safety & Motor Vehicles; Department of Law Enforcement; Department of Revenue; Administration Commission; Florida Land & Water Adjudicatory Commission; Electrical Power Plant & Transmission Line Siting Board; Board of Trustees of the Internal Improvement Fund; and Financial Services Commission. The Governor, Attorney General and Chief Financial Officer also constitute the State Board of Administration.

The Cabinet Affairs staff advises the Attorney General on all matters pertaining to his constitutional and statutory role as a member of the Florida Cabinet. The Cabinet Affairs staff regularly meets with interested parties and private citizens, and responds to inquiries from the public relating to factual, policy, and legal issues that come before the Governor and Cabinet.

General Civil Litigation Division

The General Civil Litigation Division discharges the Attorney General's responsibilities under section 16.01, Florida Statutes, by providing statewide representation on behalf of the state, its agencies, officers, employees and agents at the trial and appellate level. The Attorney General also has common law authority to protect the public's interest, which the Legislature declared to be in force pursuant to section 2.01, Florida Statutes.

The General Civil Litigation Division handles constitutional challenges to statutes, civil rights, employment discrimination, torts, contract disputes, eminent domain, tax, child support and paternity, ethics, administrative law, prisoner litigation, declaratory judgment, child dependency, charitable trusts, and class action suits. Clients include constitutional agencies from all three branches of state government.

The division consists of the following bureaus: Administrative Law, Child Support Enforcement, Children's Legal Services, Complex Litigation, Corrections Litigation, Eminent Domain, Employment Litigation, Ethics, Revenue Litigation, State Programs and Torts. The goal of the division is to provide quality legal representation on behalf of the State of Florida in civil litigation, and to produce meaningful cost savings to the taxpayers by reducing the state's reliance on private legal services.

The following provides a brief description for each of the division's bureaus.

Administrative Law Bureau

The Administrative Law Bureau serves as general counsel to licensing regulatory boards and other regulatory agencies, represents state agencies in rule challenge proceedings and bid protest proceedings, represents the Department of Children and Families and the Agency for Persons with Disabilities in Medicaid waiver hearings, and offers litigation support in state and federal cases against agencies. The bureau also serves as general counsel to the State Retirement Commission and several appointed commissions.

Child Support Enforcement Bureau

The Child Support Enforcement Bureau represents the Department of Revenue in 21 of Florida's 67 counties, as well as the Clerk of Manatee County, in cases establishing and enforcing child support orders. The Child Support Enforcement Bureau provides legal services in accordance with Florida Statutes 61, 88, 287, 409 and 742, in cases involving children who reside in Florida as well as the other 49 states, the U.S. territories, and foreign countries. These services include cases referred by the client agencies for:

- Establishment of Paternity
- Establishment of Support
- Establishment of Paternity & Support
- Enforcement of Child Support Obligations
- Modification of Child Support Obligations

In addition to providing representation at the trial level and in administrative hearings, this bureau also serves as appellate counsel in Florida's five district courts of appeal, the Florida Supreme Court, and in the federal appellate court system. With offices located in Ft. Lauderdale, Tallahassee, and St. Petersburg, the Child Support Enforcement Bureau handles approximately 65,000 cases per year.

Children's Legal Services Bureau

The Children's Legal Services Bureau was established by the Legislature as a pilot project in 1995. This bureau is charged with litigating child abuse, abandonment, and neglect cases for the Department of Children and Families in Broward, Hillsborough and Manatee Counties.

In their role as legal counsel to the Department of Children and Families, this bureau renders legal advice on Florida Statutes Chapter 39, 61 and 409, to the Department of Children and Family Services in Broward, Hillsborough and Manatee Counties, the Broward County Sheriff's Office, Manatee County Sheriff's Office, Hillsborough County Sheriff's Office, and the private child welfare agencies such as Hillsborough KIDS, Inc. and ChildNet. The attorneys in the Children's Legal Services Bureau are also responsible for litigating termination of parental rights petitions to establish permanency for children who have been long-time sufferers of abuse, abandonment, or neglect.

Complex Litigation

The Complex Litigation Bureau handles high-visibility state and federal litigation involving the environment, Indian gaming, tobacco, education, election laws, inverse condemnation, and constitutional challenges to Florida statutes and constitutional amendments.

Corrections Litigation Bureau

The Corrections Litigation Bureau represents the interests of the State of Florida and its employees in matters related to the state correctional and institutional system. Representation primarily involves defending against lawsuits filed by criminal offenders alleging civil rights violations, typically under the First, Eighth, and Fourteenth Amendments of the United States Constitution.

The attorneys in this bureau also defend the constitutionality of state statutes and handle extraordinary writ petitions, replevin, and negligence actions. The practice encompasses the full range of a trial practice, from initial pleadings in federal and state courts through trial and appeals. While most service is rendered to the Department of Corrections, the bureau also handles representation of the Governor, the Parole Commission, the Department of Children and Families, and Baker Act appellate defense.

As a centralized practice, the Corrections Litigation Bureau maintains a working knowledge of inmate litigation history, allowing the Office of the Attorney General (OAG) to track identical claims in different venues to avoid duplication of effort. Centralization likewise allows the OAG to monitor the legal treatment of correctional issues within the United States District Courts of Florida and throughout the state court system. This bureau also provides legal counseling and education to the Department of Corrections on emerging law and issues.

Eminent Domain Bureau

The Eminent Domain Bureau was established in 1990 to provide a legal resource for governmental agencies exercising the power of eminent domain to acquire property for public use, while ensuring that landowners receive fair compensation for their property. Eminent domain, or condemnation, is the power of the government to take private property for a public purpose, with the payment of full compensation for the property taken. This bureau offers the full range of legal services for pre-suit advice, trial litigation, and appellate practice.

This bureau provides legal advice to governmental agencies on the legal requirements for the proper exercise of the eminent domain power and legal strategies for minimizing the cost of the litigation. The bureau presently represents the Department of Environmental Protection on behalf of the Board of Trustees of the Internal Improvement Trust Fund for the acquisition and valuation of conservation land associated with Everglades Restoration Project. The bureau also represents Citrus County in the acquisition and valuation of land for roadway expansion projects.

Ethics Bureau

The Ethics Bureau prosecutes complaints before the Florida Commission on Ethics. This bureau provides attorneys who serve as the Ethics Commission's prosecutors, or "Advocates." Once the Commission has received and investigated a sworn complaint alleging that a public officer or employee has breached the public trust, the Advocate assigned to the case makes a recommendation as to whether the case should go forward. If it does, it is the Advocate who conducts the prosecution, through an administrative hearing under Chapter 120. Advocates also handle some appeals, and collect civil penalties when a violation is found. Most state and local government employees, as well as elected and appointed officials, are subject to the Commission's jurisdiction, and the types of violations investigated range from erroneous financial disclosure filings to misuse of office.

Fort Lauderdale/West Palm Beach Civil Litigation Bureau

The Ft. Lauderdale and West Palm Beach Civil Litigation Bureau provides defense legal services for state agencies, state officials, and judges in the following areas of litigation: corrections, employment, tort, and state programs. In addition, the units defend the constitutionality of state statutes. Corrections litigation includes claims under 42 U.S.C. 1983; state and federal constitutions; writs of mandamus, habeas corpus, and prohibition. Tort cases range from trip and fall cases, automobile accidents, rail corridor accidents, to wrongful death cases – and include the full range of prisoner tort claims. Employment litigation encompasses Title VII claims (race, color, national origin, sex, religion, and retaliation), Americans with Disabilities Act, Age Discrimination in Employment Act, Family and Medical Leave Act, Fair Labor Standards Act, Title VI issues, and whistle blower cases. State Programs litigation includes defense of judges; defending against constitutional challenges to statutes; appellate consultation contracts with other units and state agencies; class action litigation; forfeitures; probate; civil rights and constitutional rights claims against state agencies and state officials; quiet title actions; breach of contract; Baker Act appeals; and declaratory judgment actions.

The units also handle administrative law matters, such as representing the Agency for Persons with Disabilities (APD) in administrative fair hearings under the Medicaid Home and Community-Based Waiver Services Program and the Department of Children and Families

(DCF) in the Independent Road to Living. The Ft. Lauderdale unit also handles the majority of the civil appeals for the units.

Revenue Litigation Bureau

The Revenue Litigation Bureau, pursuant to Sections 16.015 and 20.21(4), Florida Statutes, primarily enforces and defends tax assessments issued by the Department of Revenue. In addition, this bureau represents the Department of Revenue in litigation involving claims for refunds of taxes pursuant to Section 215.26, Florida Statutes, and a delegation of authority from the Office of the Comptroller. This representation is statewide and includes all state and federal jurisdictions. The bureau's representation of the Department of Revenue also includes ad valorem tax cases in conjunction with county property appraisers and tax collectors.

Occasionally, the Revenue Litigation Bureau undertakes representation of other state agencies in tax-related matters pursuant to a contract between the client agency and the Office of the Attorney General. The bureau also advises the Attorney General on questions involving taxation.

State Programs Bureau

The State Programs Bureau is charged with defending a wide variety of actions in both state and federal court, at both the trial and appellate levels. The clients of this bureau are state departments and agencies from all three branches of state government, including their individual officials and employees.

Cases routinely handled include suits which challenge the constitutionality of the general laws of the state; defense of judges and state attorneys in lawsuits; specialized administrative litigation before the Division of Administrative Hearings, including bid protests; and the initiation of litigation as plaintiffs on behalf of our state clients. In addition, the bureau represents the state in class action civil rights lawsuits that seek to change funding for a program or group of individuals on a statewide basis.

Tampa Civil Litigation Bureau

The Tampa Civil Litigation Bureau provides defense legal services for state agencies, state officials, and judges in the following areas of litigation: corrections, employment, tort, and state programs. In addition, the units defend the constitutionality of state statutes. Corrections litigation includes claims under 42 U.S.C. 1983; state and federal constitutions; writs of mandamus, habeas corpus, and prohibition. Tort cases range from trip and fall cases, automobile accidents, rail corridor accidents, to wrongful death cases – and include the full range of prisoner tort claims. Employment litigation encompasses Title VII claims (race, color, national origin, sex, religion, and retaliation), Americans with Disabilities Act, Age Discrimination in Employment Act, Family and Medical Leave Act, Fair Labor Standards Act, Title VI issues, and whistle blower cases. State Programs litigation includes defense of judges; defending against constitutional challenges to statutes; appellate consultation contracts with other units and state agencies; class action litigation; forfeitures; probate; civil rights and constitutional rights claims against state agencies and state officials; quiet title actions; breach of contract; Baker Act appeals; and declaratory judgment actions.

The unit also handles administrative law matters, such as representing APD in administrative fair hearings under the Medicaid Home and Community-Based Waiver Services Program and DCF in the Independent Road to Living. In addition, the attorneys handle the majority of civil appeals for the bureau.

Tort Litigation Bureau

The Tort Litigation Bureau provides high quality, low cost legal defense to agencies and employees of the State of Florida primarily in state court tort actions in North Florida. The types of suits typically handled include wrongful death, automobile accidents, slip and falls, defamation and various other negligence claims. The litigation engaged in by this bureau regularly involves the interpretation and application of Florida's limited waiver of sovereign immunity statute, Section 768.28, Florida Statutes and other challenging legal issues of significance to state and local government, statewide. The attorneys in the bureau regularly appear in court and are responsible for the full range of a trial practice, from initial pleadings, through jury trial and appeals.

Employment Litigation Bureau

The Employment Litigation Bureau defends state agencies in suits brought under any of the various federal and state employment laws. These laws include Title VII of the Civil Rights Act of 1964, Florida's Civil Rights Act, whistle blower retaliation, Age Discrimination in Employment Act, Americans With Disabilities Act, and constitutional civil rights challenges such as those brought through 42 U.S.C. sec. 1983.

As with all bureaus of the Office of the Attorney General, this bureau provides high quality, cost effective legal defense to agencies and employees of the State of Florida. The types of suits typically handled include workplace discrimination (race, sex, national origin, religion, age, disability, etc.), harassment and hostile work environments, and retaliation relating to any of these statutes. The litigation engaged in by this bureau regularly involves the interpretation and application of Florida's limited waiver of sovereign immunity statute, Section 768.28, Florida Statutes, Immunity in federal courts under the 11th Amendment, and other challenging legal issues of significance to state and local government, statewide. The attorneys in the bureau regularly appear in court and are responsible for the full range of a trial practice, from initial pleadings, through jury trial and appeals.

Additionally, attorneys in this bureau provide legal advice to the General Counsels and/or senior agency leaders of other state agencies regarding individual situations that develop, as well as prevention, policies, and discipline. Training is also available, typically for groups of supervisors/managers, regarding the current interpretations of employment statutes, parameters of the laws, and areas where managers need to apply additional caution.

Attorney General's Criminal Appellate Division

The Criminal Appellate Division consists of the five (5) regional Criminal Appeals Bureaus and one (1) statewide Capital Appeals Bureau which comprise the State's appellate prosecution component of Florida's criminal justice system. Because the State's appellate prosecution component resides within the executive branch rather than the judicial branch, the Criminal Appellate Division is not normally considered or calculated in the legislative funding mix in ascertaining exigency funding needs. As a result, this division has not benefitted from the smaller funding holdbacks the courts, state attorneys and public defenders were allocated over the last two years. Because this office was mandated to hold back the full dollar amounts required to meet funding shortfalls, each of the criminal appellate and capital appeals bureaus are continuing to handle larger caseloads (than the state attorneys and public defenders, both funded for their respective responsibilities in state court litigation), with greater than a 25% to 30% attorneys and support staff vacancy rates. Specifically, one in every five criminal attorney positions is vacant and unfunded. As a result, the cases take longer to prosecute on appeal and delays have occurred in the completion of the appellate process.

Each Bureau is governed by the core mission of the Attorney General's Office, see §16.01 (4), (6) Fla. Stat., specifically tasked with the responsibilities of defending all state statutes under attack; defending the Constitution of the State of Florida and the United States Constitution; handling state appeals and all extraordinary writs. This Division is also assigned duties which include: drafting, reviewing and analyzing legislation; providing legal advice to the State Attorneys' Offices and informing and protecting the rights of all victims of crime, as set forth in the Declaration of Rights found in Article I, Section 16, Constitution of Florida.

Additionally, the Division weekly publishes the "Criminal Alert" to client/users statewide. The Division assists in training programs throughout state criminal justice including local state attorneys' offices, the Florida Prosecuting Attorneys Association (FPAA) seminars on capital litigation and post-conviction litigation, and addresses legal issues that may impact law enforcement and other topics impacting the criminal justice system.

Criminal Appeals

The Office of the Attorney General Criminal Appeals Division is comprised of six statewide bureaus located in close proximity to the District Courts of Appeal (DCA), in Tallahassee (1st DCA), Tampa (2nd DCA), Miami (3rd DCA), West Palm Beach (4th DCA) and Daytona (5th DCA) as well as the statewide Capital Appeals Bureau. Each bureau is assigned to the state attorneys' offices within the districts and handles all appeals emanating from the counties comprising those districts. Although the Criminal Bureaus exceed the approved standard caseload each year – opening 21,786 cases in FY 2009-2010, the actual workloads handled during this period far exceed that number when the current open cases are added to the number of cases opened to comprise the actual caseloads, totaling over 35,000. These numbers far exceeds work load standards based on a more comprehensive tabulation and are being assigned and handled by 25% to 30% fewer attorneys in each of the criminal bureaus.

Inclusive in the criminal appeals numbers are the active sexual predator/Ryce commitment appeals assigned to designated attorneys statewide. In Actual FY 2009-2010, the cases opened totaled 240. This number was well above the standard of 150. Because these cases are captured by using the “Ryce” or “sexual predator” or “sexual offender” terms in searching the database, it is impossible to discern the actual *current* open cases accurately due to limitations of the available database.

A Criminal Bureau’s main responsibility is to defend all judgments and sentences that are appealed to the appellate courts and litigate all state cases that have been filed in the federal district courts and Eleventh Circuit Court of Appeals seeking federal constitutional relief. Authority is derived from Article IV, Section 4(b), Constitution, State of Florida, which provides that the Attorney General shall be the chief state legal officer and, Chapter 16 Florida Statutes, specifically, Section 16.01 (4), (5) and (6), Florida Statutes, which specifically sets forth his authority.

Capital Appeals

The Capital Appeals Bureau is a statewide bureau handling capital murder appeals from every state jurisdiction to the Florida Supreme Court. This Bureau litigates all cases following the completion of the original trial and imposition of a death sentence. Pursuant to Section 16.01 (6), Florida Statutes, this Bureau is also co-counsel in all state post-conviction litigation in the trial courts, and prosecutes all litigation culminating in the executing of a death warrant, through the state and federal courts.

The statewide Capital Appeals Bureau also exceeds the approved standard each year --of opening 200 cases. This year 240 cases for FY 2009-2010 were opened, however the actual cases that were worked on, reflecting our actual workload during this period, is 817--that number includes *current* open cases in the last fiscal year. Likewise, this number far exceeds work load standards based on a more comprehensive tabulation. Because a named defendant will potentially litigate in a variety of courts contemporaneously, there is no correlation between the number of individual sentenced to death and the plethora of litigation each individual will generate.

Division of Victim Services and Criminal Justice Programs

The Division of Victim Services and Criminal Justice Programs is charged with providing services to crime victims and educating the public about crime prevention. Article I, Section 16 of the Florida Constitution establishes the state's inherent responsibility regarding notification and assistance to victims. In addition, legislative intent set forth in §960.01, F.S., establishes the responsibility of the state to provide assistance to crime victims; §960.05(2), F.S., establishes the crime victim services office; and §960.21, F.S., creates the Crimes Compensation Trust Fund to provide funding for delivery of services to crime victims.

Statutory programs administered by the division include

§16.54, F.S. - Florida Crime Prevention Training Institute

§402.181, F.S. – State Institutions Claims

§§741.401-.465 and 97.0585, F.S. - Address Confidentiality Program

§812.171, F.S. – Convenience Business Security

§16.556, F.S. - Crime Stoppers Trust Fund

§16.615, F.S. – Council on the Social Status of Black Men and Boys

§16.616, F.S. – Direct Service Organization

§163.501-521 – Safe Neighborhoods Act

§112.19 – Law enforcement, correctional, and correctional probation officers; death benefits

Victim Compensation

During FY 2009-10, the number of claims received increased 6 percent over the prior year (29,442 compared to 27,194 received during FY 2008-09), and the average processing time from receipt of a claim through initial payment totaled 30 days. Awards to claimants totaled \$30,958,153. Since FY 2005-06, the claims workload has increased 26 percent and dollars paid increased 39 percent, with no additional staffing.

Victim Advocacy

The Victims of Crime Act (VOCA) grants specialists monitor grant activities to ensure subgrantees' program and fiscal compliance with federal and state laws and regulations. The current ratio is approximately 39 grants per FTE. A total of 302,287 victims received services through VOCA-funded private or public organizations/agencies during FY 2009-10. Victim advocates also participate in local coalitions, task forces, and councils regarding victim related issues. Additionally, the program maintains ongoing communications with other state agencies (Departments of Health, Children and Families) and statewide victim organizations (e.g., Florida Council Against Sexual Violence, Florida Coalition Against Domestic Violence, etc.) on matters of mutual concern.

Address Confidentiality Program

Pursuant to §741.401 through §741.465, F.S., this office administers the Address Confidentiality Program (ACP), which provides a substitute mailing address for relocated victims of domestic violence and serves as legal agent for receipt of mail and service of process. In addition, staff provides training and certifies applicant assistants statewide to assist eligible victims in accessing

these services. ACP is also intended to prevent public access to client information through voting records. This year's activities include 716 active program participants, 68 applicant assistants trained, and 128 new applications processed.

Criminal Justice Programs

In addition to victim services, crime prevention and associated programs are also a priority of the Attorney General's Office, as they are proven methods of helping to reduce crime and its impact on the citizenry. Education and training in crime prevention are essential to reducing Florida's crime rate and rendering assistance to crime victims. Trends and conditions associated with these training programs are assessed by survey instruments distributed to law enforcement agencies, victim service organizations, and the general public. The training curriculum is established based on demand for services as indicated in the surveys. A current trend emphasizes a coordinative initiative to train law enforcement officers in conjunction with local school districts, particularly in gang-related violence. Numerous practitioner designation programs are offered to include Crime Prevention, Crime Prevention Through Environmental Design, Elderly Crime, School Resource Officer (SRO), and Victim Services. In addition, this office provides a certification to law enforcement officers in Convenience Store Security. The Attorney General's Office is the primary source of training for crime prevention, victim services, elderly issues, and school resource officers (SRO) statewide and is a leader nationally.

Florida Crime Prevention Training Institute

During FY 2009-10, this office conducted 61 training courses, including 1,281 classroom hours, with 3,591 individuals participating from law enforcement as well as other public and private sector organizations. This office also conducted 6 ongoing SRO training courses (with 211 SRO attendees). In addition, 379 students received their practitioner designation certificates. Participation in FCPTI courses has been adversely impacted by the reduced funding for training at the local level, the cancellation of annual contract courses at Hillsborough Community College and Miami-Dade, and reduced attendance at the annual Preventing Crimes in the Black Community Conference. Six training courses were cancelled during this fiscal year because of the continued economic downturn.

Individuals trained by FCPTI play a vital role through community education in reducing crime and victimization statewide. Curriculum development is coordinated with the respective organizational entities to which they relate (i.e., Florida Association of School Resource Officers, Florida Crime Prevention Association, Florida Department of Law Enforcement, Florida Department of Education).

Convenience Business Security

The Convenience Business Security program has been unfunded since 1992 (See §812.1725-§812.176, F.S.), Bureau staff continued to handle the administrative responsibilities of the Act, processing 283 technical assistance contacts, 35 violations and 28 inspectors certifications during FY 2009-10. Transfer of these functions to local control would allow local governments to conduct regularly scheduled inspections and directly file relevant paperwork with the local courts. In addition, the OAG recommends the repeal of §812.174, F.S., eliminating the need for this office to review and approve convenience store training curriculum provided by convenience

stores. The stores should be required to utilize “industry standard” training curricula provided by industry professionals.

Council on the Social Status of Black Men and Boys

In January 2007, the division was tasked with administering the Council on the Social Status of Black Men and Boys, created by the 2006 Legislature. This nineteen-member council is charged with conducting a systematic study of the conditions affecting black men and boys including homicide rates, arrest and incarceration rate, poverty, violence, drug abuse, death rates, disparate annual income levels, health issues and school performance. The goal of the council is to propose measures to alleviate and correct the underlying causes of the conditions described above. The council is mandated to issue an annual report to discuss its findings, conclusions, and recommendations to the Governor, the President of the Senate, and the Speaker of the House. The Council published its inaugural annual report in January 2008. During FY 2009-10, the Council conducted 8 full Council meetings, 5 executive committee meetings and 24 subcommittee meetings.

The 2008 Legislature mandated establishment of a direct support organization to further the mission of the Council. Staff is awaiting statutory appointments to be made by the designated state entities.

Crime Stoppers

The following chart includes statistics that reflect the impact of the Crime Stoppers Trust Fund on communities throughout the state during the last four years.

	2009-10	2008-09	2007-08	2006-07
Tips received	56,797	56,570	45,750	34,536
Tips approved for citizen rewards	5,388	5,336	5,554	3,739
Cases cleared	13,467	13,020	10,606	7,801
Arrests made	6,437	5,749	6,456	4,763
Value of property recovered	\$4,751,726	\$23,722,253	\$5,766,088	\$1,697,844
Value of narcotics removed from the street	\$16,065,658	\$20,738,073	\$16,667,332	\$8,478,625
Dollar value of rewards to citizens	\$903,011	\$1,110,881	\$1,140,450	\$840,897

These statistics demonstrate the continuing success over the past four years and reflect the unified effort and significant impact the Crime Stopper programs have on crime in Florida. These outcomes are made possible through the grant funding of \$3,320,305 for FY 2009-10, which has markedly declined due to reduced deposits into the Crime Stoppers Trust Fund.

Consider these highlights:

- The Polk County Sheriff’s Office had a double homicide in the Davenport area. Crime Stoppers received numerous tips on the case and one of the tips resulted in identification of the 5 suspects involved in the double homicide.

- Crime Stoppers of the Florida Keys received several tips that assisted the Monroe County Sheriff's Office, the Key West Police Department, and Drug Enforcement Agency undercover agents in the arrest of various drug dealers and the solving of several cases.
- Panhandle Crime Stoppers boasts a 71 percent arrest rate of wanted fugitives as a result of tips received following the weekly airing of their "Wheel of Justice" program, which features wanted fugitives.
- Miami-Dade Crime Stoppers received a tip that a ship headed to port in Miami was carrying a large amount of cocaine concealed within a shipment of pumpkins. The Coast Guard was notified, boarded the ship in international waters, confirmed that cocaine was in the pumpkins, and allowed the ship to dock. The merchandise was off loaded, at which time the Coast Guard working in collaboration with the Miami-Dade Police Department made several arrests and seized the drugs.

Thirty-one Crime Stopper organizations currently serve sixty-one of Florida's sixty-seven counties, with two counties scheduled to be added in the 2010-11 grant year. The remaining four counties are being reviewed for the final expansion to include coverage for all Florida's 67 counties. The crime stopper organizations and law enforcement agencies successfully investigate and solve crimes and remove criminals from the communities. The staff works closely with the Florida Association of Crime Stoppers, Inc., and the recipient organizations regarding use of the funds. The staff performs annual training and orientation to assist the organizations in understanding statutory and regulatory spending requirements of state funds. In addition, staff conducts on-site performance reviews on twenty-four grant recipients and desk audits on the remaining seven recipients. All grant recipients receive an on-site monitoring visit a minimum of once every three years, regardless of the grant award amount.

Urban League Grant Program

The Florida Consortium of Urban League Affiliates received a state appropriation of \$3,017,235 to develop and implement two proactive initiatives to address and impact crime in the black community. The programs operate in Fort Lauderdale, Jacksonville, Miami, Orlando, St. Petersburg, Tallahassee, West Palm Beach and the Derrick Brooks Charities (Tampa).

The Black-on-Black Crime Prevention Program is a public awareness and education effort to motivate the black community to support, promote and participate in crime prevention programs and activities. The Youth Crime Prevention and Intervention Program targets specific proactive strategies and activities to address and impact the problem of juvenile crime and to foster collaboration and improve communication among various agencies serving youth. This year's activities with these two programs included 21,236 community residents/participants; 1,872 crime prevention-related meetings, workshops, and conferences; 2,839 out-of-agency contacts; and the utilization of 2,606 volunteers.

Agency Grant Writer

This position researches funding opportunities and prepares grant applications for the entire agency. In addition to her regularly assigned grants responsibilities, during FY 2009-10, this individual researched four grant opportunities, developed and submitted one application, which was approved for funding.

Department of Legal Affairs
Office of the Attorney General

**Performance
Measures and
Standards**

LRPP Exhibit II

LRPP Exhibit II - Performance Measures and Standards

Department: DEPARTMENT OF LEGAL AFFAIRS AND ATTORNEY GENERAL

41100000 Program: Office of Attorney General

41100100 Civil Enforcement

Approved Performance Measures for FY 2010-11 (Words)	Approved Prior Standards for FY 2009-10 (Numbers)	Prior Year Actual FY 2009-10 Standard (Numbers)	Approved Standards for FY 2010-11 (Numbers)	Requested FY 2011-12 Standard (Numbers)
Percent of mediated open government cases resolved in 3 weeks or less	70%	90%	70%	70%
Percent of lemon law cases resolved in less than one year	95%	95%	95%	95%
Percent of clients expressing satisfaction with civil enforcement legal services	95%	100%	95%	95%
Number of open government cases handled	100	63	100	100
Percent of open government disputes resolved through mediation	75%	84%	75%	75%
Number of repurchase disclosure/enforcement cases	2,000	1,586	2,000	2,000
Number of active lemon law cases	1,300	557	1,300	1,300
Number of active antitrust cases	62	100	62	62
Number of active economic crime cases, including consumer and RICO cases	186	203	186	186
Number of active cybercrime cases	50	302	50	50
Number of active Medicaid Fraud cases	900	1,081	900	900
Number of hearings held before the court- Children's Legal Services	32,000	34,775	32,000	32,000
Number of active ethics cases	120	71	120	120
Number of active child support enforcement	65,000	96,641	65,000	65,000
Number of active civil rights cases	38	38	38	38

* Only one Client responded to the Client Satisfaction Survey regarding Civil Enforcement Cases.

LRPP Exhibit II - Performance Measures and Standards

Department: DEPARTMENT OF LEGAL AFFAIRS AND ATTORNEY GENERAL

41100200 Constitutional Legal Services

Approved Performance Measures for FY 2010-11 (Words)	Approved Prior Standards for FY 2009-10 (Numbers)	Prior Year Actual FY 2009-10 Standard (Numbers)	Approved Standards for FY 2010-11 (Numbers)	Requested FY 2011-12 Standard (Numbers)
Number of days for opinion response	28	9	28	28
Percent of clients expressing satisfaction with constitutional legal services	95%	100%	95%	95%
Number of opinions issued	150	429	150	150
Number of active Solicitor General cases	390	353	390	390

* Only two responded to the Client Satisfaction Survey regarding Constitutional Legal Services Cases.

LRPP Exhibit II - Performance Measures and Standards

Department: DEPARTMENT OF LEGAL AFFAIRS AND ATTORNEY GENERAL

41100300 Criminal and Civil Litigation Defense

Approved Performance Measures for FY 2010-11 (Words)	Approved Prior Standards for FY 2009-10 (Numbers)	Prior Year Actual FY 2009-10 Standard (Numbers)	Approved Standards for FY 2010-11 (Numbers)	Requested FY 2011-12 Standard (Numbers)
Percent of clients expressing satisfaction with criminal and civil legal defense services	95%	99%	95%	95%
Total fees and costs expended for legal services with private outside counsel	Not Available	Not Available	Not Available	Not Available
Percentage of State of Florida legal services conducted, private v. public	Not Available	Not Available	Not Available	Not Available
Salaries, benefits, and costs of in-house legal units for each state agency	Not Available	Not Available	Not Available	Not Available
Number of capital cases - briefs/state & federal responses/oral arguments	200	240	200	200
Number of noncapital cases - briefs/state & federal responses/oral arguments	19,000	21,786	19,000	19,000
Number of active sexual predator commitment appeals	150	240	150	150
Number of active eminent domain cases	1,000	465	1,000	1,000
Number of active tax cases	800	934	800	800
Number of active civil appellate cases	323	330	323	323
Number of active inmate cases	1,651	1,512	1,651	1,651
Number of active state employment cases	113	156	113	113

LRPP Exhibit II - Performance Measures and Standards

Department: DEPARTMENT OF LEGAL AFFAIRS AND ATTORNEY GENERAL

41100400 Victim Services

Approved Performance Measures for FY 2010-11 (Words)	Approved Prior Standards for FY 2009-10 (Numbers)	Prior Year Actual FY 2009-10 Standard (Numbers)	Approved Standards for FY 2010-11 (Numbers)	Requested FY 2011-12 Standard (Numbers)
Number of victim compensation claims received	21,000	29,442	21,000	21,000
Number of days from application to payment of victim compensation claim	45	30	45	45
Number of victims served through grants	200,000	302,287	200,000	200,000
Number of people attending victims and crime prevention training	4,750	3,591	4,750	4,750

LRPP Exhibit II - Performance Measures and Standards

Department: DEPARTMENT OF LEGAL AFFAIRS AND ATTORNEY GENERAL

41100500 Executive Direction and Support Services

Approved Performance Measures for FY 2010-11 (Words)	Approved Prior Standards for FY 2009-10 (Numbers)	Prior Year Actual FY 2009-10 Standard (Numbers)	Approved Standards for FY 2010-11 (Numbers)	Requested FY 2011-12 Standard (Numbers)
Of eligible attorneys, percent who have attained rating, BV rating, and or board certification	70%	38%	70%	70%

Department of Legal Affairs
Office of the Attorney General

**Assessment of
Performance for
Approved
Performance
Measures**

LRPP Exhibit III

LRPP Exhibit III: PERFORMANCE MEASURE ASSESSMENT

Department: Legal Affairs
Program: Office of the Attorney General
Service/Budget Entity: Civil Enforcement / 41100100
Measure: Number of Active Lemon Law Cases

Action:

- | | |
|---|--|
| <input type="checkbox"/> Performance Assessment of <u>Outcome</u> Measure | <input type="checkbox"/> Revision of Measure |
| <input checked="" type="checkbox"/> Performance Assessment of <u>Output</u> Measure | <input type="checkbox"/> Deletion of Measure |
| <input type="checkbox"/> Adjustment of GAA Performance Standards | |

Approved Standard	Actual Performance Results	Difference (Over/Under)	Percentage Difference
1300	557	(743)	(57%)

Factors Accounting for the Difference:

Internal Factors (check all that apply):

- | | |
|--|--|
| <input type="checkbox"/> Personnel Factors | <input type="checkbox"/> Staff Capacity |
| <input type="checkbox"/> Competing Priorities | <input type="checkbox"/> Level of Training |
| <input type="checkbox"/> Previous Estimate Incorrect | <input type="checkbox"/> Other (Identify) |

Explanation:

External Factors (check all that apply):

- | | |
|--|--|
| <input type="checkbox"/> Resources Unavailable | <input type="checkbox"/> Technological Problems |
| <input type="checkbox"/> Legal/Legislative Change | <input type="checkbox"/> Natural Disaster |
| <input type="checkbox"/> Target Population Change | <input checked="" type="checkbox"/> Other (Identify) |
| <input type="checkbox"/> This Program/Service Cannot Fix The Problem | |
| <input type="checkbox"/> Current Laws Are Working Against The Agency Mission | |

Explanation: Recessionary economy resulting in severe drop in motor vehicle sales/leases and manufacturer bankruptcies.

Management Efforts to Address Differences/Problems (check all that apply):

- | | |
|------------------------------------|---|
| <input type="checkbox"/> Training | <input type="checkbox"/> Technology |
| <input type="checkbox"/> Personnel | <input type="checkbox"/> Other (Identify) |

Recommendations:

As the economy improves the number of cases is expected to increase to previous levels. No change requested at this time.

LRPP Exhibit III: PERFORMANCE MEASURE ASSESSMENT

Department: Legal Affairs
Program: Office of the Attorney General
Service/Budget Entity: Civil Enforcement / 41100100
Measure: Number of Open Government Cases Handled

Action:

- | | |
|---|--|
| <input type="checkbox"/> Performance Assessment of <u>Outcome</u> Measure | <input type="checkbox"/> Revision of Measure |
| <input checked="" type="checkbox"/> Performance Assessment of <u>Output</u> Measure | <input type="checkbox"/> Deletion of Measure |
| <input type="checkbox"/> Adjustment of GAA Performance Standards | |

Approved Standard	Actual Performance Results	Difference (Over/Under)	Percentage Difference
100	63	(37)	(37%)

Factors Accounting for the Difference:

Internal Factors (check all that apply):

- | | |
|--|--|
| <input type="checkbox"/> Personnel Factors | <input type="checkbox"/> Staff Capacity |
| <input type="checkbox"/> Competing Priorities | <input type="checkbox"/> Level of Training |
| <input type="checkbox"/> Previous Estimate Incorrect | <input type="checkbox"/> Other (Identify) |

Explanation:

External Factors (check all that apply):

- | | |
|--|--|
| <input type="checkbox"/> Resources Unavailable | <input type="checkbox"/> Technological Problems |
| <input type="checkbox"/> Legal/Legislative Change | <input type="checkbox"/> Natural Disaster |
| <input type="checkbox"/> Target Population Change | <input checked="" type="checkbox"/> Other (Identify) |
| <input type="checkbox"/> This Program/Service Cannot Fix The Problem | |
| <input type="checkbox"/> Current Laws Are Working Against The Agency Mission | |

Explanation: This measure serves to assess the value of this program to members of the public and agencies who are affected by disputes over access to public records and meetings. The number of cases handled reflects the number of individuals who have considered mediation as an alternative to other more costly alternatives to resolve controversies. The more cases initiated, the greater the value the program has to those who are involved in access controversies.

Management Efforts to Address Differences/Problems (check all that apply):

- | | |
|------------------------------------|---|
| <input type="checkbox"/> Training | <input type="checkbox"/> Technology |
| <input type="checkbox"/> Personnel | <input type="checkbox"/> Other (Identify) |

Recommendations:

No changes requested at this time.

LRPP Exhibit III: PERFORMANCE MEASURE ASSESSMENT

Department: Legal Affairs

Program: Office of the Attorney General

Service/Budget Entity: Civil Enforcement / 41100100

Measure: Number of Repurchase Disclosure/Enforcement Cases

Action:

- | | |
|---|--|
| <input type="checkbox"/> Performance Assessment of <u>Outcome</u> Measure | <input type="checkbox"/> Revision of Measure |
| <input checked="" type="checkbox"/> Performance Assessment of <u>Output</u> Measure | <input type="checkbox"/> Deletion of Measure |
| <input type="checkbox"/> Adjustment of GAA Performance Standards | |

Approved Standard	Actual Performance Results	Difference (Over/Under)	Percentage Difference
2,000	1,586	(414)	(20.7%)

Factors Accounting for the Difference:

Internal Factors (check all that apply):

- | | |
|--|--|
| <input type="checkbox"/> Personnel Factors | <input type="checkbox"/> Staff Capacity |
| <input type="checkbox"/> Competing Priorities | <input type="checkbox"/> Level of Training |
| <input type="checkbox"/> Previous Estimate Incorrect | <input type="checkbox"/> Other (Identify) |

Explanation:

External Factors (check all that apply):

- | | |
|--|--|
| <input type="checkbox"/> Resources Unavailable | <input type="checkbox"/> Technological Problems |
| <input type="checkbox"/> Legal/Legislative Change | <input type="checkbox"/> Natural Disaster |
| <input type="checkbox"/> Target Population Change | <input checked="" type="checkbox"/> Other (Identify) |
| <input type="checkbox"/> This Program/Service Cannot Fix The Problem | |
| <input type="checkbox"/> Current Laws Are Working Against The Agency Mission | |

Explanation: This measure is largely dependent upon external factors, such as the number of resale disclosure forms received from motor vehicle manufacturers and sellers. As the economy improves it is expected that the number of cases will increase.

Management Efforts to Address Differences/Problems (check all that apply):

- | | |
|------------------------------------|---|
| <input type="checkbox"/> Training | <input type="checkbox"/> Technology |
| <input type="checkbox"/> Personnel | <input type="checkbox"/> Other (Identify) |

Recommendations:

It is recommended that the standard remain the same for this measure but that it be monitored and reviewed at the close of the next fiscal year.

LRPP Exhibit III: PERFORMANCE MEASURE ASSESSMENT

Department: Legal Affairs
Program: Office of the Attorney General
Service/Budget Entity: Civil Enforcement / 41100100
Measure: Number of Active Ethics Cases

Action:

- | | |
|---|--|
| <input type="checkbox"/> Performance Assessment of <u>Outcome</u> Measure | <input type="checkbox"/> Revision of Measure |
| <input checked="" type="checkbox"/> Performance Assessment of <u>Output</u> Measure | <input type="checkbox"/> Deletion of Measure |
| <input type="checkbox"/> Adjustment of GAA Performance Standards | |

Approved Standard	Actual Performance Results	Difference (Over/Under)	Percentage Difference
120	71	(49)	(40.8%)

Factors Accounting for the Difference:

Internal Factors (check all that apply):

- | | |
|--|--|
| <input type="checkbox"/> Personnel Factors | <input type="checkbox"/> Staff Capacity |
| <input type="checkbox"/> Competing Priorities | <input type="checkbox"/> Level of Training |
| <input type="checkbox"/> Previous Estimate Incorrect | <input type="checkbox"/> Other (Identify) |

Explanation:

External Factors (check all that apply):

- | | |
|--|--|
| <input type="checkbox"/> Resources Unavailable | <input type="checkbox"/> Technological Problems |
| <input type="checkbox"/> Legal/Legislative Change | <input type="checkbox"/> Natural Disaster |
| <input type="checkbox"/> Target Population Change | <input checked="" type="checkbox"/> Other (Identify) |
| <input type="checkbox"/> This Program/Service Cannot Fix The Problem | |
| <input type="checkbox"/> Current Laws Are Working Against The Agency Mission | |

Explanation: This measure is largely dependent upon external factors and will fluctuate year to year.

Management Efforts to Address Differences/Problems (check all that apply):

- | | |
|------------------------------------|---|
| <input type="checkbox"/> Training | <input type="checkbox"/> Technology |
| <input type="checkbox"/> Personnel | <input type="checkbox"/> Other (Identify) |

Recommendations:

No change is recommended at this time.

LRPP Exhibit III: PERFORMANCE MEASURE ASSESSMENT

Department: Legal Affairs

Program: Office of the Attorney General

Service/Budget Entity: Constitutional Legal Services / 41100200

Measure: Number of Active Solicitor General Cases

Action:

- | | |
|--|--|
| <input checked="" type="checkbox"/> Performance Assessment of <u>Outcome</u> Measure | <input type="checkbox"/> Revision of Measure |
| <input type="checkbox"/> Performance Assessment of <u>Output</u> Measure | <input type="checkbox"/> Deletion of Measure |
| <input type="checkbox"/> Adjustment of GAA Performance Standards | |

Approved Standard	Actual Performance Results	Difference (Over/Under)	Percentage Difference
390	353	37	(9.5%)

Factors Accounting for the Difference:

Internal Factors (check all that apply):

- | | |
|--|--|
| <input checked="" type="checkbox"/> Personnel Factors | <input type="checkbox"/> Staff Capacity |
| <input checked="" type="checkbox"/> Competing Priorities | <input type="checkbox"/> Level of Training |
| <input type="checkbox"/> Previous Estimate Incorrect | <input checked="" type="checkbox"/> Other (Identify) |

Explanation:

A large number of our cases are from other sections and opened in their databases. Therefore, they are not included in our count even though we work on them.

External Factors (check all that apply):

- | | |
|--|---|
| <input type="checkbox"/> Resources Unavailable | <input type="checkbox"/> Technological Problems |
| <input type="checkbox"/> Legal/Legislative Change | <input type="checkbox"/> Natural Disaster |
| <input type="checkbox"/> Target Population Change | <input type="checkbox"/> Other (Identify) |
| <input type="checkbox"/> This Program/Service Cannot Fix The Problem | |
| <input type="checkbox"/> Current Laws Are Working Against The Agency Mission | |

Explanation:

Management Efforts to Address Differences/Problems (check all that apply):

- | | |
|------------------------------------|---|
| <input type="checkbox"/> Training | <input type="checkbox"/> Technology |
| <input type="checkbox"/> Personnel | <input type="checkbox"/> Other (Identify) |

Recommendations:

No change at this time.

LRPP Exhibit III: PERFORMANCE MEASURE ASSESSMENT

Department: Legal Affairs
Program: Office of the Attorney General
Service/Budget Entity: Criminal and Civil Litigation Defense / 41100300
Measure: Number of Active Eminent Domain Cases

Action:

- | | |
|---|--|
| <input type="checkbox"/> Performance Assessment of <u>Outcome</u> Measure | <input type="checkbox"/> Revision of Measure |
| <input checked="" type="checkbox"/> Performance Assessment of <u>Output</u> Measure | <input type="checkbox"/> Deletion of Measure |
| <input type="checkbox"/> Adjustment of GAA Performance Standards | |

Approved Standard	Actual Performance Results	Difference (Over/Under)	Percentage Difference
1,000	465	(535)	(53.5%)

Factors Accounting for the Difference:

Internal Factors (check all that apply):

- | | |
|--|--|
| <input type="checkbox"/> Personnel Factors | <input type="checkbox"/> Staff Capacity |
| <input type="checkbox"/> Competing Priorities | <input type="checkbox"/> Level of Training |
| <input type="checkbox"/> Previous Estimate Incorrect | <input type="checkbox"/> Other (Identify) |

Explanation:

External Factors (check all that apply):

- | | |
|--|--|
| <input type="checkbox"/> Resources Unavailable | <input type="checkbox"/> Technological Problems |
| <input type="checkbox"/> Legal/Legislative Change | <input type="checkbox"/> Natural Disaster |
| <input type="checkbox"/> Target Population Change | <input checked="" type="checkbox"/> Other (Identify) |
| <input type="checkbox"/> This Program/Service Cannot Fix The Problem | |
| <input type="checkbox"/> Current Laws Are Working Against The Agency Mission | |

Explanation:

The Department of Transportation pulled their eminent domain business in-house as a cost saving measure resulting in fewer cases handled by the Office of the Attorney General.

Management Efforts to Address Differences/Problems (check all that apply):

- | | |
|------------------------------------|---|
| <input type="checkbox"/> Training | <input type="checkbox"/> Technology |
| <input type="checkbox"/> Personnel | <input type="checkbox"/> Other (Identify) |

Recommendations:

No change at this time

LRPP Exhibit III: PERFORMANCE MEASURE ASSESSMENT

Department: Legal Affairs
Program: Office of the Attorney General
Service/Budget Entity: Criminal and Civil Litigation Defense / 41100300
Measure: Number of Active Inmate Cases

Action:

- | | |
|---|--|
| <input type="checkbox"/> Performance Assessment of <u>Outcome</u> Measure | <input type="checkbox"/> Revision of Measure |
| <input checked="" type="checkbox"/> Performance Assessment of <u>Output</u> Measure | <input type="checkbox"/> Deletion of Measure |
| <input type="checkbox"/> Adjustment of GAA Performance Standards | |

Approved Standard	Actual Performance Results	Difference (Over/Under)	Percentage Difference
1,651	1,512	(139)	(8.4%)

Factors Accounting for the Difference:

Internal Factors (check all that apply):

- | | |
|--|--|
| <input type="checkbox"/> Personnel Factors | <input type="checkbox"/> Staff Capacity |
| <input type="checkbox"/> Competing Priorities | <input type="checkbox"/> Level of Training |
| <input type="checkbox"/> Previous Estimate Incorrect | <input type="checkbox"/> Other (Identify) |

Explanation:

External Factors (check all that apply):

- | | |
|--|--|
| <input type="checkbox"/> Resources Unavailable | <input type="checkbox"/> Technological Problems |
| <input type="checkbox"/> Legal/Legislative Change | <input type="checkbox"/> Natural Disaster |
| <input type="checkbox"/> Target Population Change | <input checked="" type="checkbox"/> Other (Identify) |
| <input type="checkbox"/> This Program/Service Cannot Fix The Problem | |
| <input type="checkbox"/> Current Laws Are Working Against The Agency Mission | |

Explanation:

This measure is dependent on the number of cases referred to the OAG for representation of the Department of Corrections.

Management Efforts to Address Differences/Problems (check all that apply):

- | | |
|------------------------------------|---|
| <input type="checkbox"/> Training | <input type="checkbox"/> Technology |
| <input type="checkbox"/> Personnel | <input type="checkbox"/> Other (Identify) |

Recommendations:

No change at this time

LRPP Exhibit III: PERFORMANCE MEASURE ASSESSMENT

Department: Legal Affairs

Program: Office of the Attorney General

Service/Budget Entity: Victims Services / 41100400

Measure: Output – Number of People Attending Training

Action:

- | | |
|---|--|
| <input type="checkbox"/> Performance Assessment of <u>Outcome</u> Measure | <input type="checkbox"/> Revision of Measure |
| <input checked="" type="checkbox"/> Performance Assessment of <u>Output</u> Measure | <input type="checkbox"/> Deletion of Measure |
| <input type="checkbox"/> Adjustment of GAA Performance Standards | |

Approved Standard	Actual Performance Results	Difference (Over/Under)	Percentage Difference
4,750	3,591	(1,159)	(24.4%)

Factors Accounting for the Difference:

Internal Factors (check all that apply):

- | | |
|--|--|
| <input type="checkbox"/> Personnel Factors | <input checked="" type="checkbox"/> Staff Capacity |
| <input type="checkbox"/> Competing Priorities | <input type="checkbox"/> Level of Training |
| <input type="checkbox"/> Previous Estimate Incorrect | <input checked="" type="checkbox"/> Other (Identify) |

Explanation:

When the economy began its most recent downturn, funding at the state and local level decreased, resulting in fewer agencies sending fewer officers to the OAG for training. Recordkeeping continues to improve and we have a more accurate accounting of participation in the Annual National Conference on Preventing Crime in the Black Community. These lower numbers are reflected in the decreased number of training participants.

External Factors (check all that apply):

- | | |
|--|--|
| <input type="checkbox"/> Resources Unavailable | <input type="checkbox"/> Technological Problems |
| <input type="checkbox"/> Legal/Legislative Change | <input type="checkbox"/> Natural Disaster |
| <input type="checkbox"/> Target Population Change | <input checked="" type="checkbox"/> Other (Identify) |
| <input type="checkbox"/> This Program/Service Cannot Fix The Problem | |
| <input type="checkbox"/> Current Laws Are Working Against The Agency Mission | |

Explanation:

When funding for training is reduced in the agencies served by the Florida Crime Prevention Training Institute (FCPTI), there is a resultant decrease in the number of individuals attending the training programs. However, FCPTI is the primary provider for a significant number of training programs for law enforcement training, and under normal circumstances, Florida's law enforcement community consistently participates in these courses. With changes in the state and national economy, reduced funding has resulted in fewer training participants.

Management Efforts to Address Differences/Problems (check all that apply):

Training

Personnel

Technology

Other (Identify)

Recommendations:

Classes are being scheduled in central locations (e.g. Orlando) where commercial transportation options are more advantageous and participants can reach the training site within four to six hours using ground transportation. Development and implementation of the FCPTI course registration database continues, this will greatly improve the OAG's recordkeeping capabilities and provide needed information to better assess the training needs for law enforcement officers and victim services professionals throughout the state.

Office of Policy and Budget – July 2010

LRPP Exhibit III: PERFORMANCE MEASURE ASSESSMENT

Department: Legal Affairs

Program: Office of the Attorney General

Service/Budget Entity: Executive Direction / 41100500

Measure: Of eligible attorneys, percent who have attained rating, BV rating, and or board certification

Action:

- | | |
|--|--|
| <input checked="" type="checkbox"/> Performance Assessment of <u>Outcome</u> Measure | <input type="checkbox"/> Revision of Measure |
| <input type="checkbox"/> Performance Assessment of <u>Output</u> Measure | <input type="checkbox"/> Deletion of Measure |
| <input type="checkbox"/> Adjustment of GAA Performance Standards | |

Approved Standard	Actual Performance Results	Difference (Over/Under)	Percentage Difference
70%	38%	(32%)	(45.7%)

Factors Accounting for the Difference:

Internal Factors (check all that apply):

- | | |
|---|--|
| <input checked="" type="checkbox"/> Personnel Factors | <input type="checkbox"/> Staff Capacity |
| <input type="checkbox"/> Competing Priorities | <input type="checkbox"/> Level of Training |
| <input type="checkbox"/> Previous Estimate Incorrect | <input type="checkbox"/> Other (Identify) |

Explanation:

Martindale-Hubbell ratings are based on attorney peer review and Board Certification is attained through a certification process maintained by the Florida Bar. These accomplishments are strictly voluntary and are not required to practice law in the State of Florida nor for employment with this agency. The variables for this measure, number of eligible attorneys and percentage of those attorneys rated and/or certified, are dependent upon turnover and fluctuate from year-to-year.

External Factors (check all that apply):

- | | |
|--|---|
| <input type="checkbox"/> Resources Unavailable | <input type="checkbox"/> Technological Problems |
| <input type="checkbox"/> Legal/Legislative Change | <input type="checkbox"/> Natural Disaster |
| <input type="checkbox"/> Target Population Change | <input type="checkbox"/> Other (Identify) |
| <input type="checkbox"/> This Program/Service Cannot Fix The Problem | |
| <input type="checkbox"/> Current Laws Are Working Against The Agency Mission | |

Explanation:

Management Efforts to Address Differences/Problems (check all that apply):

- | | |
|------------------------------------|---|
| <input type="checkbox"/> Training | <input type="checkbox"/> Technology |
| <input type="checkbox"/> Personnel | <input type="checkbox"/> Other (Identify) |

Recommendations:

No change requested at this time

Department of Legal Affairs
Office of the Attorney General

Associated Activities
Contribution to
Performance
Measures
LRPP Exhibit V

LRPP Exhibit V: Identification of Associated Activity Contributing to Performance

Measure Number	Approved Performance Measures for FY 2009-10 (Words)		Associated Activities Title
1	Percent of mediated open government cases resolved in 3 weeks or less		Open Government Mediation
2	Percent of lemon law cases resolved in less than one year		Lemon Law
3	Percent of clients expressing satisfaction with civil enforcement legal services		Lemon Law
			Child Support Enforcement
			Antitrust
			RICO - Consumer
			Commission on Ethics Prosecutions
			Open Government Mediation
			Health Care/Medicaid Fraud
			Children's Legal Services
4	Number of open government cases handled		Open Government Mediation
5	Percent of open government disputes resolved through mediation		Open Government Mediation
6	Number of repurchase disclosure/enforcement cases		Lemon Law
7	Number of active lemon law cases		Lemon Law
8	Number of active antitrust cases		Antitrust
9	Number of active economic crime cases, including consumer and RICO cases		RICO - Consumer
10	New Measure - Number of active cybercrime cases		New Activity - Child Predator CyberCrime Unit
11	Number of active Medicaid Fraud cases		Health Care/Medicaid Fraud
12	Number of hearings held before the court - Children's Legal Services		Lemon Law
13	Number of active ethics cases		Commission on Ethics Prosecutions
14	Number of active child support enforcement		Child Support Enforcement
15	Number of active civil rights cases		Civil Rights

LRPP Exhibit V: Identification of Associated Activity Contributing to Performance Measures

Measure Number	Approved Performance Measures for FY 2009-10 (Words)		Associated Activities Title
16	Number of days for opinion response		Opinions
17	Percent of clients expressing satisfaction with constitutional legal services		Solicitor General
			Opinions
			Cabinet Support Services
18	Number of opinions issued		Opinions
19	Number of active Solicitor General cases		Solicitor General
20	Number of active civil appellate cases		Solicitor General

LRPP Exhibit V: Identification of Associated Activity Contributing to Performance

Measure Number	Approved Performance Measures for FY 2009-10 (Words)		Associated Activities Title
21	Percent of clients expressing satisfaction with criminal and civil legal defense services		Eminent Domain Sexual Predator Civil Commitment Appeals Non-Capital Criminal Appeals Capital Appeals Administrative Law Revenue Litigation Civil Litigation Defense of State Agencies
22	Total fees and costs expended for legal services with private outside counsel		N/A
23	Percentage of State of Florida legal services conducted private v. public		N/A
24	Salaries, benefits and costs of in-house legal units for each state agency		N/A
25	Number of capital cases - briefs/state & federal responses/oral arguments		Capital Appeals
26	Number of noncapital cases - briefs/state & federal responses/oral arguments		Non-Capital Criminal Appeals
27	Number of active sexual predator commitment appeals		Sexual Predator Civil Commitment Appeals
28	Number of active eminent domain cases		Eminent Domain
29	Number of active tax cases		Revenue Litigation
30	Number of active civil appellate cases		Civil Litigation Defense of State Agencies
31	Number of active inmate cases		Civil Litigation Defense of State Agencies
32	Number of active state employment cases		Civil Litigation Defense of State Agencies

LRPP Exhibit V: Identification of Associated Activity Contributing to Performance

Measure Number	Approved Performance Measures for FY 2009-10 (Words)		Associated Activities Title
33	Number of victim compensation claims received		Victim Compensation
34	Number of days from application to payment of victim compensation claim		Victim Compensation
35	Number of victims served through grants		Grants - VOCA
36	Number of people attending victims and crime prevention training		Crime Prevention/Training

LRPP Exhibit V: Identification of Associated Activity Contributing to Performance

Measure Number	Approved Performance Measures for FY 2009-10 (Words)		Associated Activities Title
37	Of eligible attorneys, percent who have attained rating, BY rating, and or board certification		Encompasses entire agency

LEGAL AFFAIRS, DEPARTMENT OF, AND ATTORNEY GENERAL		FISCAL YEAR 2009-10			
SECTION I: BUDGET		OPERATING		FIXED CAPITAL OUTLAY	
TOTAL ALL FUNDS GENERAL APPROPRIATIONS ACT		180,637,072		0	
ADJUSTMENTS TO GENERAL APPROPRIATIONS ACT (Supplementals, Vetoes, Budget Amendments, etc.)		7,855,778		0	
FINAL BUDGET FOR AGENCY		188,492,850		0	
SECTION II: ACTIVITIES * MEASURES		Number of Units	(1) Unit Cost	(2) Expenditures (Allocated)	(3) FCO
Executive Direction, Administrative Support and Information Technology (2)					0
Child Predator Cybercrime * Number of active cybercrime cases		302	9,499.85	2,868,956	
Lemon Law * Number of Arbitration Hearings Conducted		557	2,637.82	1,469,265	
Child Support Enforcement * Number of final orders obtained representing the Department of Revenue in child support enforcement proceedings.		96,641	79.80	7,711,925	
Antitrust * Number of cases enforcing provisions of the Antitrust Act		100	29,332.78	2,933,278	
Racketeer Influenced And Corrupt Organization (rico)/ Consumer Fraud * Cases enforcing the Racketeer Influenced and Corrupt Act and Unfair and Deceptive Trade Practices Act.		203	41,335.15	8,391,035	
Commission On Ethics Prosecutions * Number of cases prosecuted before the Florida Commission on Ethics		71	3,989.89	283,282	
Open Government Mediation * Number of cases settled or mediated		63	3,139.60	197,795	
Medicaid Fraud Control * Number of cases investigated involving Medicaid fraud activities		1,081	15,650.70	16,918,407	
Children's Legal Services * Number of cases representing the Department of Children and Families in juvenile dependency and termination of parental rights proceedings		34,775	258.25	8,980,666	
Civil Rights * Number of cases investigated and prosecuted involving violations of civil rights		38	10,404.00	395,352	
Solicitor General * Number of cases		353	4,185.91	1,477,625	
Opinions * Number of Opinions Issued		429	1,072.39	460,055	
Cabinet Support Services * Number of Cabinet Meetings		22	14,898.23	327,761	
Eminent Domain * Cases representing the Department of Transportation and other government agencies in eminent domain proceedings.		465	952.14	442,744	
Sexual Predator Civil Commitment Appeals * Number of cases		240	760.43	182,503	
Non-capital Criminal Appeals * Number of cases - non-capital appellate litigation		21,786	570.49	12,428,686	
Capital Appeals * Number of cases - capital appellate litigation		240	10,023.40	2,405,616	
Administrative Law * Number of cases		1,153	2,198.22	2,534,545	
Tax Law * Number of cases enforcing, defending and collecting tax assessments		934	1,626.30	1,518,962	
Civil Litigation Defense Of State Agencies * Number of cases defending the state and its agents in litigation of appellate, corrections, employment, state programs and tort.		9,558	1,022.05	9,768,742	
Grants-victims Of Crime Advocacy * Number of victims served through grants.		302,287	77.71	23,490,486	
Victim Notification * Number of appellate services provided		9,276	177.47	1,646,195	
Victim Compensation * Number of victim compensation claims paid		29,442	1,143.69	33,672,635	
Minority Crime Prevention Programs * Number of crime prevention programs assisted		4	1,626,497.25	6,505,989	
Grants-crime Stoppers * Number of crime stopper agencies assisted		32	116,797.16	3,737,509	
Crime Prevention/Training * Number of people attending training		3,591	142.87	513,047	
Investigation And Prosecution Of Multi-circuit Organized Crime-drugs * Annual volume of investigations handled		361	74.98	27,069	
Investigation And Prosecution Of Multi-circuit Organized Crime * Annual volume of investigations handled/financial assessments		526	12,632.18	6,644,528	
Prosecution Of Violations Of The Florida Election Code * Number of prosecutions handled.		245	5,050.50	1,237,371	
TOTAL				159,172,029	
SECTION III: RECONCILIATION TO BUDGET					
PASS THROUGHS					
TRANSFER - STATE AGENCIES					
AID TO LOCAL GOVERNMENTS					
PAYMENT OF PENSIONS, BENEFITS AND CLAIMS					
OTHER					
REVERSIONS				29,320,810	
TOTAL BUDGET FOR AGENCY (Total Activities + Pass Throughs + Reversions) - Should equal Section I above. (4)				188,492,839	

SCHEDULE XI/EXHIBIT VI: AGENCY-LEVEL UNIT COST SUMMARY

(1) Some activity unit costs may be overstated due to the allocation of double budgeted items.

(2) Expenditures associated with Executive Direction, Administrative Support and Information Technology have been allocated based on FTE. Other allocation methodologies could result in significantly different unit costs per activity.

(3) Information for FCO depicts amounts for current year appropriations only. Additional information and systems are needed to develop meaningful FCO unit costs.

(4) Final Budget for Agency and Total Budget for Agency may not equal due to rounding.

Glossary of Terms

Attorney General Opinions: Section 16.01, F.S. provides that the Attorney General shall provide official opinions and legal advice on questions of law from designated public officials.

Antitrust: Refers to laws and regulations designed to protect trade and commerce from unfair business practices which adversely impact the citizens of the state.

Cabinet: The Florida Cabinet is created in Art. 1V, Section 4, Florida Constitution. The Cabinet is composed of an elected secretary of state, attorney general, comptroller, treasurer, commissioner of agriculture and commissioner of education. On January 7, 2003, the composition of the Florida Cabinet changes pursuant to Constitutional amendment. The Florida Cabinet, along with Florida's Governor, sit as the head of several state agencies, commissions and boards.

Child Support Enforcement: Refers to the Child Support Enforcement Division of the Florida Department of Revenue charged with the administration of the child support enforcement program, Title IV-D of the Social Security Act, 42 U.S.C. ss. 651 et seq.

Children's Legal Services: a division within the Attorney General's Office.

Child Predator CyberCrime Unit: a division within the Attorney General's Office.

Eminent Domain: The power of the government to take private property for a public purpose, with the payment of full compensation for the property taken.

False Claims Act: s. 68.081 - 68.09, F.S. The purpose of the Act is to deter persons from knowingly causing or assisting in causing state government to pay claims that are false. Florida Civil Rights Act: Refers to ch. 760, Florida Statutes. The Act's general purposes are to secure for all individuals within the state freedom from discrimination because of race, color, religion, sex, national origin, age, handicap, or marital status and thereby to protect their interest in personal dignity, to make available to the state their full productive capacities, to secure the state against domestic strife and unrest, to preserve the public safety, health, and general welfare, and to promote the interests, rights, and privileges of individuals within the state.

Florida Crimes Compensation Act: Pursuant to ch. 960, F. S., provides that innocent victims of crime who, as a result of the crime, suffer physical, financial, mental or emotional hardship may be eligible to receive aid, care, and support from the state.

Florida Deceptive and Unfair Trade Practices Act: s. 501.201 - 501.213, F.S. Purpose of the Act is to protect the consuming public and legitimate businesses from those who engage in unfair methods, or unconscionable, deceptive or unfair acts or practices in the conduct of any trade or commerce.

Government in the Sunshine Law: Commonly referred to as the Sunshine Law, provides a right of access to governmental proceedings at both the state and local levels. See s. 286.011, F.S. and Article I, s. 24, Florida Constitution.

Hate Crimes: Incidents of criminal acts that evidence of prejudice based on race, religion, ethnicity, color, ancestry, sexual orientation, or national origin. (see s.877.19, F.S.)

Lemon Law: Refers to the provisions of ch. 681, F.S., providing remedies to a consumer whose new motor vehicle (referred to as a “lemon”) has defects which cannot be brought into conformity with the warranty provided.

Lemon Law Arbitration Program: An unit within the Attorney General’s Office.

New Motor Vehicle Arbitration Board: Pursuant to s. 681.1095, the board is established within the Department of Legal Affairs and appointed by the Attorney General to arbitrate disputes between consumers and automobile manufacturers and/or dealers.

Price Gouging: Refers to practices prohibited in s. 501.160, F.S., during a declared state of emergency. Practices include the “unconscionable” increase in sale price or rental cost of goods, services, dwelling units, and other specified commodities during a declared state of emergency. The increase is generally deemed “unconscionable” if the amount charged represents a gross disparity between the increased price and that which was charged during the 30 days immediately prior to the declaration of a state of emergency.

Public Records Law: Refers to state policy that all state, county and municipal records shall be open for personal inspection by any person in accordance with ch. 119, F.S.

Pyramid Scheme: A sales or marketing plan whereby a person makes an investment in excess of \$100 and acquires the opportunity to receive a benefit, not based on quantity of goods or services sold, but by inducing additional persons to participate and invest in the same sales or marketing plan.

Racketeering Activity: Means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit a series of crimes as enumerated in s.895.02, F.S.

Solicitor General: Office created in conjunction with the Florida State University College of Law. The Solicitor General represents and advises the Attorney General on complex constitutional issues before the Florida Supreme Court and the United States Supreme Court.

Statewide Prosecutor: The position of Statewide Prosecutor is created in Article IV, Section 4(c), Florida Constitution. The Statewide Prosecutor is appointed by the Attorney General and has jurisdiction to prosecute violations of criminal laws occurring or having occurred in two or more judicial circuits.

Sovereign Immunity: Refers to the doctrine, originated in common law that prohibits suits against the government without the government's consent.

Victims of Crime Advocacy: Victims grant program. Funds are awarded by the United States Department of Justice to the Office of the Attorney General, as the agency designated to administer the grants to local victim services programs.

Acronyms

AAG	Assistant Attorney General
AHCA	Agency for Health Care Administration
APD	Adult Protective Division
CLS	Children's Legal Services
CPCU	Child Predator Cybercrime Unit
d/b/a	Doing business as
DCF	Department of Children and Families
DEA	Drug Enforcement Agency
DOH	Department of Health
DRTs	Diversion Response Teams
FCHR	Florida Commission on Human Relations
FCIC	Florida Crime Information Center
FDLE	Florida Department of Law Enforcement
FDUTPA	Florida Deceptive & Unfair Trade Practices Act
f/k/a	Formerly known as
F.S.	Florida Statutes
FTE	Full Time Equivalent
FY	Fiscal Year
HIDTA	High Intensity Drug Trafficking Area
HUD	Department of Housing and Urban Development
ICAC	Internet Crimes Against Children
L.O.F.	Laws of Florida
MDMA	Methylenedioxymethamphetamine
MFCU	Medicaid Fraud Control Unit
MOU	Memorandum of Understanding
NCMEC	National Center for Missing & Exploited Children
OAG	Office of the Attorney General
OCR	Office of Civil Rights
OSG	Office of the Solicitor General
OSWP	Office of Statewide Prosecutor
PANE	Patient Abuse, Neglect and Exploitation
PIN	Personal Identification Number
RICO	Racketeer Influenced and Corrupt Organization
RV	Recreational Vehicle
SRO	School Resource Officer
SWGJ	Statewide Grand Jury
VOCA	Victims of Crime Act

Long Range Program Plan

FY 2011-12 through FY 2015-16



Department of Legal Affairs
Office of Statewide Prosecution

PL 01 The Capital
Tallahassee, Florida 32399-1050

MISSION

To investigate and prosecute multi-circuit organized crime and to assist other law enforcement officials in their efforts against organized criminal activity.

Program: Office of Statewide Prosecution Goals

Goal #1: Coordinate effectively with multi-jurisdictional enforcement efforts

Goal #2: Effectively prosecute multi-circuit crime

Program: Office of Statewide Prosecution Objectives

Goal #1: Coordinate effectively with multi-jurisdictional enforcement efforts

Objective A: Assist law enforcement Outcome: Number of law enforcement agencies assisted

Objective B: Maintain substantial caseload of complex investigations

Goal #2: Effectively prosecute multi-circuit crime

Objective A: Maintain substantial caseload of complex prosecutions

Objective B: Seek effective case results

Program: Office of Statewide Prosecution

Service Outcomes and Performance Projections Tables

Goal #1: Coordinate effectively with multi-jurisdictional enforcement efforts

Objective A: Assist law enforcement Outcome: Number of law enforcement agencies assisted

Outcome: Number of law enforcement agencies assisted

Baseline/Year 2000-01	FY 2011- 12	FY 2012-13	FY 2013-14	FY 2014- 15	FY 2015- 16
199	95	95	95	95	95

Objective B: Maintain substantial caseload of complex investigations

Outcome: Total inventory of drug cases

Baseline/Year 2000-01	FY 2011- 12	FY 2012-13	FY 2013-14	FY 2014- 15	FY 2015- 16
338	257	300	300	300	300

Goal #2: Effectively prosecute multi-circuit crime

Objective A: Maintain substantial caseload of complex prosecutions

Outcome: Total number of active cases handled (excluding drug cases)

Baseline/Year 2000-01	FY 2011- 12	FY 2012-13	FY 2013-14	FY 2014- 15	FY 2015- 16
729	625	625	650	650	650

Objective B: Seek effective case results

Outcome: Number of defendants convicted

Baseline/Year 2000-01	FY 2011- 12	FY 2012-13	FY 2013-14	FY 2014- 15	FY 2015- 16
410	375	380	380	380	385

Outcome: Conviction Rate

Baseline/Year 2000-01	FY 2011- 12	FY 2012-13	FY 2013-14	FY 2014- 15	FY 2015- 16
90%	90%+	90%+	90%+	90%+	90%+

Program: Office of Statewide Prosecution Trends and Conditions Statements

Mission

The Office of Statewide Prosecution (OSP) is charged by Section 16.56, Florida Statutes, with the responsibility to investigate and prosecute multi-circuit criminal activity and to assist state and local law enforcement in their efforts to combat organized crime. Organized criminal activity that crosses judicial circuit boundaries exists in many forms and victimizes many citizens of Florida. The Office utilizes the police-prosecutor team approach with many statewide and local law enforcement agencies, in order to systematically attack organized crime. In addition to proactive enforcement, the Office also utilizes educational and legislative approaches in the prevention of organized criminal activity on the premise that crime can be effectively addressed through proactive enforcement, education, and environmental or programmatic design.

Planning/Accountability

The Long Range Program Plan, as well as the statutorily required Annual Report, serves as the foundation for every activity performed by the Office of Statewide Prosecution. If the work does not serve to accomplish the stated goals and objectives, which are tied to impact or positive outcome results, the activities are not pursued. The reports have been used in the Performance-Based Budgeting process since 1992.

Each year, the Office adopts as priorities the investigation and prosecution of certain types of criminal activity, striving for a strong and positive impact against sophisticated and organized groups victimizing a large number of Florida's citizens or attacking Florida's public programs. While caseload numbers are certainly one measurement of performance, an equally important measure of success is the results achieved within those caseload numbers.

Results are measured by disposition and sentencing data, but also the number of legislative or policy changes that are proposed and adopted to curtail or prevent future similar activity.

Trends and conditions are assessed by scanning relevant written materials, including detailed crime rate analysis and studies on crime in changing economic conditions, and by participating in training opportunities and engaging in discussions with colleagues in law enforcement and members of the Legislature and executive agencies.

Priorities

The priorities of the Office are: (1) criminal gangs and violent crime, (2) fraud and theft, (3) narcotics trafficking, and (4) sexual predators. The goal of the Office is to dismantle criminal organizations through effective prosecution and civil, administrative, and regulatory sanctions when appropriate.

In August 2007, at Governor Charlie Crist's petition to the Supreme Court, this Office empanelled the Eighteenth Statewide Grand Jury to investigate numerous cases of organized criminal activity, including but not limited to gang activity, throughout the State. The term of the Statewide Grand Jury is twelve months and was extended an additional six months. Statewide Grand Jury reports can be found at: <http://www.myfloridalegal.com>.

Major Prosecutorial Efforts

In the last year and a half, OSP has committed almost a quarter of its resources to investigating and prosecuting criminal gangs using the state's RICO laws. This focus will continue throughout the state in the years ahead. More specific reports on those efforts are available in the Annual Report and the Statewide Grand Jury Reports.

The other major effort for OSP continues to be efforts to fight fraud and theft. This has traditionally been centered on health care fraud and has recently been expanded to focus on mortgage fraud cases. Since Florida was recently named the number one state for mortgage fraud by various banking organizations, it seems likely that mortgage fraud cases will continue to be an important part of the work at Statewide.

Of course these two efforts will not eliminate the work OSP continues to do in fighting drug trafficking, internet crimes, and the growing problem of organized retail theft crime. OSP will continue its enhanced efforts during these difficult budget times.

Legislative Initiatives

The Office will continue to serve as subject matter experts on the Attorney General's legislative initiatives.

Department of Legal Affairs
Office of Statewide Prosecution

**Performance
Measures and
Standards**

LRPP Exhibit II

LRPP Exhibit II - Performance Measures and Standards

Department: DEPARTMENT OF LEGAL AFFAIRS AND ATTORNEY GENERAL

41200000 Program: Office of Statewide Prosecution

41200100 Prosecution of Multi-Circuit Organized Crime

Approved Performance Measures for FY 2010-11 (Words)	Approved Prior Standards for FY 2009-10 (Numbers)	Prior Year Actual FY 2009-10 Standard (Numbers)	Approved Standards for FY 2010-11 (Numbers)	Requested FY 2011-12 Standard (Numbers)
Conviction rate for defendants who reached final disposition	90%	99%	90%	90%
Of the defendants who reached disposition, the number of those convicted	350	470	350	350
Number of law enforcement agencies assisted	80	75	80	80
Total number of active cases, excluding drug cases	700	526	700	700
Total number of active drug related multi-circuit organized criminal cases	300	361	300	300

Department of Legal Affairs
Office of Statewide Prosecution

**Assessment of
Performance for
Approved
Performance
Measures**

LRPP Exhibit III

LRPP Exhibit III: PERFORMANCE MEASURE ASSESSMENT

Department: Department of Legal Affairs

Program: Office of Statewide Prosecution

Service/Budget Entity: Prosecution of Multi-Circuit Organized Crime / 41200100

Measure: Output – Total Number of Active Cases, Excluding Drug Cases

Action:

- | | |
|---|--|
| <input type="checkbox"/> Performance Assessment of <u>Outcome</u> Measure | <input type="checkbox"/> Revision of Measure |
| <input checked="" type="checkbox"/> Performance Assessment of <u>Output</u> Measure | <input type="checkbox"/> Deletion of Measure |
| <input type="checkbox"/> Adjustment of GAA Performance Standards | |

Approved Standard	Actual Performance Results	Difference (Over/Under)	Percentage Difference
700	526	(174)	(24.8%)

Factors Accounting for the Difference:

Internal Factors (check all that apply):

- | | |
|--|--|
| <input type="checkbox"/> Personnel Factors | <input checked="" type="checkbox"/> Staff Capacity |
| <input type="checkbox"/> Competing Priorities | <input type="checkbox"/> Level of Training |
| <input type="checkbox"/> Previous Estimate Incorrect | <input type="checkbox"/> Other (Identify) |

Explanation: Although our total number of active cases is slightly lower than last year, the actual number of convicted defendants is 25% over approved standard. While we may have handled fewer cases, we have actually prosecuted more defendants for crimes this year over last.

External Factors (check all that apply):

- | | |
|--|---|
| <input type="checkbox"/> Resources Unavailable | <input type="checkbox"/> Technological Problems |
| <input type="checkbox"/> Legal/Legislative Change | <input type="checkbox"/> Natural Disaster |
| <input type="checkbox"/> Target Population Change | <input type="checkbox"/> Other (Identify) |
| <input type="checkbox"/> This Program/Service Cannot Fix The Problem | |
| <input type="checkbox"/> Current Laws Are Working Against The Agency Mission | |

Explanation:

Management Efforts to Address Differences/Problems (check all that apply):

- | | |
|------------------------------------|---|
| <input type="checkbox"/> Training | <input type="checkbox"/> Technology |
| <input type="checkbox"/> Personnel | <input type="checkbox"/> Other (Identify) |

Recommendations:

It is requested that this measurement remain unchanged until the program performance results are known for FY 10/11. If needed, an adjustment will be requested.

LRPP Exhibit III: PERFORMANCE MEASURE ASSESSMENT

Department: Legal Affairs

Program: Office of the Attorney General

Service/Budget Entity: Prosecution of Multi-Circuit Organized Crime / 41200100

Measure: Output-Number of Law Enforcement Agencies Assisted

Action:

- | | |
|---|--|
| <input type="checkbox"/> Performance Assessment of <u>Outcome</u> Measure | <input type="checkbox"/> Revision of Measure |
| <input checked="" type="checkbox"/> Performance Assessment of <u>Output</u> Measure | <input type="checkbox"/> Deletion of Measure |
| <input type="checkbox"/> Adjustment of GAA Performance Standards | |

Approved Standard	Actual Performance Results	Difference (Over/Under)	Percentage Difference
80	75	(5)	(6.25%)

Factors Accounting for the Difference:

Internal Factors (check all that apply):

- | | |
|--|--|
| <input type="checkbox"/> Personnel Factors | <input type="checkbox"/> Staff Capacity |
| <input type="checkbox"/> Competing Priorities | <input type="checkbox"/> Level of Training |
| <input type="checkbox"/> Previous Estimate Incorrect | <input type="checkbox"/> Other (Identify) |

Explanation:

External Factors (check all that apply):

- | | |
|--|--|
| <input type="checkbox"/> Resources Unavailable | <input type="checkbox"/> Technological Problems |
| <input type="checkbox"/> Legal/Legislative Change | <input type="checkbox"/> Natural Disaster |
| <input type="checkbox"/> Target Population Change | <input checked="" type="checkbox"/> Other (Identify) |
| <input type="checkbox"/> This Program/Service Cannot Fix The Problem | |
| <input type="checkbox"/> Current Laws Are Working Against The Agency Mission | |

Explanation: This measure is dependent upon the receipt of requests for assistance (RFA) from primary and secondary law enforcement agencies from each region of the state.

Management Efforts to Address Differences/Problems (check all that apply):

- | | |
|------------------------------------|---|
| <input type="checkbox"/> Training | <input type="checkbox"/> Technology |
| <input type="checkbox"/> Personnel | <input type="checkbox"/> Other (Identify) |

Recommendations:

It is requested that this measurement remain unchanged until the program performance results are known for FY 10/11. If needed, an adjustment will be requested.

Department of Legal Affairs
Office of Statewide Prosecution

Associated Activities
Contribution to
Performance
Measures
LRPP Exhibit V

LRPP Exhibit V: Identification of Associated Activity Contributing to Performance

Measure Number	Approved Performance Measures for FY 2009-10 (Words)		Associated Activities Title
38	Conviction rate for defendants who reached final disposition		Investigation and Prosecution of Multi-Circuit Organized Crime - Drugs
39	Of the defendants who reached disposition, the number of those convicted		Investigation and Prosecution of Multi-Circuit Organized Crime
40	Number of law enforcement agencies assisted		Investigation and Prosecution of Multi-Circuit Organized Crime - Drugs
41	Total number of active cases - excluding drug cases		Investigation and Prosecution of Multi-Circuit Organized Crime
42	Total number of active drug related multi-circuit organized criminal cases		Investigation and Prosecution of Multi-Circuit Organized Crime - Drugs

Exhibit VI

Agency-Level Unit Cost Summary is included in the Department of Legal Affairs Office of the Attorney General's LRPP

Glossary of Terms and Acronyms

Glossary of Terms and Acronyms are included in the Department of Legal Affairs Office of the Attorney General's LRPP.

Long-Range Program Plan

Fiscal Years 2011-12 through 2015-16

FLORIDA ELECTIONS COMMISSION



September 2010



FLORIDA ELECTIONS COMMISSION

**107 W. Gaines Street, Suite 224
Collins Building
Tallahassee, Florida 32399-1050
(850) 922-4539**

LONG RANGE PROGRAM PLAN

Florida Elections Commission

Tallahassee, Florida

September 20, 2010

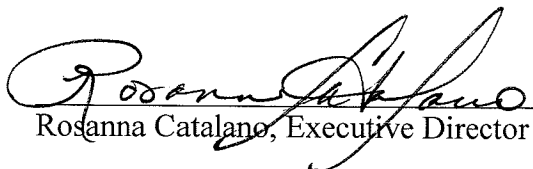
Jerry McDaniel, Director
Office of Policy & Budget
Executive Office of the Governor
1701 Capitol
Tallahassee, Florida 32399-0001

JoAnne Leznoff, Council Director
House Full Appropriations Council
221 Capitol
Tallahassee, Florida 32399-1300

David Coburn, Staff Director
Senate Policy and Steering Committee on Ways and Means
201 Capitol
Tallahassee, Florida 32399-1300

Dear Directors:

Pursuant to Chapter 216, *Florida Statutes*, our Long Range Program Plan (LRPP) for the Florida Elections Commission is submitted in the format prescribed in the budget instructions. The information provided electronically and contained herein is a true and accurate presentation of our mission, goals, objectives and measures for the Fiscal Year 2011-12 through Fiscal Year 2015-2016. This submission has been approved by Rosanna Catalano, Executive Director of the Florida Elections Commission.


Rosanna Catalano, Executive Director

Mission Statement

“Ensuring Fair Elections”

Goal

**Enforce Chapters 104 and 106
Effectively and Efficiently**

Agency Objectives

Maintain the percentage of cases closed in a 12 month period, and to continue to reduce case backlog.

Maintain high conviction rate in cases where the Commission has found probable cause.

FLORIDA ELECTIONS COMMISSION

AGENCY SERVICE OUTCOMES AND PERFORMANCE PROJECTION TABLES

Goal #1: Improve agency productivity.

Objective 1A: Maintain the percentage of cases closed in a 12 month period and continue to reduce case backlog

Outcome: Of cases closed, percent of cases that are closed within a year of being opened

Baseline/Year 2001	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16
75%	80%	80%	80%	80%	80%

Due to increased agency productivity, this measure was raised from 75% to 80% in FY 02-03. Willful cases are public complaint driven and automatic fine cases are dependent on the number of fines levied that are appealed to the Commission. If staffing remains unchanged, it is believed 80% can be maintained.

Objective 1B: Maintain high conviction rate in cases where the Commission has found probable cause

Outcome: Of cases where the Commission has found probable cause, percent of cases where a violation is found

Baseline/Year 2001	FY 2011-12	FY 2012-13	FY 2013-14	FY 2014-15	FY 2015-16
90%	90%	90%	90%	90%	90%

Following a thorough investigation by Commission staff, a Commission prosecutor drafts a statement recommending to the Commission whether an election law has been violated. As a quasi judicial body, the Commission reviews the case and determines whether there is probable cause that a violation occurred. In cases where probable cause is found, the person may contest the Commission's findings in a formal or informal hearing. The conviction rate where the Commission has found probable cause has measured the ability of the Commission staff to effectively prosecute a case.

In the past, this measure has been a valid indicator of the success of both Commission prosecutors and investigators. However, this measure needs to be adjusted following a legislative change that has affected the accuracy of this measure as written, and changes

in how the Commission finds violations or offenses. This outcome measure will be discussed further in our Trends and Conditions Statements and LRPP Exhibits III & IV.

FLORIDA ELECTIONS COMMISSION

TRENDS AND CONDITIONS STATEMENTS

The Florida Elections Commission (“FEC”) was created in 1973 and charged with enforcing Chapter 106, Florida Statutes, the Campaign Financing Act. The Legislature expanded the Commission’s jurisdiction in 1998, adding Chapter 104, Florida Statutes, the Corrupt Practices Act, and in 2000, adding Section 105.071, Florida Statutes, limitations on political activity of judicial candidates.

In 1997, the Legislature adopted legislation providing for the independence of the Commission by reorganizing it as a separate budget entity within the Department of Legal Affairs. The legislation stated the Commission is not subject to the control, supervision, or direction of the Department of Legal Affairs in the performance of its duties, including, but not limited to, personnel, purchasing transactions, and budgetary matters. The Commission hires an executive director who hires and supervises the Commission staff.

The Commission is composed of nine members appointed by the governor for four year terms and are limited to serving no more than two terms. The staff consists of the executive director, two attorneys, the investigations manager, six investigators, the commission clerk, the business manager, a paralegal, and an office clerk.

Chapter 106, Florida Statutes, and the Commission rules require staff to review all complaints filed with the Commission. The staff investigates all legally sufficient complaints and makes a recommendation to the Commission on whether there is probable cause to believe Florida’s election laws were violated. If the Commission finds probable cause, staff tries the case, when required, before the Division of Administrative Hearings or before the Commission.

The Commission also hears from candidates and committees appealing the imposition of automatic fines imposed by a filing officer for a late-filed campaign treasurer’s report. The staff processes all automatic fine appeals and makes a recommendation to the Commission on whether there are “unusual circumstances.” The Commission determines whether a fine was properly imposed or whether there are unusual or other circumstances that justify the late filing of the report.

In 2007, the Legislature made some significant procedural changes to Chapter 106. These changes required more specific and reliable information from complainants and increased the number of steps required of staff before the Commission determines probable cause. It also automatically refers all cases to the Division of Administrative Hearings for a hearing unless a Respondent affirmatively chooses an informal hearing before the Commission. Further, these changes provided that the administrative law judge in such proceedings shall enter a final order, rather than a recommended order. These changes not only slow down the process for determining whether a violation has occurred, but also increase the cost for a Respondent and the FEC if the Commission has found probable cause that an election law has been violated.

The Commission’s goal is to complete cases in the shortest time. An outcome measure currently used to gauge success is the number of cases closed in a given fiscal year. Of cases closed in a

given year, the Commission’s objective is to close 80% of cases within 12 months. Careful consideration of the number of cases opened in a given year should be a factor in any review of this agency’s service to the Florida public.

The table below illustrates success over the last nine fiscal years:

Fiscal Year	Cases Opened	Cases Closed	Outcome Standard	% Of Cases Closed Within a year of Being Opened.	Cases Pending on July 1 of next fiscal year.
2001/02	246	260	75 %	79 %	169
2002/03	541	509	80 %	96 %	127
2003/04	292	294	80 %	91 %	162
2004/05	448	441	80 %	96 %	155
2005/06	274	250	80%	77 %	183
2006/07	483	424	80 %	90 %	180
2007/08	276	303	80 %	79 %	157
2008/09	417	404	80 %	89 %	169
2009/10	181	245	80 %	81 %	105

In fiscal year 2002/03, the Commission established two additional measures: an outcome measure, the conviction rate where the Commission has found probable cause; and an output measure, the ratio of active cases to attorneys on staff. These additional measures have helped to accurately and completely reflect the role of the agency and its success in enforcing Florida’s election laws. For fiscal year 2009/10, the Commission’s conviction rate where probable cause was found is 73%, and the 2009/10 caseload is 115 cases per attorney, including the Executive Director.

The Commission has been measuring the number of convictions following probable cause as a way to demonstrate its effectiveness in enforcing Chapters 104 and 106, and Section 105.071, Florida Statutes. The conviction rate measurement does not include legally sufficient complaints that are closed prior to making a probable cause determination with the Commission finding a violation or offense. The conviction rate measurement may not provide the most complete picture of the agency’s effectiveness because it does not include case outcomes determined by the Division of Administrative Hearings, pre-probable cause consent orders, and minor violation consent orders. LRPP Exhibit III will provide more details related to our conviction rate measure.

To increase output, a priority of the Commission has been to reduce staff turnover. The quality and experience of the investigative and legal staff is critical to the Commission's success. It takes an investigator a minimum of two years to become proficient in election law. The Commission has a history of turnover in our non-supervisory investigative staff due to salary limitations. Bonuses and increases in the salaries of the Commission's investigators to reward the superior service of long term employees who have obtained expertise in election law would result in retaining experienced staff members who can investigate a case more quickly. Equitable salaries for our investigators would also result in a more experienced pool of applicants to choose from if a staff member departs.

It is the responsibility of the Commission and its staff to handle complaints filed by the public, and referrals made by filing officers throughout the state. It is our objective to handle those cases quickly and completely. The continued success of the mission of the Florida Elections Commission will require additional funding sources in FY 2011/12 to meet its requested budget, and to continue its work to ensure fair elections and meaningful campaign regulation. Any reduction in resources would severely impair the Commission's ability to enforce election law violations on behalf of the citizens of Florida.

Impact Statement

At this time, the Florida Elections Commission is neither creating new programs nor requesting additional staff. The Commission believes that the service it provides the Florida public in enforcing this state's election laws is an important one. A free and fair election is the cornerstone of our democratic system of government.

EXHIBIT II:

PERFORMANCE MEASURES & STANDARDS

LRPP Exhibit II - Performance Measures and Standards

Department: Department of Legal Affairs	Department No.: 41100000
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Program: Florida Elections Commission	Code: 41400000
Service/Budget Entity: Campaign Finance and Election Fraud Enforcement	Code: 41300100

NOTE: Approved primary service outcomes must be listed first.

Approved Performance Measures for FY 2011-12 (Words)	Approved Prior Year Standard FY 2009-10 (Numbers)	Prior Year Actual FY 2009-10 (Numbers)	Approved Standards for FY 2010-11 (Numbers)	Requested FY 2011-12 Standard (Numbers)
Ratio of active cases to attorneys	115 to 1	115 to 1	115 to 1	115 to 1
Conviction rate where the Commission has found probable cause	90%	73%	90%	90%
Percent of cases that are closed within 12 months	80%	81%	80%	80%

Exhibit III:

**Assessment of Performance for Approved
Performance Measures**

LRPP Exhibit III: PERFORMANCE MEASURE ASSESSMENT

Department: Department of Legal Affairs

Program: Office of the Attorney General

Service/Budget Entity: Florida Elections Commission/Campaign Finance and Election Fraud Enforcement

Measure: Outcome – Percentage of Cases that are Closed within 12 Months

Action:

- Performance Assessment of Outcome Measure Revision of Measure
 Performance Assessment of Output Measure Deletion of Measure
 Adjustment of GAA Performance Standards

Approved Standard	Actual Performance Results	Difference (Over/Under)	Percentage Difference
80%	81%	1%	1.25%

Factors Accounting for the Difference:

Internal Factors (check all that apply):

- | | |
|--|---|
| <input type="checkbox"/> Personnel Factors
<input type="checkbox"/> Competing Priorities
<input type="checkbox"/> Previous Estimate Incorrect
<input type="checkbox"/> Other (Identify) | <input type="checkbox"/> Staff Capacity
<input type="checkbox"/> Level of Training |
|--|---|

Explanation:

External Factors (check all that apply):

- | | |
|---|---|
| <input type="checkbox"/> Resources Unavailable
<input checked="" type="checkbox"/> Legal/Legislative Change
<input type="checkbox"/> Target Population Change
<input type="checkbox"/> This Program/Service Cannot Fix The Problem
<input type="checkbox"/> Current Laws Are Working Against The Agency Mission | <input type="checkbox"/> Technological Problems
<input type="checkbox"/> Natural Disaster
<input type="checkbox"/> Other (Identify) |
|---|---|

Explanation:

FY 09/10 saw a typical year in terms of case closures. Effective January 1, 2008, the Legislature increased the number of steps required of staff before the Commission determines probable cause, resulting in a month or more being added to the length of investigating all cases. In addition, this legislation automatically refers all cases to the Division of Administrative Hearings for a hearing unless a Respondent affirmatively chooses an informal hearing before the Commission. These changes not only can slow down the process for determining whether a violation has occurred, but also increase costs.

Management Efforts to Address Differences/Problems (check all that apply):

- | | |
|---|--|
| <input type="checkbox"/> Training
<input type="checkbox"/> Personnel | <input type="checkbox"/> Technology
<input type="checkbox"/> Other (Identify) |
|---|--|

Recommendations:

No change at this time.

LRPP Exhibit III: PERFORMANCE MEASURE ASSESSMENT

Department: Department of Legal Affairs

Program: Office of the Attorney General

Service/Budget Entity: Florida Elections Commission/Campaign Finance and Election Fraud Enforcement

Measure: Outcome – Conviction Rate where the Commission has found Probable Cause

Action:

- Performance Assessment of Outcome Measure Revision of Measure
 Performance Assessment of Output Measure Deletion of Measure
 Adjustment of GAA Performance Standards

Approved Standard	Actual Performance Results	Difference (Over/Under)	Percentage Difference
90%	73%	(17%)	18.9%

Factors Accounting for the Difference:

Internal Factors (check all that apply):

- | | |
|--|---|
| <input type="checkbox"/> Personnel Factors
<input type="checkbox"/> Competing Priorities
<input type="checkbox"/> Previous Estimate Incorrect
<input type="checkbox"/> Other (Identify) | <input type="checkbox"/> Staff Capacity
<input type="checkbox"/> Level of Training |
|--|---|

Explanation:

External Factors (check all that apply):

- | | |
|---|---|
| <input type="checkbox"/> Resources Unavailable
<input checked="" type="checkbox"/> Legal/Legislative Change
<input type="checkbox"/> Target Population Change
<input type="checkbox"/> This Program/Service Cannot Fix The Problem
<input type="checkbox"/> Current Laws Are Working Against The Agency Mission | <input type="checkbox"/> Technological Problems
<input type="checkbox"/> Natural Disaster
<input type="checkbox"/> Other (Identify) |
|---|---|

Explanation: The Commission has been measuring the number of convictions following probable cause as a way to demonstrate its effectiveness in enforcing Chapters 104 and 106, and Section 105.071, Florida Statutes. Effective January 1, 2008, the Legislature gave the Division of Administrative Hearings (DOAH) final agency authority in those FEC cases referred to DOAH for a hearing with disputed issues of fact. The conviction rate measurement may not provide the most complete picture of the agency's effectiveness because it does not include case outcomes determined by DOAH, or pre-probable cause consent orders and minor violation consent orders. This measure will be reviewed in light of recent legislative changes, and the use of pre-probable cause consent orders.

As a result of the above factors, FY 2009-10, an off election year with fewer overall cases, experienced a reduction in the number of cases where the Commission found probable cause. With a larger percentage of cases being settled prior to probable cause, the number of cases

where the Commission found probable cause dropped significantly in FY 2009-10. With fewer cases to count under the current wording of this measure, the Commission did not meet its goal of a 90% conviction rate.

Management Efforts to Address Differences/Problems (check all that apply):

Training
 Personnel

Technology
 Other (Identify)

Recommendations:

This measure will be reviewed in light of recent legislative changes, and the changes in how the Commission finds violations or offenses.

LRPP Exhibit III: PERFORMANCE MEASURE ASSESSMENT

Department: Department of Legal Affairs

Program: Office of the Attorney General

Service/Budget Entity: Florida Elections Commission/Campaign Finance and Election Fraud Enforcement

Measure: Output – Ratio of Active Cases to Attorneys

Action:

- | | |
|---|--|
| <input type="checkbox"/> Performance Assessment of <u>Outcome</u> Measure | <input type="checkbox"/> Revision of Measure |
| <input checked="" type="checkbox"/> Performance Assessment of <u>Output</u> Measure | <input type="checkbox"/> Deletion of Measure |
| <input type="checkbox"/> Adjustment of GAA Performance Standards | |

Approved Standard	Actual Performance Results	Difference (Over/Under)	Percentage Difference
115:1	115:1	Equal To	0%

Factors Accounting for the Difference:

Internal Factors (check all that apply):

- | | |
|--|--|
| <input type="checkbox"/> Personnel Factors | <input type="checkbox"/> Staff Capacity |
| <input type="checkbox"/> Competing Priorities | <input type="checkbox"/> Level of Training |
| <input type="checkbox"/> Previous Estimate Incorrect | |
| <input type="checkbox"/> Other (Identify) | |

Explanation:

External Factors (check all that apply):

- | | |
|--|--|
| <input type="checkbox"/> Resources Unavailable | <input type="checkbox"/> Technological Problems |
| <input type="checkbox"/> Legal/Legislative Change | <input type="checkbox"/> Natural Disaster |
| <input type="checkbox"/> Target Population Change | <input checked="" type="checkbox"/> Other (Identify) |
| <input type="checkbox"/> This Program/Service Cannot Fix The Problem | |
| <input type="checkbox"/> Current Laws Are Working Against The Agency Mission | |

Explanation:

This measure is largely dependent upon external factors and represents the total number of complaints filed by the public and referrals received from filing officers. During an election year following candidate qualifying there is an increase of cases.

Management Efforts to Address Differences/Problems (check all that apply):

- | | |
|------------------------------------|---|
| <input type="checkbox"/> Training | <input type="checkbox"/> Technology |
| <input type="checkbox"/> Personnel | <input type="checkbox"/> Other (Identify) |

Recommendations:

No change at this time.

EXHIBIT IV:

PERFORMANCE MEASURE VALIDITY AND RELIABILITY

LRPP EXHIBIT IV: Performance Measure Validity and Reliability

Department: Department of Legal Affairs

Program: Office of the Attorney General

Service/Budget Entity: Florida Elections Commission/Campaign Finance and Election Enforcement

Measure: Outcome – Percentage of Cases that are Closed within 12 Months

Action (check one):

- Requesting revision to approved performance measure.
- Change in data sources or measurement methodologies.
- Requesting new measure.
- Backup for performance measure nor previously approved or for which validity, reliability and/or methodology information has not been provided.

Data Sources and Methodology:

Campaign finance complaints and referrals.

Campaign finance complaints and referrals are entered, monitored and tracked in our Case Management System (CMS). The opened date and closed date are entered into the CMS. The CMS generates a report based on the closed date. The closed dates listed on the report are then compared to the open dates to determine whether the case was closed within 12 months of being opened. This number is divided by the total number of closed cases.

The percentage of cases closed within 12 months.

Validity:

Data sources were identified for accuracy. Automated and manual records were reviewed to ensure the numerical representation of the measure was complete and mathematically correct. Baseline data was reviewed to select the standard and to determine the reliability of the data represented. Interviews were conducted with program management and staff to assist in determining whether or not the measure represented what the program is trying to measure.

This measure is an appropriate indicator of the program's ability to process complaints and referrals, investigate complaints, and prosecute cases.

The data measured is reported quarterly and annually and reviewed by the Office of Inspector General.

Reliability:

The data is gathered and reviewed by the Business Manager. Data errors are corrected as identified. Review of automated and manual records reveal that sufficient controls are in place to assure data accuracy and reliability. The Executive Director arranges for the completion of periodic upgrades and improvements to the CMS to assure reporting accuracy.

LRPP EXHIBIT IV: Performance Measure Validity and Reliability

Department: Department of Legal Affairs

Program: Office of the Attorney General

Service/Budget Entity: Florida Elections Commission/Campaign Finance and Election Enforcement

Measure: Outcome – Conviction Rate where the Commission has found Probable Cause

Action (check one):

- Requesting revision to approved performance measure.
- Change in data sources or measurement methodologies.
- Requesting new measure.
- Backup for performance measure nor previously approved or for which validity, reliability and/or methodology information has not been provided.

Data Sources and Methodology:

Campaign finance complaints and referrals are entered, monitored and tracked in CMS. Following an investigation by the Commission, a prosecutor drafts a statement recommending to the Commission whether an election law has been violated. As a quasi judicial body, the Commission reviews the case and determines whether there is probable cause that a violation has occurred. In cases where probable cause is found, the person may contest the Commission's findings in a formal or informal hearing.

Reports are generated from the CMS of all cases where the Commission has found a violation or no violation within the period of time under review after probable cause was found. The number of cases in which the Commission found a violation after probable cause was determined is derived from the data and expressed as a percentage of the total cases.

As described in Exhibit III, this measure may need to be amended to account for legislative changes, and the changes in how the Commission finds violations or offenses.

Validity:

Data sources were identified for accuracy. Automated and manual records were reviewed to ensure the numerical representation of the measure was complete and mathematically correct. Baseline data was reviewed to select the standard and to determine the reliability of the data represented. Interviews were conducted with program management and staff to assist in determining whether or not the measure represented what the program is trying to measure. The data measured is reported quarterly and annually and reviewed by the Office of Inspector General.

This measure will be reviewed in light of recent legislative changes, and the use of pre-probable cause consent orders.

Reliability:

The data is gathered and reviewed by the Business Manager. Data errors are corrected as identified. Review of automated and manual records reveal that sufficient controls are in place to assure data accuracy and reliability. The Executive Director arranges for the completion of periodic upgrades and improvements to the CMS to assure reporting accuracy.

LRPP EXHIBIT IV: Performance Measure Validity and Reliability

Department: Department of Legal Affairs

Program: Office of the Attorney General

Service/Budget Entity: Florida Elections Commission/Campaign Finance and Election Enforcement

Measure: Output – Ratio of Active Cases to Attorneys

Action (check one):

- Requesting revision to approved performance measure.
- Change in data sources or measurement methodologies.
- Requesting new measure.
- Backup for performance measure nor previously approved or for which validity, reliability and/or methodology information has not been provided.

Data Sources and Methodology:

Campaign finance complaints and referrals are entered, monitored and tracked in CMS. The number of cases include complaint cases and automatic fine cases stemming from fines levied by filing officers.

This output measure is the total number of active cases divided by the number of attorneys on staff between July 1 and June 30 expressed as a ratio.

Validity:

Data sources were identified for accuracy. Automated and manual records were reviewed to ensure the numerical representation of the measure was complete and mathematically correct. Baseline data was reviewed to select the standard and to determine the reliability of the data represented. Interviews were conducted with program management and staff to assist in determining whether or not the measure represented what the program is trying to measure.

This measure is supportive of the Commission's outcome measure related to the percent of cases that are closed within a year of being opened. The measure also indicates actual service delivered. This is a valid indicator of program performance.

The data measured is reported quarterly and annually and reviewed by the Office of Inspector General.

Reliability:

The data is gathered and reviewed by the Business Manager. Data errors are corrected as identified. Review of automated and manual records reveal that sufficient controls are in place to assure data accuracy and reliability. The Executive Director arranges for the completion of periodic upgrades and improvements to the CMS to assure reporting accuracy.

EXHIBIT V:

ASSOCIATED ACTIVITY CONTRIBUTING TO PERFORMANCE MEASURES

EXHIBIT V: Identification of Associated Activity Contributing to Performance Measures

Measure Number	Approved Performance Measures for FY 2010-11	Associated Activities Title
1	Percentage of Cases that are Closed within 12 months.	Campaign Finance and Election Enforcement
2	Conviction Rate where the Commission has Found Probable Cause	Campaign Finance and Election Enforcement
3	Ration of Active Cases to Attorneys	Campaign Finance and Election Enforcement

Exhibit VI:

Agency-Level Unit Cost Summary

(This exhibit is included with the Department of Legal Affairs's LRPP)

Glossary of Terms and Acronyms

Campaign Financing Act: Chapter 106, Florida Statutes, regulates campaign financing for all candidates, including judicial candidates, political committees, committees of continuous existence, electioneering communication organizations, and political parties. It does not regulate campaign financing for candidates for federal office or candidates for a political party executive committee.

Corrupt Practices Act: Chapter 104, Florida Statutes, makes unlawful a variety of acts that subvert the elective process, e.g. false swearing, fraud in connection with casting a vote, corruptly influencing voting, illegal voting, and any act by an official who willfully and fraudulently violated any of the provisions of the election code.

Division of Administrative Hearings (DOAH): An entity that provides independent administrative law judges to conduct hearings pursuant to Sections 120.569 and 120.57(1), Florida Statutes. The Division is established within the Department of Management Services for provisions of support services only.

Florida Elections Commission (FEC): An entity created within the Department of Legal Affairs, Office of the Attorney General, referred to as the Commission.

Probable Cause: A reasonable ground of suspicion supported by circumstances sufficiently strong to warrant a cautious person in the belief that the person has committed the offense charged.

Unusual Circumstances: Uncommon, rare or sudden events over which the actor has no control and which directly result in the failure to act according to the filing requirements. Unusual circumstances must occur within a time period that would clearly prevent the person legally responsible for filing the report from doing so in a timely manner.