

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF THE ATTORNEY GENERAL
425 QUEEN STREET
HONOLULU, HAWAII 96813
(808) 586-1500

HOLLY T. SHIKADA
ATTORNEY GENERAL

VALERIE M. KATO
FIRST DEPUTY ATTORNEY GENERAL

December 30, 2021

The Honorable Ronald D. Kouchi
President and Members of the Senate
Thirty-First State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Scott K. Saiki
Speaker and Members of the House of
Representatives
Thirty-First State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

For your information and consideration, I am transmitting a copy of the Department of the Attorney General's Report on the Goals and Objectives of the Department of the Attorney General, as required by Act 100, Session Laws of Hawaii 1999, as amended by Act 154, Session Laws of Hawaii 2005. I am also informing you that the report may be viewed electronically at <http://ag.hawaii.gov/publications/reports/reports-to-the-legislature/>.

If you have any questions or concerns, please feel free to call me at 586-1500.

Respectfully,

A handwritten signature in cursive script, appearing to read "Holly T. Shikada".

Holly T. Shikada
Attorney General

c: David Y. Ige, Governor
Josh Green, Lieutenant Governor
Legislative Reference Bureau (Attn.: Karen Mau)
Leslie H. Kondo, State Auditor
Craig K. Hirai, Director of Finance, Department of Budget and Finance
Stacey A. Aldrich, State Librarian, Hawaii State Public Library System
David Lassner, PhD., President, University of Hawaii

Enclosure

State of Hawai'i
Department of the Attorney General



GOALS AND OBJECTIVES OF THE
DEPARTMENT OF THE ATTORNEY GENERAL

Pursuant to Act 100, Session Laws of Hawaii 1999
As amended by
Act 154, Session Laws of Hawaii 2005

Fiscal Year 2022-2023

*Submitted to
The Thirty-First State Legislature
Regular Session of 2022*

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SECTION 1: INTRODUCTION

Act 100, Session Laws of Hawaii 1999, as amended by Act 154 (2005), requires every department and agency of the State to develop and submit to the legislature an annual report addressing the following: (1) A statement of goals, including what the department or agency hopes to accomplish over both the short and long term; (2) Objectives and policies, specifically setting forth how each goal can and will be accomplished; (3) An action plan with a timetable indicating how the established objectives and policies will be implemented in one, two, and five years; and (4) The process that the department or agency will use to measure the performance of its programs and services in meeting the stated goals, objectives, and policies.

The Attorney General is the chief legal officer of the State of Hawaii. By law, the Attorney General and her deputies represent the State and its agencies and officers for all three branches of government. This representation includes litigation in both state and federal court, in both civil and criminal matters and in both defensive and affirmative capacities. The Department of the Attorney General (the department) supports all of the Administration's priorities in its representation of the Governor and other State departments. In addition, the department does transactional work and assists the State's many agencies with the performance of their duties. The department works with the Administration and Legislators on legislative priorities as well as reviews submitted bills and testifies on legislation; drafts and reviews rules and regulations; advises boards and commissions; and prepares legal documents in many forms. The department provides a constant stream of informal and often daily advice to its client agencies as well as to the Executive and Legislative Branches. Additionally, when writs are filed against the Judiciary, if requested, the department will represent the judge. The department also handles all child support enforcement actions, which in fiscal year 2020-2021 resulted in the collection of \$121 million¹ in child support, and also administers federal grants to state and county criminal justice agencies and non-profit victim service providers, which this year totaled \$47,592,545 million in active awards. Experience and institutional awareness, alongside productive collaboration with our state, local, and federal counterparts, are key components of the department's success.

As of January 1, 2022, the department will have 197 deputy attorneys general and six hearings officers. These professionals range from new hires to career deputies, including seven deputies with over 30 years of service and one with over 40 years of service to our department. Experienced deputies are critical to the successful transition between administrations. The work of the deputies is integral to every project of importance in which any state agency is involved. In providing both legal and institutional knowledge, the deputies serve a vital,

¹ The child support collection amount is current as of November 28, 2021.

irreplaceable function in state government, one that only experienced, licensed professionals can perform.

In 2021, the department faced a second year of the unusual challenges created by the COVID-19 pandemic, which impacted how we conducted business as well as increased our workloads and resulted in some long-term changes to our operations. Once COVID-19 vaccines became available, we were able to develop a hybrid working environment where the vast majority of our workforce was able to resume in-person working, with effective teleworking remaining a viable and effective means of filling gaps and keeping our workforce healthy and available to continue advising our clients without pause. The teleworking option has increased productivity of some of our workforce in that it allows them to be responsive and complete assignments after work hours and on weekends. Security and privacy of our confidential communications remain strong with the ability of staff to access the State's VPN (Virtual Private Network) while working remotely. While we have been able to safely resume some in-person meetings, we have continued to conduct meetings virtually among ourselves, our clients, and others for consultation, brainstorming, training, and any other activities for which close contact would have been unsafe.

For many of our divisions, our increased responsibilities to address tasks directly related to the pandemic became standard. Our COVID-19-related responsibilities included researching issues and collecting information needed to assist with the Governor's emergency proclamations; enforcing compliance with the emergency proclamations; assisting with the evolving needs of the Safe Travels program; working with Civil Defense, the Department of Health, and others to procure needed equipment and additional services; obtaining court orders of quarantine for those with COVID-19 infections who would not cooperate with safe practices; assisting the Department of Labor to address the State's unprecedented unemployment situation; advising on the requirements for the use of CARES Act, ARPA, and FEMA funds; and defending the State against lawsuits challenging the constitutionality of the State's emergency response to COVID-19. The expected economic impacts related to COVID-19 have forced us to take a hard look at our operations and cut all non-essential services. To save lease-rent on office space, we continue to take advantage of the ability of some of our deputies to work remotely and have started an office-sharing process for those who do not need to be in the office every day.

SECTION 2: DEPARTMENT ACCOMPLISHMENTS

One of the best measures of the effectiveness of our department's programs and services is our accomplishments. While we accomplish many tasks daily in the continuum of our legal representation of the State, some of our larger accomplishments, including projects needed to adapt to the pandemic, are listed in this section. As a preface, the department supports all of the Administration

and Legislature's priorities in its representation of the Legislature, the Governor, and other State departments. The following specific examples show some of the most visible positive outcomes of our support.

Accomplishments Related to the Pandemic

1. Provided coordinated legal services covering a number of distinct areas to address novel issues related to the pandemic, including:
 - a. Defended the State in various lawsuits involving complex legal issues related to:
 - i. The Governor's emergency orders (*Carmichael v. Ige*, Civ. 20-00273 JAO-WRP (D. Haw.) and *Bannister v. Ige*, Civ. 20-00305 JAO-RT (D. Haw.) (challenges to quarantine requirements); *Kelly O'Neils v. Ige*, Civ. 21-00449 LEK-RT (D. Haw.) (bar closures); *Jones v. Ige*, Civ. 20-00203 JMS-WRP (D. Haw.) (gathering restrictions); *For Our Rights v. Ige*, Civ. 20-00268 DKW-RT (D. Haw.); *For Our Rights v. Ige*, CAAP 21-000024 (Haw. Ct. App.); and *Partal v. Ige*, Civ. 20-000277 (3rd Cir.) (challenging the Governor's authority to issue successive emergency proclamations); and *Lomma v. Connors*, Civ. 20-0456 JAO-RT (D. Haw.) and *Denis v. Ige*, Civ. 21-00011(JMS)(RT) (D. Haw.) (mask mandates); *Peleikai v. State of Hawaii*, Civ. 21-00343 (DKW-RT) (D. Haw.) (vaccination/testing mandates);
 - ii. Conditions of confinement in correctional facilities (*Chatman et al. v. Otani*, Civ. 21-00268 JAO-KJM (D. Haw.) & Nos. 21-16324 & 21-16364 (consolidated) (9th Cir.);
 - iii. *Office of the Public Defender v. Connors*, SCPW-20-0000200 & SCPW-20-0000213 (Haw. 2020), and *In the Matter of Individuals in Custody of the State of Hawaii*, SCPW-20-0000509 (Haw. 2020): Helped to defend the State Department of Public Safety against mandamus petitions challenging the State's response to COVID-19 and outbreaks in correctional facilities. The State successfully avoided the wholesale blanket releases that had been requested by the Office of the Public Defender, thus protecting public safety while also strengthening the State's COVID-19 response in its prisons and jails;
 - b. Advised State agencies about the requirements of CARES Act funding and ARPA funds including the State and Local Fiscal Recovery Funds and the permissible spending of those funds to ensure that federal relief funds were properly appropriated and expended;
 - c. Interpreted and implemented guidance from the federal Cybersecurity and Infrastructure Security Agency, which was

- crucial due to the increase in remote working being done by State employees;
 - d. Adapted programs that serve the public to continue operating remotely and offer full services, e.g., the Child Support Enforcement Agency expanded payment options to include debit and credit cards and the Office of Child Support Hearings adapted to telephone hearings and conducted hearings at pre-pandemic levels; and
 - e. Investigated and prosecuted violations of COVID-19 rules and regulations, including violations of the State's travel self-quarantine and the falsification of testing and vaccination records.
2. Assisted the Governor, other State departments and the Legislature in responding to the emerging needs caused by the pandemic, including:
- a. Drafted Emergency Proclamations in consultation with HIEMA and other State departments;
 - b. Advised the Legislature and testified frequently before legislative COVID-19 committees.
 - c. Assisted with monitoring and organizing email correspondence relating to offers for provision of goods and volunteer services (COVID-19 Kokua team)
 - d. Assisted with determining quarantine exemption qualifications (COVID-19 exemptions team);
 - e. Helped develop, coordinate, implement, and maintain the Safe Travels program;
 - f. Provided personnel to investigate and prosecute violations of quarantine orders and other Emergency Proclamation restrictions;
 - g. Helped coordinate pandemic response with all State agencies; and
 - h. Responded to inquiries from other state departments regarding media and constituent questions and concerns over COVID-19 restrictions, as well as explained emergency order and proclamation provisions for state clients.
3. Assisted the Department of Health (DOH) with its increased responsibilities as those responsibilities constantly changed and evolved during the pandemic, including:
- a. Advised the DOH on how to coordinate data sharing among agencies while maintaining confidentiality of protected health information;
 - b. Assisted with an unprecedented number of involuntary (court-ordered) quarantines;
 - c. Drafted and reviewed hundreds of contracts, including those for testing and vaccination administration, consulting and staffing services, contact tracing and first contact calls, isolation and quarantine services and leases, as well as contracts for technological and infrastructure upgrades.

- d. Helped draft contracts between the DOH and hospitals and other health care facilities to increase their capacity to deal with surges in COVID-19 infections using available CARES Act funding and State and Local Fiscal Recovery Funds;
- e. Helped draft protocols for allowing out-of-state medical professionals practice in Hawaii to increase health care capacity to meet the needs of overwhelmed health care systems; and
- f. Assisted DOH with media messages as it worked to provide current and accurate information to keep up with rapidly evolving circumstances related to the pandemic.

The legal assistance we provided related to the COVID-19 pandemic enabled the State and its agencies to continue operating seamlessly with minimum delays, even during shutdowns of non-essential operations; supported the flow of information needed to keep the public informed of current developments that impacted their daily lives in terms of their health and the economy; assisted the Governor and State officials to make decisions that often required an analysis of the balance of civil rights against the public health of the community before decisions could be reached; provided guidance on challenging and unprecedented legal questions related to the State's response to the pandemic via coordinated teamwork and collaboration, which allowed State and county operations to carry on and maintain essential services, federal funding to be accessed, measures to be taken to address critical unemployment levels, and actions to be taken to protect the public health of the community; and ensured public safety by investigating and prosecuting noncompliance with COVID-19 rules and regulations, including violation of travel quarantine and use of falsified vaccination cards.

Accomplishments Related to Health and Safety

- 1. Obtained a judgment against Bristol Myers Squibb, et al. with \$834,023,000 in civil penalties for unfair and deceptive practices in marketing and distributing the prescription drug Plavix.
- 2. Entered a stipulated judgment with McKinsey & Company that requires the company to pay \$1,999,960.95 to Hawaii over five years, resolving allegations that the company engaged in unfair and deceptive practices in working with entities that manufactured and sold opioids.
- 3. Represented Hawaii in its participation on a multistate coalition that intervened in and successfully defended the constitutionality of the Affordable Care Act ("Obamacare") in federal court.
- 4. Co-authored with the New York Attorney General's Office a multi-state amicus brief filed in the United States Court of Appeals for the Ninth Circuit in support of a challenge to an Idaho law that categorically bars transgender women and girls from participating in sports consistent with their gender identity and provides that any female student athlete may be subject to an intrusive sex verification process.

5. Filed a lawsuit against electronic-cigarette manufacturers JUUL Labs, Inc. and Altria Group, Inc, seeking penalties, damages, and injunctive relief for violations of Hawaii's unfair or deceptive acts or practices law.
6. Retained a Human Services Professional to provide victim-witness support for victims of domestic violence, sexual assault, and human trafficking via a federal grant, which expires in June 2022.
7. Created and funded the State Human Trafficking Coordinator/Prosecutor position to serve as the only full-time state government funded position dedicated to addressing human trafficking and commercial sexual exploitation of children.
8. Drafted House Bill No. 887, which passed as Act 68 in 2021. Act 68 allows sex traffickers to be prosecuted at any time, renames "solicitation of prostitution" to the term "commercial sexual exploitation," makes a person strictly liable for sex trafficking of a minor in terms of the victim's age, and increases the grade of the offense of commercial sexual exploitation of a minor to a class B felony.
9. Launched the statewide sexual assault evidence collection kit tracking system on the HSART website.
10. Assisted with legal issues and representation regarding the Navy's Red Hill Bulk Fuel Storage Facility in the pending permit contested case and DOH's December 6, 2021 Emergency Order involving the November 2021 release, water contamination, and subsequent emergency hearing.

Accomplishments Related to Children

1. Filed approximately 180 adoption petitions for children in the custody of the Department of Human Services.
2. Installed point of sale devices in office locations statewide that are capable of accepting debit and credit cards to make the child support payment process easier and faster for both the payers and recipients.
3. Developed and implemented an appointment line system, which allowed the Child Support Enforcement Agency to maintain safety protocols during the pandemic by allowing case participants to schedule an appointment online.
4. Partnered with the Department of Human Services to implement an employment program for non-custodial parents to help them with job training and job placement.
5. Upgraded the National Crime Information Center interface to include Amber Alert caution codes.
6. Implemented the automated interface between the Department of Human Services, police departments, and the National Center for Missing and Exploited Children for the reporting of missing foster children to improve coordination among local, state, and federal governments to enhance the assistance to missing children who are highly vulnerable to assault, sexual exploitation, substance abuse, or death while missing.

Accomplishments Related to Sustainable Hawaii

Advised the Department of Agriculture regarding emergency rules needed by the emergence of coffee rust.

Accomplishments Related to Economic Development and Diversification

1. Reviewed and approved rules for the He'eia Community Development District to establish agriculture, aquaculture, cultural, educational uses and facilities, and natural resource restoration and management of the wetlands within the district, as well as affordable housing rules for the Kaka'ako Development District.
2. Assisted the Department of Land and Natural Resources with the acquisition of land in fee simple or under conservation easements for the protection of natural resources. Over the past year, over 3,700 acres have been protected in this manner.

Accomplishments Related to Education

1. Helped the Department of Education develop procedures to provide special education students impacted by the COVID-19 school closures with impact services to accommodate for any loss in skills that they may have experience while distance learning.
2. Obtained certain strips of land surrounding and through Mililani High School via uncontested eminent domain proceedings to enable the Department of Education to construct an ADA-compliant access ramp.

Accomplishments Related to Fraud Prevention

Established the Charities Program Expansion and Improvement Project. The purpose of the project is to improve the integrity and efficiency of the charities program. The Project aims to protect the public, especially those who may be susceptible, against charity fraud. It will also ensure that donations go directly to reputable and legitimate charities.

SECTION 3: DEPARTMENT GOALS AND OBJECTIVES

The mission of the Department of the Attorney General is to provide excellent legal services to the State of Hawaii by offering advice and counsel to its client agencies, assisting in the implementation of policy decisions, aiding the core activities of its client agencies, and representing the State and its agencies and officers in litigation. Carrying out this mission includes (1) initiating lawsuits to protect the interests of consumers and the public, and appearing for the State in civil and criminal cases when the State is a party, (2) investigating violations of state laws, enforcing the laws, and prosecuting those who violate the law, (3)

preparing legal opinions for the Governor, Legislature, and the heads of state departments, (4) advising state officials, including more than 170 boards and commissions, on legal matters so they can faithfully execute their duties and responsibilities, (5) defending and representing state officials and employees when they are sued for actions that have occurred as part of their official duties; and (6) collaborating with other states as well as federal and local counterparts on matters of importance to our State.

The Attorney General administers several programs and projects that provide direct benefits to the public, including the Child Support Enforcement Agency, the Crime Prevention and Justice Assistance Division, the Hawaii Criminal Justice Data Center, the Hawaii Internet and Technology Crimes Unit, the Hawaii Internet Crimes Against Children Task Force, the Missing Child Center Hawaii, Notaries Public, the Office of Child Support Hearings, the Sex Offender Registry Program, the Tax and Charities Division, and the Tobacco Enforcement Unit.

Our specific goals are to enhance operations, functionality, and professionalism within the department, and our overall strategy to achieve those goals is to maintain an environment that attracts and nurtures talented attorneys with a commitment to public service, so that our department can continue to represent the State successfully at the local and national level on matters of state importance. Achieving our goals will allow us to serve the State and the public most effectively.

Our performance measures rarely change because they are so closely tied to our successful representation of our clients. If we do our job well, we save money and resources for the State. During the COVID-19 pandemic and the resulting economic stresses, our performance will be measured by our ability to continue to adapt to working under continually new and changing conditions and with potentially fewer resources.

The following are the specific goals and objectives of our department that are designed to enhance our operations, functionality, and professionalism, and which apply to the whole department. Sections 4 and 5 of this report will discuss some of the objectives that are unique to each division.

Goal 1: Sustain Quality Legal Services through Hiring and Training

The department has an ongoing commitment to training, which improves the skills and efficiency of the department. We also need to attract talented personnel to work in our department and make sufficient resources available to sustain quality and timely legal services to the client departments and agencies.

Objective: Provide comprehensive legal advice to clients, manage workflow and caseloads efficiently, and meet deadlines for responses to requests for legal services.

Action Plan: To the extent allowed, and subject to the availability of funding, hire personnel with the desired experience to fill vacancies when they arise. Provide deputies and staff with the resources they need to support high-quality and timely work product in terms of legal research tools and training.

Encourage deputies and staff to attend free training offered to government attorneys and attend in-house training provided by the department. Identify training programs outside of the department and seek funding, if available, to attend such programs.

Encourage deputies to attend other legal training when it becomes available. We often have the ability to attend subject matter training frequently funded or partially funded by our client agency or other sources (i.e., the National Attorneys General Training and Research Institute (NAGTRI) and the National Governor's Association, among others).

Review and update all division training manuals as necessary. Continue in-house division training, utilizing discussions on current cases.

Target: The target date for this goal is ongoing.

Goal 2: New Deputy Training

Ensure that attorneys who are new to the department are provided a foundation to serve the State while meeting our department's standards of excellence. Increase the collective knowledge of our department's deputies.

Objective: Provide an annual live Training Academy for new attorney hires. Provide recordings of trainings for those who join the department after the training and before a new training is scheduled.

Action Plan: In 2021, we started a new and exciting project for providing both an introduction to our department and consistent training to all new deputies within the department. We developed and implemented our new deputy Training Academy. This two-week intensive session supplements individual training within each division and combines in-person and virtual training in a comprehensive introduction to our department, its divisions, and the relevant laws

and procedures that every deputy attorney general needs to know. The Training Academy instructors are supervisors and specialists from all divisions.

Target: This training is envisioned to occur annually, but because we hire new deputies every year, the target date for this goal is ongoing.

Goal 3: Improve Ability to Provide Legal Services by Cross Training

Broaden deputies' areas of knowledge to minimize subject area silos, facilitate flexibility in making assignments, and avoid disruption in the provision of legal services. When one of our divisions is short-handed due to vacancies or absences, deputies need to cover for each other by performing legal work that may be outside their area of expertise. By sharing responsibilities on cases and among clients, the divisions strengthen their ability to adapt to unexpected staff shortages. Cross training allows accommodations for leave time.

Objective: To increase exposure to various legal issues in order to broaden the capabilities of deputies to be able to contribute to assignments outside of their specialty when a need arises due to staff shortages or special projects.

Action Plan: Encourage deputies to pursue subject-matter and practice-relevant training, in addition to the annual Continuing Legal Education requirements for all attorneys. Promote teamwork by encouraging deputies to communicate freely with and collaborate with division deputies and deputies in other divisions who have expertise and resources to assure appropriate and consistent department-wide advice and representation. Expose deputies to a variety of substantive issues and encourage deputies to take on different assignments jointly and to work together on less familiar projects.

The need for cross training has become especially critical during the COVID-19 pandemic, when we have been forced to pool available resources. The intent is for cross training to occur primarily within subject matter divisions, but to also select deputies for special projects within the department that will provide broader exposure to various subject matters, usually of a complex nature. Deputies may also be required to devote extra hours to ensure client work is completed.

Deputies have primary assignments of programs or issues for which they gain expertise, but they collaborate with each other on matters to share their knowledge across their assigned areas, and

they cover matters for each other when necessary. Deputies are encouraged, but not required, to become involved in department-wide or community-based activities outside of their assigned area to network and expand their skill sets.

Pair less experienced deputies with those who are more seasoned.

Encourage divisions to seek guidance from the Appellate Review Committee or the Litigation Management Committee whenever necessary or appropriate.

Target: The target date for this goal is ongoing, but we anticipate an annual increase in the collective knowledge of our department's deputies and their ability to contribute to special projects.

Goal 4: Adapt to the Changing Needs of the Workforce

Due to the COVID-19 pandemic response in 2020, to provide seamless legal services to our clients and stay competitive with private firms, an inevitable goal is to increase resources and adapt policies and practices to assist deputies and staff in working more efficiently and comfortably in a remote setting, out of the office, when needed.

Objective: Allow flexibility in making assignments and to ensure continuity in the provision of services.

Action Plan: A means of assessing accountability is essential to successfully allowing remote working. Supervisors of deputies who work any portion of their work week remotely are responsible to determine that deputies are completing their work at the same levels they would if they were in-office. This involves assessing work output and reviewing timesheets, as well as ensuring that staff members are always responsive to emails and available by telephone or virtual meetings.

To ensure full legal services are provided if remote work is required, increase capacity to ensure that personnel have access to the resources needed to work remotely, such as IT equipment. Continue in-house refresher training for all personnel on Microsoft Office applications that enable online collaboration, including SharePoint and Teams.

Working remotely was critical to the department due to the pandemic, and with the pandemic still in our midst, it is clear the department needs to maintain a long-term strategy for remote work,

both as a continuing response to the pandemic and in recognition of the evolving office culture generally. It is equally clear that some deputies and staff have the capability to work remotely, but the technology currently available is limited and not available to all employees in our department. Assessment of the need for continued remote working and improved or additional resources is ongoing. Key considerations include our continued ability to be responsive to the client's needs in a timely manner and maintain a healthy work environment both in the office and for remote work.

When in-person meetings are not possible, maintain department cohesiveness through Microsoft Teams meetings, emails, texts, telephone conferences, and other remote means.

Attend court appearances, hearings, meetings, and work-related matters through telephonic appearances and video conferencing platforms such as Microsoft Teams, Zoom, and WebEx when in-person meetings are not possible.

Target: The target date for this goal is ongoing and will likely last at least as long as the dangers of the pandemic.

Goal 5 **Enhance Ability to Share and Access Resources; Establish a Data Bank.**

Objective: Enhance the department's document management system so that all department personnel can access and obtain maximum value from resources. Eventually, the system would include (1) all forms used by the department and its various divisions, (2) memo banks indexed for efficient accessibility and to save research time, (3) opinion advice letters provided to clients indexed by topic to allow for consistency in our legal advice, (4) pleadings from court cases, (5) analysis of various Hawaii and federal cases, (6) filed appellate briefs, and (7) expert data bank, including prior depositions, curriculum vitae, and opinions.

Provide better, faster, and easier access to critical information, improved efficiency, consistency in advice, and improved office environment, by moving towards a paperless environment.

Reduce the need to store hard copies by making electronic copies of relevant documents to better manage the department's physical space. Identify and digitize pleadings and advice to make them accessible. Review and move old files to storage or destroy as warranted.

Reduce the need to retrieve boxes already in off-site storage to obtain information from closed cases.

Develop a plan and tickler system for regularly reviewing, archiving, and destroying old files.

Action Plan: Each division is encouraged to scan files and resource materials so that files can be accessed remotely.

Digitize and index historical work-product to provide an additional resource for department members. Develop a standard procedure for maintaining electronic files and work product utilizing ProLaw and SharePoint (or whatever program is available).

Ensure all personnel are using a consistent method to manage files within our ProLaw system.

Utilize the technology in the department (ProLaw, iManage, Office 365, departmental intranet, internet) to its fullest potential.

Ensure that each member of the department is proficient in the use of technology to increase efficiency and sharing of information.

Identify information to post on the departmental intranet in order to share knowledge within the department.

Create manuals and checklists for deputies and staff regarding important duties and reminders for case management and include them in the data bank.

Develop a process to better share information among divisions and create uniformity in procedures for different divisions that perform similar assignments, such as responding to discovery requests and the manner in which we document and identify the materials turned over to other parties.

Target: The target date for this goal is ongoing, but to capture all historical data within the department within a data bank would be a major project that would take several years and more resources than what we have right now, so this goal will be accomplished as time permits.

Goal 6: Reduce Time Spent on Non-Legal Tasks

Objective: Reduce the time attorneys spend on non-legal tasks for clients, to achieve savings in the deputy time.

Use technology to improve efficiency.

Action Plan: Continue to train clients in tasks such as preparing agendas and minutes, maintaining records, creating records and indices of records for administrative appeals, and compiling records on appeal.

Train clients to ensure that agency records that are available to the public do not contain confidential information or attorney-client privileged information and ensure that agency records for administrative appeals are in good order. This will include savings in staff time currently spent compiling records on appeal for client agencies and appropriately redacting documents for permitted reasons in response to UIPA requests.

Work with clients to prioritize assignments.

Conduct training to enable clients to issue spot, take preventative action, and proactively respond when an issue arises.

Assist clients in standardizing procedures, where possible.

Establish and maintain consistent procedures and forms to be used with all client offices.

Increase proficiency with existing technology solutions such as iManage, ProLaw, Word, Excel, Office 365, PowerPoint, Adobe Acrobat, SharePoint, and OneDrive, and become adept in new technology solutions that are introduced in the future. In addition to in-house training, deputies are encouraged to utilize other State-sponsored training and available web-based courses.

Keep a master calendar of all deadlines within each division and use reminder systems.

Target: The target date for this goal is ongoing.

Goal 7: **Improve Client/Public Relations**

Objective: Nurture and encourage early and regular consultation by clients in order to avoid or minimize future problems and recurring issues through good advice and counsel.

Assist clients with the development of processes or forms to help address recurring legal issues.

Action Plan: Keep a log of issues that arise throughout the year that can be remedied by legislation or the adoption of rules.

Maintain the reputation of competence, integrity, diligence, and fairness.

Maintain not only client confidence but also public confidence.

Be accessible to meet with clients and foster open communication. Identify recurring questions and evaluate the possibility of establishing a procedure to systematically address such issues.

Continually work hard to ensure that our work is thorough, well-reasoned, and effective, and that the deputies are always prepared for all court appearances.

Enhance the ability of clients to prevent legal concerns from arising and to proactively respond when problems do arise so that problems are minimized before our involvement.

Maintain good and consistent communication with clients on a regular basis.

Target: The target date for this goal is ongoing.

Goal 8: Succession Planning and Leadership Opportunities

Objective: Provide opportunities for deputies to obtain leadership skills and pursue appropriate recruitment to fill vacancies anticipated due to retirement.

Preserve institutional knowledge.

Action Plan: Expose deputies to supervisory functions.

Send deputies to supervisory training.

Memorialize institutional knowledge in a data bank and a form bank.

Update and create manuals and form banks as needed.

Target: The target date for this goal is ongoing.

Goal 9: Continue COVID-19 Safety Measures

Objective: Provide and maintain safe working conditions for employees and visitors to department facilities to minimize the spread of the SARS-CoV-2 virus that causes COVID-19.

Provide full legal services if deputies and staff are required to quarantine.

Action Plan: Continue the use of plastic barriers which were installed when the majority of the workforce returned to the office.

Ensure that hand sanitizers, masks, and gloves are available.

Provide daily temperature checks of employees.

To the extent possible, accommodate social distancing, including at physical meetings and with regard to workstation placement.

Sanitize appropriate areas in the event of COVID-19 positive situations.

Ensure lead deputies and backup deputies for all clients are aware of all assignments from the clients in the event one of the deputies tests positive for COVID-19.

All deputies are to keep the supervisor updated on all assignments.

Target: The target date for this goal is ongoing and will likely last at least as long as the dangers of the pandemic.

SECTION 4: LEGAL SERVICES DIVISIONS

The department is divided into the following legal services divisions or autonomous units within larger divisions, each with its own goals and objectives in addition to the common goals and objectives of the department.

Administration Division

The Administration Division differs from other legal divisions in the number and diversity of client agencies it represents and advises, and the wide variety of substantive areas of law that the advice encompasses. The division's roles include representing and providing quality advice and counsel to policy-making

executive branch agencies (i.e., Governor, Lieutenant Governor, the Department of Accounting and General Services, and the Department of Budget and Finance); assisting in implementing policy decisions (e.g., through Executive Orders, legislation, and rules); and assisting in the implementation of the core activities of the above entities, their attached agencies, and other agencies (i.e., Employees' Retirement System, Hawaii Employer-Union Health Benefits Trust Fund, Public Utilities Commission, Office of Enterprise Technology Services; State Procurement Office, Aloha Stadium Authority, E911 Board, Building Code Council, State Foundation on Culture and the Arts, Office of Elections, Campaign Spending Commission, Office of Information Practices, and Ethics Commission). The division also provides representation, advice, and counsel to the Judiciary and the Legislature and their agencies.

During the period covered by this report, the division's usual workload was heavily impacted by numerous additional projects that were necessitated by the continuing COVID-19 pandemic and included working closely with the departments of Accounting and General Services and Budget and Finance to ensure federal COVID-19 relief funds were properly appropriated and expended, and various COVID-19 related policies and restrictions were reasonable and clearly drafted. The division also worked alongside other divisions in manning the COVID-19 exemption team, which work included interpreting and implementing guidance from the federal Cybersecurity & Infrastructure Security Agency. The division also acquired two additional clients unrelated to COVID-19, the Reapportionment Commission and the House Investigative Committee on Compliance Audit Nos. 19-12 and 21-01.

Goal 1: **Continue the Administration Division's service as a resource for other divisions seeking guidance on substantive legal issues, including in the areas of procurement and contracts, sunshine law, the Uniform Information Practices Act (UIPA), and budget/fiscal/appropriation issues, while increasing the knowledge base of these areas among deputies.**

Objective: Integrate the work being done in the division with the department as a whole to benefit the department.

Action Plan: Encourage deputies in other divisions to contact the Administration division to brainstorm issues in the areas of procurement and contracts, sunshine law, UIPA, and fiscal and appropriation.

The measure of success for this goal is more consistent documentation and advice to clients throughout the department.

Target: The target date for this goal is ongoing.

Goal 2: Obtain assistance with litigation and administrative appeals.

Objective: Effectively use the amount of time the division's deputies spend on litigation so they can focus more on the division's core advice and counsel function. Expect the division's deputies to participate in litigation, providing the substantive knowledge of the litigated issues to an experienced litigation deputy.

Action Plan: Short-term – work closely with other legal divisions to coordinate services/assistance to experienced litigation deputies and support staff.

Continue to train current clerical staff to increase breadth of services provided to deputies.

Create more standardized procedures for paralegals to increase breadth of services provided to deputies.

There are several measures of success for this goal: (1) whether the division is providing effective representation to the clients; (2) whether current deputies are allowed to focus on litigation prevention and advice and counsel functions for multiple clients; and (3) whether the supervising deputy attorney general has time to address supervisory and administrative issues.

Target: The target date for this goal is ongoing.

Appellate Division

The primary mission of the Appellate Division is to maximize the quality of appellate representation to all of the department's clients and to provide constructive and quality legal advice to deputies throughout the department on all legal matters. The division's attorneys also directly handle many of the appeals in the department, including briefs filed and oral arguments presented on behalf of the State and its agencies and officials in the state and federal courts. The Appellate Division also drafts amicus briefs in appeals involving issues of importance to the State and makes recommendations to the Attorney General on whether the State should join multi-state amicus briefs filed in the United States Supreme Court in cases of state and national interest and importance. At present, the Appellate Division is also heavily involved with defending the Governor's exercise of his emergency powers during the COVID-19 pandemic in various state and federal court lawsuits.

The Appellate Division is steadily working towards meeting the goals set forth below. During the past year, for example, two division deputies were assigned to the department's Emergency Proclamation Litigation Team and helped to defend the State against several litigation challenges. The division has also authored or co-authored amicus briefs, provided moot court assistance to deputies from other divisions, and conducted trainings for the department.

In addition to some of our accomplishments mentioned in Section 2 of this report, e.g. Challenges to the State's COVID-19 Response; Chatman et al. v. Otani; and Office of the Public Defender v. Connors, the Appellate Division has (1) successfully defended the State against a group of drug companies' lawsuit that was filed in an effort to challenge and disrupt an important state-court enforcement action that resulted in an \$843 million judgment in the State's favor in Bristol-Myers Squibb et al. v. Connors, and secured a published decision in the Ninth Circuit that created favorable precedent that will help to ensure that the State can pursue civil enforcement actions in state court without undue interference from federal courts; (2) successfully defended the State in litigation under the Takings Clause of the U.S. Constitution in Bridge Aina Le'a, LLC v. Hawaii Land Use Commission; (3) represented Hawaii in a multistate coalition in California v. Texas, and successfully defended the constitutionality of the Affordable Care Act ("Obamacare") in federal court, participating throughout the litigation, culminating in a favorable decision by the U.S. Supreme Court in 2021; (4) co-authored with the New York Attorney General's Office a multi-state amicus brief in Hecox v. Little, filed in the United States Court of Appeals for the Ninth Circuit challenging an Idaho law that categorically bars transgender women and girls from participating in sports consistent with their gender identity and provides that any female student athlete may be subject to an intrusive sex verification process; and (5) prevailed before the Hawaii Supreme Court in In the Matter of the Arbitration Between United Public Workers and State of Hawaii Department of Transportation, a precedent-setting attorneys' fees case that secured an award of \$16,197.50 in the State's favor and also vindicated the right of government attorneys to receive awards of attorneys' fees and to be treated the same as private attorneys in state courts in future cases.

Other achievements of the Appellate Division include our role in developing and launching a summer internship program for the Department of the Attorney General. In its inaugural year, the program hosted six law students for eight weeks. Each law student worked with two divisions within our department, received substantive assignments and exposure to the department's diverse practice, and was provided opportunities to learn more about our executive, legislative, and judicial branches of government.

The Appellate Division also facilitated the State's joinder in multi-state amicus briefs and letters: Since the beginning of 2020 through the present, the Appellate Division has reviewed, assessed, and analyzed more than 270 requests from other states and organizations for Hawaii to join multi-state amicus briefs and

letters on a wide array of high-profile legal issues—including reproductive health rights, the Second Amendment, and immigration, among many other issues. The Appellate Division's deputies reviewed each of these requests and, in consultation with the Solicitor General, made detailed recommendations to the Attorney General whether to join or not join.

Goal 1: **To develop and maintain the highest quality appellate writing and advocacy skills of deputies throughout the department.**

Objective: Provide guidance to deputies handling appeals to assist them in developing and maintaining high-quality appellate writing and advocacy skills.

Action Plan: Encourage all deputies with appellate matters to contact the Appellate Division: (1) to discuss ideas and arguments supporting the State's positions or rebutting troubling opposing arguments; and (2) to review and comment on draft appellate briefs as appropriate.

Provide periodic training sessions to the department regarding appellate writing, appellate rules, and persuading an appellate court. Have an Appellate Division deputy serve as chair of the department's training committee.

Participate in moot courts and other practice sessions for deputies who are preparing to argue cases before the Hawaii appellate courts and the Ninth Circuit Court of Appeals.

The measure of success for this action plan is the improved quality of appellate briefs and oral advocacy in the department.

Target: The target date for this goal is ongoing.

Goal 2: **To make the Appellate Division a legal resource for other divisions seeking substantive legal advice or information on appellate procedure.**

Objective: Use the division's expertise to benefit the department.

Ensure that if any deputy or paralegal leaves the division, the remaining persons can maintain the division's functioning without significant disruption.

Action Plan: Have division deputies work cooperatively on a diverse array of appeals and other legal matters involving a wide variety of substantive legal issues.

Have appellate deputies regularly attend the Appellate Opinion Review Committee meetings on a rotating basis.

Have an appellate deputy serve as a member of the department's Litigation Management Committee.

Have the Solicitor General continue in her role as a member of the Judiciary's Hawaii Rules of Appellate Procedure standing committee.

Have the division's deputies review and comment on other deputies' briefs or memoranda as appropriate.

Have the division's paralegals assist paralegals from other divisions with administrative, procedural, and general appellate questions. Share the knowledge of individual appellate paralegals (who have expertise in electronic filing and other administrative matters) with others in the department.

The measure of success for this action plan is (1) for deputies to be better able to spot issues and incorporate them into their writing and in advice to deputies outside of the division, (2) the provision of constructive and insightful assistance for the benefit of the department, (3) improved quality of the department's work product, and (4) increased knowledge of administrative, procedural, and appellate knowledge within the department.

Target: The target date for this goal is ongoing.

Goal 3: **Author or coauthor multi-state amicus briefs and provide the highest quality advice to the Attorney General regarding amicus joinder requests.**

Objective: Ensure that Hawaii: (1) authors or coauthors multi-state amicus briefs addressing issues of importance to the State; and (2) makes amicus joinder decisions based on the soundest advice.

Action Plan: Look for opportunities to author or coauthor multi-state amicus briefs addressing issues of importance to the State.

Have the Solicitor General make recommendations on requests for Hawaii to sign on to multi-state letters and amicus briefs. If these requests are delegated to a deputy, have the Solicitor General review and edit all amicus joinder recommendations before they are given to the Attorney General.

The measures of success for this action plan are the division's periodic authorship or co-authorship of multi-state amicus briefs and consistency in the quality of the division's recommendations and the Attorney General's satisfaction with those recommendations.

Target: The target date for this goal is ongoing.

Goal 4: **Continue to provide legal assistance to the Office of the Attorney General and divisions handling COVID-19-related litigation matters.**

Objective: Assist divisions with analyzing complex legal issues relating to COVID-19 and help to defend against litigation challenges to the Governor's emergency proclamations.

Action Plan: Restructure division workload to enable division attorneys to allocate sufficient time to assist with and handle COVID-19-related legal matters. At present, there are two Appellate Division attorneys assigned to the department's emergency proclamation litigation defense team.

Encourage and enable division attorneys to develop expertise in COVID-19-related legal issues. The individual division attorneys are presently developing expertise as to, among other things, the scope of the Governor's emergency powers, CARES Act issues, and other COVID-19-related substantive legal issues.

The measure of success for this action plan is the continued participation of division attorneys in COVID-19-related legal matters and the continued development of expertise with regard to evolving COVID-19 legal issues.

Target: The target date for this goal is ongoing during the pandemic.

Civil Recoveries Division

The Civil Recoveries Division provides flexible, efficient, systematic, and timely service in the pursuit and, if necessary, litigation of outstanding debts, delinquent accounts, and other financial obligations by working closely with client agencies, having sound knowledge of the subject legal doctrines and operational issues facing the clients, and capitalizing on available technology. It also administers the Notary Public Office.

The most visible measure of effectiveness for the Civil Recoveries Division is the amount of monies it collects for the State. Since its inception, the Civil Recoveries Division has consistently proven essential as it has collected almost \$300 million from fiscal year 2003 through 2021 with an average cost to the taxpayers of \$.10 for each dollar recovered. The total amounts recovered, costs, and cost ratio for the Civil Recoveries Division over the years is:

Fiscal Year	Total Revenue	Total Costs	Cost Ratio*
2003	\$9,397,437	\$1,362,960	\$.15
2004	\$12,033,156	\$1,437,964	\$.12
2005	\$16,325,147	\$1,226,855	\$.08
2006	\$14,674,863	\$1,557,900	\$.11
2007	\$16,084,654	\$1,530,434	\$.10
2008	\$13,431,248	\$1,611,831	\$.13
2009	\$14,439,462	\$1,712,413	\$.12
2010	\$11,532,711	\$1,534,201	\$.13
2011	\$16,529,627	\$1,318,438	\$.08
2012	\$12,403,154	\$1,201,531	\$.10
2013	\$29,950,131	\$1,123,887	\$.04
2014	\$10,954,082	\$1,459,147	\$.15
2015	\$11,040,041	\$1,678,746	\$.15
2016	\$9,966,581	\$1,861,960	\$.19
2017	\$16,650,589	\$1,713,818	\$.10
2018	\$14,929,096	\$1,312,752	\$.09
2019	\$15,626,788	\$1,525,882	\$.10
2020	\$35,140,578	\$1,695,315	\$.05
2021	\$15,119,858	\$1,866,194	\$.12
TOTAL	\$296,229,203	\$28,732,228	\$.10

* Cost per \$ collected, rounded to the nearest percent.

Yearly collections cannot be easily projected as types of cases, amounts recovered, and other factors in any given year lead to variations in total recoveries.

Another measure of effectiveness is the significant improvement to the notary public website that allows prospective and current notary publics to process applications, renewals, commissions, and resignations, schedule examinations, and receive notifications efficiently and quickly. The office has also conducted notary exams while maintaining COVID-19-safety protocols, including an all-day exam at the Hawaii Convention Center consisting of four sessions where 436 applicants were tested (600 seats were made available). The office developed and made available online training programs for applicants and currently commissioned notaries. The Notary Office is also in the process of finalizing amendments to Title 5, Chapter 11 the Hawaii Administrative Rules relating to Notary Public to comply with Act 54, Session Laws of Hawaii, 2020.

The specific goals and objectives of the Civil Recoveries Division include:

Goal 1: Explore additional recovery opportunities to expand and increase recovery opportunities for State agencies.

Objective: Benefit the State by recovering monies that are owed to it.

Action Plan: Work closely with client agencies to identify practices, cases, and opportunities to increase debt referrals.

Work closely with other State agencies to identify debts for possible referral as an individual claim or part of an ongoing series of collection activities.

Help State agencies understand and leverage recovery opportunities.

Target: This action plan is underway and ongoing.

Goal 2: Assist departments in developing contract specialists.

Objective: Foster and develop state department capabilities to proactively monitor and manage large contracts and construction projects to minimize opportunities for additional costs and contractor claims.

Action Plan: Continue to make Civil Recoveries Division's contract subject matter experts available to other departments and attorneys within the Department of the Attorney General.

Target: This action plan is ongoing.

Goal 3: Expand Hawaii's notary opportunities with remote online notary commissions.

Objective: Establish application, testing, and commission procedures for remote online notary public.

Action Plan: Create and implement new procedures, including online applications, scheduling of tests, renewals, commissions, and training for remote online notary public.

Update the current online notary public website to further facilitate both traditional and remote online notary public applicants and commissioned notaries public.

Target: The action plan is underway and ongoing.

Civil Rights Litigation Division

The Civil Rights Litigation Division provides legal defense to the State, its departments and agencies, and certain state employees in lawsuits or other claims that primarily involve allegations of civil rights or constitutional violations. The division litigates cases in state and federal courts, including appellate courts. The division's litigation includes, but is not limited to, answering legal complaints filed in court, investigating claims, conducting discovery, drafting and filing motions, memoranda, and briefs as appropriate, and representing state interests at administrative hearings, court hearings, arbitrations, mediations, trials, and appeals. The division also assists with training to state agencies on issues such as acceptance of service and other litigation matters.

The division has achieved significant successes in winning trials and prevailing on dispositive motions and appeals in both state and federal courts, as well as entering into favorable settlements to limit the State's exposure. A couple of examples among our successes include:

(1) Kam v. Helm, Civil No. 19-00052. The very first civil jury-waived Zoom trial in the United States District Court for the District of Hawaii was held in this case. The plaintiff was arrested by Department of Land and Natural Resources, Division of Ocean Conservation and Resource Enforcement, officers during the Fourth of July flotilla event. He alleged that his Fourth Amendment rights were violated and also asserted various state law claims, including false imprisonment, assault and battery, and negligence. Following the trial, the Court ruled that the State Defendants did not violate Plaintiff's rights and their conduct was lawful and reasonable.

(2) Kaihewalu v. DBEDT, Civil No. 13-1-2827. Plaintiff in this case alleged that he was wrongfully terminated from his position as a general laborer when the State terminated its contract with his employer, Realty Laua, the company that had contracted with the Hawaii Housing Finance and Development Corporation to manage the Honokowai Kauhale affordable housing project on Maui. The State's motion for summary judgment was granted by the circuit court and affirmed by the Intermediate Court of Appeals in favor of the State.

Goal 1: Increase efficiency by creating litigation liaisons for all departments so that litigation issues are centralized.

Objective: Quicker responses by a department on questions, discovery, and other information requests. Those departments that have designated litigation liaisons have been helpful in streamlining efforts to defend the State in litigation.

Action Plan: Some departments already have designated litigation liaisons. We will continue coordination with other departments as appropriate.

Develop a process to better share information with divisions whose clients are defendants in lawsuits. Create uniformity in procedures among divisions that perform similar assignments, such as responding to discovery requests and documenting and identifying materials turned over to other parties.

The Civil Rights Litigation Division and Tort Litigation Division supervisors have conducted training and plan to continue periodic training on uniform procedures for discovery responses.

The measure of success of this action plan is to prevent other parties or judges from challenging our responses or procedures because one division's response was inconsistent with another.

Target: The target date for this action plan is ongoing.

Goal 2: **Help clients better understand the litigation process.**

Objective: Reduce the instances where default can be taken against the State or its employees, by (1) putting the departments affected by litigation in a better position to assist our department and increase the likelihood of favorable outcomes, and (2) enabling departments and individuals affected by litigation to understand the importance of getting the department involved as soon as possible, so that we have the maximum amount of time to respond to the complaint or tort claim and determine what form the response should take.

Action Plan: Provide training to departments to explain the litigation process from beginning to end so the departments understand what is expected of them and what their roles may be through each stage of the litigation.

Have each department designate at least two individuals to accept service of process and provide training on all aspects relating to acceptance of service and what to do once service is effected.

In conjunction with the Tort Litigation Division, we are in the process of setting up training dates for the persons designated by the departments to accept service of process.

Target: The target date is ongoing. In conjunction with the Tort Litigation Division, we are in the process of setting up training dates for the departments.

Commerce and Economic Development Division

The mission of the Commerce and Economic Development Division is to provide high quality and timely legal services to the Department of Agriculture, the Department of Business, Economic Development, and Tourism, and the Department of Commerce and Consumer Affairs. The division also enforces antitrust laws, participates in multi-state consumer protection matters and cases, and advises the Legislature, the Governor, and other affected agencies on legal issues arising from the subject matter of the division.

The measure of our effectiveness as a division can be demonstrated by a few examples of our accomplishments:

- (1) We entered a stipulated judgment with McKinsey & Co. that requires the company to pay \$1,999,960.95 to Hawaii over five years, resolving allegations that the company engaged in unfair and deceptive practices in working with entities that manufactured and sold opioids, thereby contributing to the opioid crisis.
- (2) We obtained a judgment in State court against Bristol-Myers Squibb and three U.S. subsidiaries of the French drug manufacturer Sanofi, that awarded \$834,012,000 in civil penalties for unfair and deceptive practices related to defendants' marketing and sales of Plavix in Hawaii between 1998 and 2010. The defendants have appealed this judgment.
- (3) We obtained a judgment on appeal from the U.S. Circuit Court of Appeals for the Ninth Circuit in an appeal filed by Bristol-Myers Squibb and three U.S. subsidiaries of the French drug manufacturer Sanofi. In a published opinion, the Ninth Circuit upheld a federal district court's judgment of dismissal of the companies' lawsuit, reasoning that the federal courts should abstain under *Younger v. Harris*.
- (4) We entered into a settlement agreement with World Medicine Institute, resolving allegations that the company made misrepresentations about the accreditation status of, and the financial charges for, a Ph.D. program offered between 2011 and 2017. Under the settlement agreement, the company paid \$55,090 to two former students and \$20,000 to the State.
- (5) We reviewed and approved emergency rules due to the emergence of coffee leaf rust, in addition to the timely review of importation requests of animals related to research on COVID-19.

(6) We reviewed and approved rules for the He'eia Community Development District to establish agriculture, aquaculture, cultural, and educational uses and facilities and natural resource restoration and management of the wetlands within the district, as well as affordable housing rules for the Kaka'ako Development District.

Goal: Expand capabilities in consumer protection matters where appropriate and as resources permit.

Objective: Ensure that all deputies in the division have the knowledge and experience to handle the variety of consumer protection matters that arise.

Action Plan: Send deputies to free virtual consumer protection conferences and training.

Identify cases and matters in which involvement by the office is appropriate and include multiple deputies to allow for peer-to-peer training.

Target: The target date for this action plan is ongoing.

Complex Litigation and Compliance Unit

The executive office uses its Complex Litigation and Compliance Unit (CLCU) (formerly known as the Complex Litigation, Fraud, and Compliance Unit) to assist in providing core services to the State and its departments. While CLCU is not a stand-alone division, it is tasked with providing litigation, audit, and administrative support in larger civil matters, investigating potential contract and procurement irregularities, and providing guidance to both the Attorney General and other state agencies on a range of ethical, compliance, and other matters. CLCU fills a supportive role that allows the Attorney General to use the unit flexibly to augment other division resources and advance multiple action plan items. CLCU also acts as the Attorney General's liaison to many federal agencies, and supports some of the more significant, high profile criminal matters affecting the people of our State.

CLCU consists of a senior deputy attorney general, a deputy attorney general, a chief integrity advisor, three forensic analysts and two litigation support personnel. CLCU analysts came to the Attorney General with broad experience in the handling of complex criminal and civil matters at both the state and federal levels.

CLCU addresses integrity matters that could lead to criminal, civil or administrative action. The unit collaborates with the Attorney General's Criminal Justice Division and Investigations Division on long-term criminal investigations, developing investigative plans, preparing search warrants, and assisting in the gathering of evidence and conducting financial analyses. Much of the work is done by the analysts, all of whom are retired federal criminal investigators with substantial experience investigating complex financial crimes, including tax, money laundering, contract fraud, healthcare fraud, bribery, and integrity offenses.

Among CLCU's accomplishments, along with other department divisions and outside counsel, CLCU's members are active in the defense of (1) the Dannenberg case, a class-action suit against the Employees Retirement System for the alleged diminution in value of state retiree health benefits, (2) the Kalima case, a class-action suit against the Department of Hawaiian Home Lands for the delayed provision of services and homestead leases to thousands of plaintiffs; (3) the OHA litigation, where a CLCU deputy successfully obtained the dismissal of all damages claims growing out of alleged public trust violations related to Mauna Kea; (4) the Hu Honua litigation arising from the PUC's determination; and (5) the DW Aina litigation, where a development entity seeks hundreds of millions of dollars in lost profits allegedly lost due to land commission actions. A CLCU deputy is also part of a multi-divisional team representing the State in challenges to the validity and enforceability of the Governor's emergency proclamations. To date, the team has successfully defended the State in multiple federal and state cases, and obtained rulings upholding the Governor's restrictions as being reasonably related to the goals of protecting the people of our State from COVID-19.

Over the last year, CLCU has initiated one False Claims Act (FCA) complaint seeking damages against a health care provider that submitted false claims to the State's Medicaid program. It has evaluated several other FCA matters. The unit is also providing support to an ongoing FCA action against a provider, where the damages are estimated to be in the millions. Such FCA cases have the potential of allowing the State to recover up to three times the amount of damages, plus penalties.

Goal: Continue to provide core services to the department's divisions and other state entities.

Objective: Provide support to the department as needed in litigation, in the recovery of funds, and in the fight against unfair and deceptive trade practices.

Action Plan: Collaborate with the State's Ethics Office in combating fraud, waste and abuse. The collaboration will continue to be used to initiate

criminal and ethical investigations, as well as to provide agencies with recommendations for more efficient operations.

Continue actively supporting civil litigation matters.

Support recovery of funds by bringing or supporting affirmative claims designed to lead to monetary recoveries for the State.

Assist in the fight against unfair and deceptive trade practices by continuing to provide support in cases involving the marketing and sale of opioids, Plavix (a heart disease medication), and JUUL e-cigarettes. Continue to work with other divisions and outside counsel in prosecuting these cases, which allege that the manufacturers committed unfair and deceptive acts and practices, subjecting them to damages and substantive penalties.

Target: The target date for this action plan is ongoing.

Criminal Justice Division

The mission of the Criminal Justice Division (CJD) is to serve as the statewide prosecutorial arm of the Department of the Attorney General, to enforce the laws of the State of Hawaii, to ensure public safety through the just, efficient, and effective administration of justice, and to advocate for the passage of laws that protect the people of Hawaii. CJD includes the Internet Crimes Against Children Unit, Medicaid Fraud Control Unit, and the Tobacco Enforcement Unit.

Goal 1: Collaborate with the Investigations Division and other partners.

Objective: Make the most efficient use of resources available within the department and the law enforcement community to ensure optimal outcomes in investigations, target specific crimes, and successfully prosecute offenders.

Action Plan: Assign a deputy to more complex investigations at the outset of a case to collaborate with the investigators, analysts, and other law enforcement partners throughout the investigation to improve the quality of cases for prosecution. Develop an investigative strategy, including coordinating parallel proceedings, obtaining evidence via search warrant versus subpoena, scheduling witness interviews, and being mindful of the elements of possible charges.

Work collaboratively with federal, state, and county law enforcement to conduct multi-jurisdictional operations targeting

online child sexual predators as well as crimes involving the commercial sexual exploitation of children.

Target: The target date for this action plan is ongoing.

Goal 2: Establish a Victim Witness Support Unit.

Objective: Expand available resources to maximize the services the department is able to provide to victims.

Action Plan: On August 1, 2021, CJD retained a Human Services Professional to provide limited victim witness support for victims of domestic violence, sexual assault, and human trafficking pursuant a federal grant which expires in June 2022. A request for funding has been submitted to establish a permanent victim witness support unit, which is necessary for a comprehensive strategy to support and inform victims, thereby increasing the ability to effectively prosecute offenders and hold them accountable for their crimes. Develop policies and procedures for a victim witness support unit.

Target: The target date for this action plan is ongoing.

Goal 3: Though the Medicaid Fraud Control Unit, maintain compliance with the twelve performance standards set by the U.S. Department of Health and Human Services, Office of Inspector General (DHHS-OIG).

Objective: Effectively and efficiently carry out duties to maintain compliance with the performance standards set by the DHHS-OIG in order to be certified and/or recertified as a Medicaid Fraud Control Unit.

Action Plan: Work with DHHS-OIG to maintain compliance with the 12 performance standards. Update policy and procedure manual to ensure changes are made to track any improvements or updates to comply with the 12 performance standards.

Support staff training, including participation in national conferences when available.

Investigate and, as appropriate, prosecute allegations of provider fraud against the Hawaii Medicaid Program, and cases of abuse, neglect, and financial exploitation of Medicaid beneficiaries and residents of board and care facilities.

Target: The target date for this action plan is ongoing.

Goal 4: Through the Tobacco Enforcement Unit, ensure that State laws are followed regarding the taxation, importation, and sale of tobacco products. Investigate and enforce suspected violations of the Master Settlement Agreement (MSA) and the Tobacco Liability Act.

Objective: Ensure compliance with the MSA in order to avoid penalties or reductions in annual payments.

Action Plan: Seek out Non-Participating Manufacturers (those who do not participate in the MSA) who may re-establish a presence in Hawaii. Vigorously police the local tobacco industry for compliance with the MSA, the Tobacco Liability Act, and related statutes.

Investigate and prosecute violations of the State Tax Stamp Law and ensure compliance with tax stamping requirements at all levels of sale. Ensure compliance with cigarette contraband statutes.

Develop Electronic Smoking Device Retailer Registration Unit protocols and procedures for the retail sale of electronic smoking devices and related products in furtherance of nexus with chapter 245, Hawaii Revised Statutes.

Target: The target date for this action plan is ongoing.

Education Division

The mission of the Education Division is to provide quality services to all of the division's clients, which include the Department of Education (DOE) with all of its schools, the Board of Education, the Hawaii State Public Library System, the Hawaii Teacher Standards Board, the Charter School Commission, the individual Charter Schools and their Governing Boards, the Executive Office on Early Learning, and the Early Learning Board.

The measure of the Education Division's effectiveness can be seen in some of its accomplishments, as follows:

Over the past fiscal year, the Education Division assisted the DOE in drafting interim Title IX guidelines to comply with the updated federal Title IX regulations pertaining to sexual harassment grievance procedures and immediate interventions.

The Education Division also helped develop procedures to provide special education students impacted by the COVID-19 school closures with "impact services" to accommodate for any loss in skills that they may have experienced

while distance learning. These procedures were provided to plaintiffs' counsel in the federal class action lawsuit entitled W.G., et al. v. Christina Kishimoto, et al., Civil No. 20-00154 LEK-RT, wherein plaintiffs were seeking the court's assistance in developing a procedure to provide compensatory education to disabled students impacted by COVID-19 school closures. Upon review of the DOE's procedures to provide "impact services," plaintiffs' counsel voluntarily dismissed the class action lawsuit.

Our division was also able to secure a reimbursement of \$2,000,000 from the fund created to reimburse eligible class members for educationally related expenses. This fund was created as part of the class action settlement in E.R.K. v. Dep't of Education, 1:10-cv-00436-SOM-RT.

Goal 1: **Collaborate with the DOE to train and support school-level employees.**

Objective: Assist the DOE in training its teachers and support staff to develop better individualized education programs (IEP) and to support the teachers and staff in developing timely and legally sufficient IEPs. Meet with the DOE monthly to discuss current issues related to due process filings and hearings. Coordinate training schedules and topics for inclusion in training. Determine the best form for training and support to be provided.

Action Plan: Discuss with the DOE issues related to IEP creation and implementation and the acknowledgement of areas where additional training and support are needed.

Discuss current legal issues among deputies and gain consensus on providing additional training and advice to the DOE, including teachers and administrators.

Meet with the DOE monthly to discuss current issues.

Formulate a plan or system with the DOE to have the deputies and DOE collaboratively provide the training and support needed to successfully develop IEPs following the conclusion of a current due process case.

Present and discuss with the DOE our ideas and proposals on how the deputies can provide the training and support to the schools following each due process hearing in order to maximize the lessons learned from each hearing.

Target: The target date for this goal is ongoing.

Goal 2: Assist the DOE to reduce its costs of litigation.

Objective: Attorney's fees and costs are awarded as a matter of right to petitioners who prevail in due process hearings. Therefore, any actions taken to reduce the need for hearings, settle cases without hearings, or obtain favorable outcomes in hearings will benefit the DOE.

Action Plan: Deputies will request and review all relevant information from the school prior to engaging in settlement discussions during mandated Resolution Sessions.

The supervisor will meet with each deputy to discuss the specifics of the case, the potential liability, and the available options prior to participating in the Resolution Session.

Deputies will engage with the school staff prior to the Resolution Session to thoroughly discuss the allegations of the due process complaint and available options.

To increase the ability to gain knowledge and experience from each case and to achieve better outcomes, the supervisor and the deputy will meet after the completion of the Resolution Session to discuss whether settlement was reached and/or whether continued settlement negotiations are possible.

Target: The target date for this goal is ongoing.

Employment Law Division

The mission of the Employment Law Division (ELD) is to provide high quality and timely legal representation to the State, its departments, attached agencies and senior managers in personnel/labor disputes with their own employees or prospective employees. We have made a point of making ourselves available to clients for meetings in advance of taking action or making decisions. We have met or had telephone contact with the directors or deputies of the Departments of Budget and Finance, Education (DOE), Health, Human Services, Hawaiian Home Lands, Labor and Industrial Relations, Land and Natural Resources, Human Resources Development, Public Safety, Transportation, Taxation, Defense, and the Research Corporation of the University of Hawaii.

The division has continued to cross train deputies both by assigning a wide variety of cases to each deputy but also teaming up experienced counsel in certain areas as back up or second chair to less experienced deputies.

Goal 1: **Improve the legal knowledge of the attorneys and legal assistants and ensure effective communication with clients.**

Objective: Provide quality legal representation to all State clientele in all areas of employment law.

Action Plan: Provide training, training seminars, videotapes, brown bag lunches and in-house training (department and division-wide).

Maintain a uniform procedure for addressing employment law claims, including timely responding to requests for assistance or by providing a time frame for a response, encouraging clientele to confer with ELD staff prior to making certain significant or unusual management and personnel decisions, and establishing regular meetings with clientele to discuss concerns in general.

Establish a small litigation resource committee within the division to assist lead counsel.

Target: The target date for this goal is ongoing.

Goal 2: **Initiate preventive and proactive measures to help reduce the need for litigation.**

Objective: Reduce employment law claims.

Action Plan: Identify that State clientele that have regular claims brought against them and which demand the most time and attention.

Provide preventive training to State clientele in subject areas that dominate litigation and administrative hearings.

Coordinate training for clientele with other divisions within the department and other state agencies.

Develop a system of categorizing and inventorying court and administrative decisions for use by legal staff and clientele.

Develop a system to consistently inform clientele of major court and administrative decisions and trends in employment law.

Target: The target date for this goal is ongoing.

Family Law Division

The mission of the Family Law Division (FLD) is to represent state agencies in any Family Court proceedings in all of the circuits statewide. The FLD handles all litigation under the jurisdiction of the Family Court, such as child and adult protection, guardianship, involuntary hospitalization, truancy, and juvenile law violation cases where services are provided by our client agencies to one or more of the parties. Clients include the Department of Education (DOE), the Department of Health (DOH), the Department of Human Services (DHS), the Department of Public Safety (DPS), and the Office of the Public Guardian (OPG).

In 2021, the FLD redistributed its existing personnel positions on a statewide basis to better meet the needs of neighbor island circuits, moving existing Oahu deputy positions to Hilo and Maui, and an Oahu Office Assistant position to Kauai.

Additionally, the FLD adapted to meet the changing COVID-19 safety protocols of the Family Courts and filed about twenty-five guardianship petitions for incapacitated adults, 234 Child Protective Act petitions for children who were subjected to harm or threatened harm by their families, and 180 adoption petitions for children in the custody of the DHS. The division also closed about 281 Child Protective Act cases via adoption, legal guardianship, or reunification with safe parents.

Goal 1: **Ensure that we are able to provide quality legal representation to our clients on all islands. This goal comes with the challenges of needing staff physically located in each county. The benefits of having staff accessible to clients in each county are great, but the geographical challenges of adapting to and filling in when vacancies occur in one of our neighbor-island offices are a big concern.**

Objective: Standardize office operations statewide to increase efficiency and uniformity in the Kapolei, Hilo, Kona, Wailuku, and Lihue offices. Always have staff on each island who are able to do whatever is needed to represent our clients in the courts, which will help to build the division's knowledge base, resulting in better representation to our clients.

Because of our division's presence on all islands, assist the department in filing routine pleadings as necessary. Provide space and equipment for other divisions during long neighbor island trials.

Action Plan: Maintain a backup plan for unplanned or unexpected absences in neighbor island offices. Identify deputies who are able to travel and handle an unfamiliar case with little lead time.

The cross training involved in Family Law Division goes above the department's cross training goals because of the need for deputies to sometimes travel to a neighbor island to cover work in a different location. Cross training involves training new deputies on the job, through informal mentoring by senior deputies, and exposing all deputies to all of the different required areas of client service.

In the Oahu office, which is the largest, the division's lead deputies mentor the newer deputies as they move through the various areas. The deputies on neighbor islands do not all have back up deputies and have to perform all tasks in all areas. When an Oahu deputy covers for a neighbor island deputy, it is crucial for the Oahu deputy to be familiar with all of the required tasks in addition to those the deputy might specialize in on Oahu.

Prioritize work through case and staff reassignments.

Target: The target date for this goal is ongoing.

Goal 2: **Be prepared for trials and other hearings that happen on a daily basis.**

Objective: Ensure that all deputies are performing optimally in their representation of clients in court and meeting the clients' needs.

Action Plan: Meet regularly with the Family Court judges in each circuit to work on practical, systemic problems and develop solutions to problems as they arise.

Review court performance through regular observation and the solicitation of client and court feedback.

Meet with clients on a regular basis. The division already meets monthly with its largest client, Child Welfare Services. The division will also meet regularly with the DOH, the DOE, the DPS and the OPG on a regular basis.

Target: The target date for this goal is ongoing.

Goal 3: **Maintain rapport with the other divisions that provide advice and counsel to the same client agencies that FLD provides litigation representation to in Family Court.**

Objective: Address issues collaboratively, as they arise.

Action Plan: Communicate regularly with other divisions regarding the rules and policies of our mutual clients, which might affect how we represent our clients. Meet monthly with the respective division supervisors.

Target: The target date for this goal is ongoing.

Goal 4: **Continue to adapt to the restrictions and hardships arising from the COVID-19 pandemic.**

Objective: Provide a seamless continuum of services to our clients and the courts, even with periodic court closures when active cases of COVID-19 are detected.

Action Plan: Continue to meet virtually with clients on a regular basis to advise them of the changes in procedure at the Family Court.

Target: The target date for this goal is ongoing.

Health Division

The mission of the Health Division is to provide quality legal services to support the work of the Department of Health (DOH), including its various attached entities, boards, and commissions. The Health Division provides advice, counsel, and representation in various court and administrative proceedings, including various multi-state litigation efforts and some appellate work, to all DOH programs. The division also advises members of the Hawaii Legislature when questions arise involving environmental, public health, and behavioral health issues.

COVID-19 continues to present particularly challenging issues for the DOH and will continue to do so for the foreseeable future. In addition to the substantial legal services the Health Division ordinarily provides to its DOH clients, which number over 35 different distinct offices/branches whose subject matter range from medical marijuana to child and adolescent mental health to clean water to vital statistics, the division has drafted and reviewed hundreds of pandemic-related agreements. This includes intergovernmental agreements with state agencies and the counties, as well as third-party contracts involving well over \$100 million dollars in federal funding, such as: (1) vaccination administration at Blaisdell, Pier 2, various pharmacies, pop-up locations such as Aloha Stadium, and locations in conjunction with the counties and through mobile vaccination services; (2) community, correctional facility, and public school testing; (3) first contact calls, contact tracing, and investigation; (4) isolation and quarantine services; (5) technology upgrades to the Hawaii Immunization Registry; (6) policy development for compliance with CDC regulations and guidelines; (7) review of Safe Travels and trusted testing partner agreements; (8) data sharing

agreements; (9) multi-media campaigns and communication strategies to increase vaccination rates; and (10) contracting for epidemiological staffing and medical staffing support for health facilities throughout the state. Supporting DOH in COVID-19 countermeasure efforts is a priority in the Health Division.

Health Division also continues to provide legal support for other critically important work of DOH. This includes providing advice and counsel as well as litigation services in connection with hotly contested environmental cases such as the clean air permit related to Puna Geothermal Venture on the Big Island and DOH's emergency order and subsequent hearing concerning the Navy's Red Hill Bulk Fuel Storage Facility and pending contaminated water emergency.

Goal 1: Recruitment, hiring, and training of attorneys and staff. While this is among the department's goals, it is one of the Health Division's priorities, due to an unexpectedly high attrition caused by retirements and transfers.

Objective: Sustain quality and timely legal services through sufficient personnel, training, and supporting expertise.

Maintain the division's ability to be responsive and timely with quality legal advice and representation, despite increasingly reduced resources.

Action Plan: To the extent allowed, hire personnel to fill attorney and staff vacancies, which currently equates to a 25% reduction in personnel over the last year, resulting in an unsustainable reallocation of duties to the remaining deputies and staff.

Focus on job recruitment to fill vacancies.

In the interim, plan team approaches to particularly large projects which can be shared among deputies covering other positions.

Additional cross-training of personnel to enhance and expand areas of knowledge and capability to facilitate flexibility, support more efficient problem solving, and minimize disruptions.

Target: The target date for this goal is ongoing.

Goal 2: Enhance the efficiency of procurement and contracting of pandemic-related goods and services.

Objective: Continued client satisfaction with the timeliness and quality of legal services rendered.

Action Plan: Maintain clear lines of communication with clients regarding essential goods and services necessitated by the State's response to the COVID-19 pandemic, including information needed from the DOH, expectations regarding the outcome, and timing of third-party contracts and agreements with other government entities.

Maintain good and consistent communication with the DOH on a regular basis regarding current and future needs for the State's response to the COVID-19 pandemic.

Work with clients to prioritize assignments to ensure necessary agreements are in place prior to the department's need.

Periodic meetings with DOH leadership.

Target: While the foregoing items are already in place to some degree, the status and effectiveness of each action item and potential improvements are assessed on a continuing basis.

Human Services Division

The mission of the Human Services Division is to provide excellent legal services and support in a timely manner to our assigned client agency, the Department of Human Services (DHS). The division provides advice and counsel to all DHS programs and its administratively attached agencies, and represents client programs in court and administrative hearings, including appeals from decisions in those forums. We also advise the Office of the Governor, the Attorney General, and the Legislature on a broad range of Human Services issues.

The Division has trained toward and advanced the goal of working collaboratively with the various DHS divisions to help DHS in its goal of serving the public in a "whole family" or "Ohana Nui" paradigm. Within the division, the deputies have succeeded in cross-training efforts set out in past goals. Each deputy takes on responsibilities outside of their usual assigned areas by, for example, working with unfamiliar programs and investing considerable time on department-wide projects and committees. We collaborate frequently with other divisions within the department to provide support and expertise in areas such as security, confidentiality, collections, and civil rights litigation, among other areas, and are frequently called upon to advise Boards or Hearing Officers for other divisions' clients, such as the Department of Health, the Department of Transportation, and the Department of Land and Natural Resources.

Additionally, Human Services Division deputies support initiatives to improve the department's services and integrity by participating in committees such as the Appellate Opinion Review Committee, the Ethics and Conflicts Committee, the

Contracts Committee, the Training Committee, the Privacy Workgroup, and the IT Contracts Workgroup (which was initiated by and is led by a Human Services Deputy).

In addition to the department's common goals, the following is a specific goal for the Human Services Division:

Goal: **Improve the knowledge and capabilities of our clients at the DHS to achieve a greater level of skill, confidence, and success in the DHS workers when they appear before a hearings officer or judge.**

Objective: Ensure that DHS workers have the knowledge and skills to make decisions within the scope of their enabling statutes and administrative rules and are able to confidently defend those decisions before administrative hearings officers and judges.

Action Plan: The deputies regularly provide training for the clients on contract review and confidentiality issues. We plan to increase the frequency of those trainings and schedule them on a regularly recurring basis. We also have provided training on investigations and report writing for enforcement actions which will be updated and presented regularly as needed. We are currently developing new training specifically for administrative appeals and litigation which will include modules on report writing and testifying before an Administrative Hearing Officer or a judge.

Target: This is a continuing goal.

Labor Division

The mission of the Labor Division is to provide excellent and timely legal services and litigation support, including agency appeals, to the Department of Labor and Industrial Relations (DLIR) and the boards and agencies administratively attached to the DLIR. The attached agencies include the State Fire Council, the Office of Community Services, and the Workforce Development Council. Among the divisions within the DLIR are the Unemployment Insurance Division (UID), Disability Compensation Division (workers' compensation), Hawaii Occupational Safety and Health Division (HIOSH), and Wage Standards Division (unpaid wages and minimum wage). In connection with its enforcement of the various labor laws, the Labor Division collects penalties, fines, and reimbursements. The division also provides legal advice and representation to the Employees' Retirement System's Medical Board.

The measure of the Labor Division's effectiveness can be seen in some of its accomplishments, as follows:

We provided advice and counsel to the DLIR throughout the pandemic as the DLIR has had to navigate implementing provisions of the CARES Act, the Continued Assistance Act, and the American Rescue Plan Act.

We assisted with drafting provisions in the Governor's emergency proclamation to enable unemployment claimants to get additional benefits as allowed under various federal programs.

We assisted the DLIR with legislation to provide that the contribution rate schedule for employers that would have by law been set at the highest rate due to the effects of the COVID-19 pandemic, would be at a lower rate allowing relief for employers.

We also assisted in legislation to provide the DLIR the discretion to revoke or suspend permits to operate elevators if unsafe or fees were not paid, and to provide the DLIR the discretion to rescind the revocation or suspension if the hazard was corrected or fees were paid.

We assisted HIOSH in the adoption of the Emergency Temporary Standard for Healthcare regarding COVID-19 rules issued by the United States Department of Labor and Industrial Relations, Occupational Safety and Health Administration.

We also successfully upheld the DLIR'S authority to adopt rules to implement and administer the unemployment statute in the favorable decision of Allen v. Hoshijo, CAAP-18-000076, cert. denied SCWC-18-0000076. The Intermediate Court of Appeals found that the DLIR's rule regarding disqualification for unemployment benefits due to a voluntary quit was in harmony with the statute, and it upheld the agency's determination that the claimant was disqualified from receiving benefits because he quit work based on the evidence which showed that the claimant resigned.

Goal 1: **Continue to assist the DLIR Unemployment Insurance Division in matters arising out of the COVID-19 pandemic.**

Objective: Be prepared to assist the UID with its needs related to increased unemployment claims due to the pandemic, as those needs evolve.

Action Plan: Allocate division workload to allow deputies sufficient time to assist the UID in COVID-19-related matters and to address the substantial increase in agency appeals in unemployment cases to the Circuit Court.

Maintain ongoing contact with the UID on COVID-19 related matters and agency appeals. The division has provided advice and counsel to the UID regarding the CARES Act, Continued Assistance Act and American Rescue Plan Act. In particular, the division has drafted language for the Governor's emergency proclamations to allow flexibility in administering the unemployment insurance laws as allowed by the federal programs.

Target: This is a continuing goal that is likely to last beyond the pandemic.

Goal 2: **Provide guidance and training to the Wage Standards Division due to the Wage Standards Division's significant loss of experienced personnel.**

Objective: Assist the Wage Standards Division by meeting with and discussing matters and procedures with the Wage Standards Division on a regular and ongoing basis to address current issues.

Action Plan: Training sessions have begun which will be continued on a regular and ongoing basis.

Target: This is a continuing goal.

Goal 3: **Assist the Workforce Development Division (WDD) in the review of apprenticeship rules.**

Objective: Maintain ongoing discussions with WDD on a regular basis regarding the adoption of the apprenticeship rules.

Action Plan: Deputies will review and discuss the administrative rules regarding apprenticeship with the WDD.

Target: This is a continuing goal.

Goal 4: **Assist the DLIR by more efficiently accessing data.**

Objective: Continue moving information to a databank. The division has made significant progress in its databank of information and removal of old files that are no longer relevant.

Action Plan: Review and move old files to storage or destroy as warranted and maintain a databank of information for future use.

Target: This is an ongoing and continuous goal.

Goal 5: **Assist the DLIR with bankruptcy related matters.**

Objective: Help DLIR establish a procedure regarding bankruptcy related matters.

Action Plan: Deputies will review and discuss the DLIR's current procedures and discuss a plan going forward especially with respect to its collection matters in bankruptcy cases.

Target: While the foregoing items are already in place to some degree, the goals are ongoing.

Land/Transportation Division

The Land/Transportation Division provides legal services to both the Department of Land and Natural Resources (DLNR) and the Department of Transportation (DOT). These assignments include serving all divisions of the DLNR (Aquatic Resources, Boating and Ocean Recreation, Bureau of Conveyances, Conservation and Coastal Lands, Conservation and Resources Enforcement, Engineering Division, Forestry and Wildlife, Historic Preservation Division, Land Division, State Parks, and the Commission on Water Resource Management) and the DOT (Airports, Harbors, and Highways).

The division also provides services to numerous attached commissions, boards, and agencies, including the Kaho'olawe Island Reserve Commission, Public Land Development Corporation, Natural Area Reserves System Commission, the Island Burial Councils, Hawaii Historic Places Review Board, Hawaii Invasive Species Council, Medical Advisory Board, the Metropolitan Planning Organizations, State Highway Safety Council, and the Land Use Commission. As a result of decisions made by the various DLNR boards or commissions, the Land/Transportation Division handles various contested case hearings and appeals of decisions by these boards or commissions.

Most tort litigation involving the DLNR or the DOT is handled by another division, but the Land/Transportation Division handles a number of cases involving the State as a landlord and as a source of permits or as a regulator. The division is responsible for all quiet title actions involving the State and virtually all state eminent domain actions, the bulk of which are done on behalf of the State highways program.

The Land/Transportation Division handles procurement protests, with the bulk of the protests connected with the DOT. These protests often involve tens of millions of dollars in contracts. This past year DOT was involved in a lawsuit with a vendor, Ciber, Inc., for a financial accounting system that Ciber failed to deliver. DOT, assisted by the Land/Transportation Division, was able to recover over thirty-one million dollars in settlement.

The division prepares or reviews land disposition documents for the DLNR and the DOT and prepares office leases for the Department of Accounting and General Services when state agencies rent private properties as tenants. The division also assists DLNR with the acquisition of land in fee simple or under conservation easements for the protection of natural resources. Over the past year over 3,700 acres have been protected in this manner.

The division reviews for legality its clients' contracts and administrative rules and proposed legislation related to its client agencies. The division handles administrative enforcement actions for violations of the State Historic Preservation law and the law governing land use in conservation districts and actions for damage to natural resources of the State.

The division has been deeply involved in the State's response to the Coronavirus pandemic. The State's harbors and (especially) airports have been ground zero for efforts to prevent and control the spread of the virus. Highways are actively engaged in implementing shovel ready projects. The DLNR is the State's largest landowner and landlord. We have helped it respond to issues arising in that capacity.

Goal 1: Improve consistency in DOT land disposition documents.

Objective: Develop forms for various land dispositions that the DOT commonly requires.

Action Plan: Fill open positions for Transportation deputies to build more capacity to accomplish this type of project.

Create a team of deputies and our paralegal to review common land disposition document forms from the various DOT divisions and develop template forms for all divisions to use that will make drafting of these documents quicker and more consistent across all divisions.

Target: The target date for this goal is ongoing.

Goal 2: Assist DLNR in increasing enforcement actions in its role as a regulator.

Objective: DLNR has several areas of administrative enforcement it would like to increase that require support from the Land/Transportation Division.

Action Plan: Fill open positions for Land deputies to build more capacity to accomplish this type of project.

Train deputies in how to both conduct enforcement actions before the Board of Land and Natural Resources and in subsequent contested case hearings. Training would encompass roles both as the attorney for the department as well as the attorney for the tribunal.

Target: The target date for this goal is ongoing.

Legislative Division

The Legislative Division provides legal services on matters pertaining to legislation and to proposed administrative rules. The division coordinates the preparation and review of all legislative bills proposed by executive branch agencies and coordinates the review, monitoring, and evaluation of all legislative bills during and after each session of the Legislature. The division's Supervising Deputy Attorney General serves as the Legislative Coordinator of the department and is the primary contact for all legislative legal and policy matters. In addition, the division coordinates, monitors, and reviews the preparation of administrative rules of the department and, time permitting, may assist other divisions in their review of administrative rules for agency clients. The division often performs the final review of formal opinions issued by the Attorney General and provides staff support to the Commission to Promote Uniform Legislation. The division compiles, edits, and redrafts the department's annual reports to the Legislature from drafts provided by the responsible divisions.

Beginning with the 2021 Legislative Session, the division successfully adapted to the challenge of transitioning from a paper-based review system to an electronic review system. This was a dramatic, but necessary, change to allow accessibility to all work products in out-of-office work settings, where deputies and staff could not quickly circulate hard copies of documents. We developed a system that allowed us to generate assignments, review and edit documents, return documents for correction, advance documents to the Attorney General for final approval, and submit documents to the Legislature or Governor, in most cases without generating hard copies.

The primary goal of the Legislative Division is to accomplish all of its responsibilities in a timely, accurate, and effective manner each year, in order to provide support to the Attorney General and the Executive and Legislative Branches.

The specific goals of the Legislative Division are essentially the same every year, with varied duties during the cycles of the Legislative sessions and the Administration's timetable.

Goal 1: **Coordinate the legal services review of legislative proposals of the Executive Branch and assist with requests by the Legislative Branch relating to possible bills.**

Objective: Ensure the timely review of legislative proposals by divisions possessing pertinent subject matter expertise.

Ensure the accurate and effective review of legislative proposals by the divisions to which the proposals were referred.

Develop, draft, review, and edit legislative proposals that our department seeks to have included in the Governor's bill package.

Action Plan: Coordinate with the Governor's staff to establish deadlines for each executive branch agency's submission of legislative proposals to the Office of the Governor and to the Legislative Division to allow sufficient time for review and revision of the legislative proposals and correction by the originating executive branch agencies.

Attend Legislative Coordinator's meetings. Stay informed of requirements for legislative coordinators. Maintain records of the department's legislative proposals to be used as reminders for the development of new proposals.

Provide training sessions to deputies in the department who work on legislation to promote their understanding of the requirements of bill drafting and legislative proposal review.

Assign and track the review of legislative proposals by divisions possessing pertinent subject matter expertise, and review proposals multiple times, as necessary.

Assist the Office of the Governor and the executive branch agencies finalize those legislative proposals that the Governor decides to include in the Administration bill package.

Respond to Legislators who seek advice on ideas for bills or assistance in drafting bills.

Target: This goal repeats annually.

Goal 2: **Coordinate the legal services review of legislative bills that are introduced and pending before the Legislature.**

Objective: Ensure the effective review of pending legislative bills by divisions possessing pertinent subject matter expertise.

Assist in the reporting of problems discovered during the review of legislative bills by preparing a list of bills to be tracked, determining whether hearings have been scheduled for the bills with problems, ensuring that appropriate testimony is prepared, and reviewing testimony and legal advice letters on those bills.

Action Plan: Provide annual training to the department relating to procedures to review and track legislation and to prepare testimony on bills.

Assign all introduced bills to divisions possessing pertinent subject matter expertise needed to effectively review specific bills; continue to maintain the Legislative Bill Tracking System on the ProLaw Information Management System to provide information on the referrals of bills and to provide necessary reports; and continue to maintain manually prepared problem bill lists.

As necessary, revise procedures to conform to the Governor's Office's tracking systems for the Executive Branch agencies.

Improve the system of paperless testimony review that was initiated in the 2021 Legislative Session to enable all deputies who work on drafting or reviewing testimony to access it even if they are working remotely; and ensure that deputies in the department who work on legislation have an opportunity through training sessions to understand the requirements of bill drafting, the review of introduced bills, and the preparation of testimony as necessary on bills, and the process that should be followed for the review and approval of drafted testimony.

Target: This goal repeats annually.

Goal 3: **Coordinate the legal services review of passed legislative bills referred by the Governor for review.**

Objective: Ensure the timely review of passed legislative bills by divisions possessing pertinent subject matter expertise.

Assist in ensuring the accurate and effective review of passed legislative bills by the divisions to which the proposals were referred.

Ensure the timely and accurate preparation of suggested veto documents for the bills with legal issues.

Action Plan: Continue to coordinate the review of passed bills with the Office of the Governor to attempt a reasonable bill review schedule; set internal deadlines for the review of passed bills by the assigned divisions before the deadlines set by the Office of the Governor; maintain computerized records of referrals and deadlines; continue to review and double-check the bills and the reports prepared by the divisions before the reports to the Governor are sent to the Office of the Attorney General for approval; and continue to review, edit, and transmit suggested veto documents to the Governor in electronic form.

Target: This goal repeats annually.

Goal 4: **Provide to government officials of the Executive, Legislative, and Judicial Branches appropriate legal services on legislative matters and matters pertaining to administrative rules.**

Objective: As specifically assigned by the Attorney General or the First Deputy Attorney General, continue to provide timely and accurate legal advice on legislative matters and matters pertaining to administrative rules.

Ensure that the administrative rules of the department are prepared and adopted in accordance with the administrative rules format and the Hawaii Administrative Procedure Act.

Action Plan: Continue to maintain access to computerized legal research services in order to prepare legal advice; and continue to review proposed administrative rules of the department. Perform legal research, review documents and rules, and prepare and deliver legal advice in electronic form to expedite research, preparation, and delivery.

Target: This goal repeats annually.

Goal 5: **Coordinate the preparation and submission of our department's annual reports to the Legislature. The Legislative Division is responsible for keeping track of those reports and coordinating with the responsible divisions to gather information and draft those reports in a timely manner.**

Objective: Ensure that all necessary reports are submitted in a timely manner with copies provided to various libraries.

Action Plan: Keep a record of the reports that our department is responsible for submitting annually to the legislature. Monitor each year's session to determine if new reports are required.

Review and edit drafts of reports and resolve questions or concerns with the drafting division prior to submission to the Attorney General for final approval. The review includes confirmation of the statutory or other mandate for the reports, verification that all requirements for the reports are included, checking cited references to substantiate content, and double-checking math in tables related to financial reporting.

Target: This goal repeats annually.

Goal 6: Assist in the promotion of uniform state laws.

Objective: Provide staff support and assistance to the Commission to Promote Uniform Legislation.

Subject to available funding, participate in and monitor the activities of the National Conference of Commissioners on Uniform State Laws and attend the annual meetings.

Action Plan: Continue to prepare meeting notices, agendas, and minutes for the Commission to Promote Uniform Legislation in compliance with the Sunshine Law; continue to prepare bills to enact uniform laws for introduction by legislators, and continue to annually prepare a report to the Legislature on the activities of the National Conference and the Commission to Promote Uniform Legislation.

Target: This goal repeats annually.

Public Safety, Hawaiian Home Lands, and Housing Division

In support of the department's overall mission, the Public Safety, Hawaiian Home Lands, and Housing Division provides legal services and representation in litigation to the Department of Public Safety (PSD) and its attached agencies and commissions (which include the Hawaii Paroling Authority, the Correctional Industries Advisory Committee, the Correctional Systems Oversight Commission and the Crime Victim Compensation Commission), the Department of Hawaiian Home Lands (DHHL), the Hawaii Housing Finance and Development Corporation, and the Hawaii Public Housing Authority.

We will accomplish our goals and objectives by fostering a sense of ownership over the work of the division, maximizing and leveraging available resources, and

seeking additional resources and assistance when necessary. We will simultaneously maintain the high moral and ethical standards of the department.

Goal 1: Maintain a culture of ownership, integrity, diligence, and fairness.

Objective: Instill a sense of ownership, accountability, and shared service in division personnel. Division members will take initiative on assignments and exhibit team-oriented attitudes.

Action Plan: Empower personnel to make decisions affecting their work by delegating responsibility and authority to the extent possible without compromising the timeliness or quality of work product.

Ensure that everyone understands the reasons behind policies and procedures as well as individual assignments. Sound decision making by employees in performing individual tasks is not possible without an understanding of broader mission objectives.

When mistakes are made, ensure that corrective action is taken by the employee directly responsible, as well as all those responsible for supervising the task. Identify measures to prevent similar mistakes from happening in the future.

Encourage open communication among and between deputies and staff, including giving and receiving constructive criticism, both up and down the chain of command.

Target: This is an ongoing and continuous process.

Goal 2: Provide quality advice and legal representation to the clients we represent.

Objective: Ongoing training of deputies and staff with timely and effective work-product.

Regular and ongoing evaluation of work-product and processes.

Action Plan: Attendance at department training events is highly encouraged. Department training events also form the basis for more detailed, in-house training at the division level.

Brief training will be given to the division's deputies after every division meeting. Heavy emphasis is placed on fundamental skills such as legal research and writing, case assessment, and verbal

communication. Deputies are also encouraged to engage in self-study to broaden their knowledge base.

Provide staff access to training in legal support fields. Provide opportunities for staff to conduct in-house training to reinforce the skills learned.

Deputies will undergo regular evaluations in addition to their annual performance reviews. The division supervisor will meet regularly with staff to better understand any issues affecting performance or morale. Deputies and staff will also evaluate the division supervisor's performance through either direct or anonymous feedback.

Deputies and staff will conduct debriefing after significant litigation filings and hearings and other major events such as deal closings and project completions.

Target: The target date for this goal is ongoing and continuous.

Goal 3: **Render competent legal services even when resources are strained.**

Objective: Maximize output while maintaining morale and employee wellbeing. The measure of success will be whether the division is able to accomplish its mission.

Action Plan: An appreciation of the department's and division's mission, as well as a culture of ownership and shared service, is critical to sustaining morale in the mid to long-term. Care must be taken to maintain the well-being of the employees in the division. Deputies, staff, and the division supervisor must communicate openly and honestly to prevent any unfair or unreasonable distribution of work.

When the division is short-handed due to vacancies or absences, deputies will need to cover for each other by performing legal work that may be outside their area of expertise. Deputies may also be required to devote extra hours to ensure client work is completed.

We will also request assistance from other divisions when necessary. Similarly, we will fully assist other divisions when requested.

In a worst-case scenario, we will consult with clients to prioritize matters such that low-priority assignments will be completed at a later time. We will assign the highest priority to matters that involve

direct and significant impacts on the public or indirect but significant impacts on health and safety. Lower-priority levels will be established through client consultation.

Target: The target date for this goal is ongoing and continuous.

Tax and Charities Division

The Tax and Charities Division provides legal representation and counsel to the Department of Taxation (DOTAX), affiliated DOTAX boards and commissions, and other state departments and agencies, primarily in the areas of tax litigation, legislation, rules, investigations, and the provision of legal advice and opinions. The division also oversees and enforces laws pertaining to charitable trusts, public charities, public benefit corporations, and private foundations, and is responsible for the oversight and enforcement of Hawaii's charitable solicitation laws under chapter 467B, HRS, including the State's online registration system for charitable organizations and their professional solicitors and professional fundraising counsels that solicit contributions in Hawaii.

In fiscal year 2021, the division began its Charities Program Expansion and Improvement (CPEI) Project. During the 2021 legislative session, the legislature approved the division's request for positions for an Investigator and Deputy Attorney General for the charities program. These positions enabled the division to move forward with its CPEI project.

The division administers and enforces Hawaii's charitable solicitation laws, codified in chapter 467B, HRS, which are designed to protect the public from fraudulent charitable fundraising schemes through a comprehensive registration and reporting statutory system that serves two equally important purposes: (1) to assist potential donors in making informed giving decisions by making registration and reporting materials available to the public; and (2) to provide the Attorney General information and authority to detect and prosecute unlawful conduct as it relates to fraudulent claims.

The purpose of the CPEI project is to improve the integrity and efficiency of the charities program. The division's goal is to ensure that the registration and other "front-end" reporting processes are handled in a manner that facilitates the division's ability to obtain regulatory compliance and take corrective or legal enforcement action as necessary. The charities program currently has over 8000 charities on its registry.

With the initiation of an improvement and expansion process, the division will be better able to serve the public and oversee charitable organizations, and ultimately, effectively meet the demands of an ever-growing program, which in turn will benefit the public and charitable organizations alike.

The division collected more than \$1.4 million in taxes from the litigation cases it handled last fiscal year.

Goal 1: **Provide legal advice and representation to DOTAX and affiliated DOTAX boards and commissions.**

Objective: Assist DOTAX in its administration and enforcement of the State's tax laws.

Action Plan: Continue to prosecute the State's tax claims and defend the State in tax appeals, bankruptcy, foreclosures, and other actions involving taxes administered by DOTAX with appropriate consideration of the issues, amounts, collectability, and other factors, including those impacted by the COVID-19 pandemic.

Continue advising DOTAX on proposed legislation, administrative rules, and interpretations, including recommendations to DOTAX on possible legislation to close unintended loopholes or to improve tax administration, and assist DOTAX in its efforts to identify tax violators and potential new sources of tax revenue.

Continue to advise and protect DOTAX regarding privacy issues related to taxpayer tax returns and return information made confidential by sections 235-116 and 237-34, HRS.

Continue to advise DOTAX and affiliated boards and commissions on Sunshine Law and UIPA requirements and proceedings pursuant to chapter 91, HRS.

With respect to court cases, continue to monitor and participate in litigating and resolving cases as appropriate. Continue to review legislation, administrative rules, cases, and other information that may affect DOTAX.

Assist DOTAX to identify tax violators and other potential new sources of tax revenues which is especially important given the State's ongoing fiscal challenges due to the pandemic.

Advise and represent DOTAX in connection with subpoenas and other requests for confidential taxpayer information.

Review annually how the division has met its objectives.

Target: The target date for this goal is ongoing and continuous.

Goal 2: **Regulate charitable trusts, public charities, and nonprofit entities, including private foundations.**

Objective: Ensure that such organizations are properly fulfilling their charitable purposes and enforce Hawaii's charitable solicitation laws.

Action Plan: Continue to monitor and represent the Attorney General in her capacity as parens patriae to represent the public's interest in the protection of charitable assets and continue to enforce Hawaii's charitable solicitation laws.

Continue to enforce Hawaii's charitable solicitation laws under chapter 467B, HRS, as well as section 431:1-204, HRS, requiring the registration and bonding of professional solicitors and professional fundraising counsel, and annual certification by charities issuing charitable gift annuities and continued enforcement of registration requirements.

Educate the public about charitable trusts, public charities, nonprofit entities, and about Hawaii's charitable solicitation laws.

Target: The target date for this goal is ongoing and continuous.

Tort Litigation Division

The Tort Litigation Division provides legal defense for personal injury lawsuits and claims made against the State and its departments and agencies, and some state employees, for allegations of injuries or damages arising from various torts. The Tort Litigation Division litigates cases primarily in the state courts, and occasionally in the federal courts, including appellate courts. The litigation this division undertakes includes, but is not limited to, answering legal complaints filed in court, investigating claims, conducting discovery, drafting and filing motions determined to be necessary, drafting other memoranda and briefs as appropriate, and representing state interests at administrative hearings, court hearings, arbitrations, mediations, trials, and appeals. The division also occasionally provides legal defense for civil rights claims made against State employees, when there is a conflict of interest between or among several employee defendants in one lawsuit, in cases assigned to the Civil Rights Litigation Division.

The division carries a heavy case load in which the monetary exposure to the State can be over \$1,000,000. During the past fiscal year, the Tort Litigation Division was successful in obtaining dismissal of several cases by way of motion. In one of the cases, the State was awarded and collected its costs of litigation.

Goal: Gain and maintain the respect of the Judiciary and our clients.

Objective: Thorough and effective litigation and effective client communications.

Action Plan: Actively litigate civil cases filed against the State, its departments, agencies, and employees.

Continue to work hard to properly litigate these cases and resolve them favorably for the State when possible and take them to trial when the liability against the State is questionable.

Thoroughly investigate and litigate cases to best serve our clients, and also gain the respect of the Judiciary.

Maintain effective communications with the client departments, agencies, and/or defendant employees so that we can effectively litigate our cases.

Provide recommendations to our clients for more efficient and effective operations.

Target: The target date for this goal is ongoing and continuous.

SECTION 5: PUBLIC SERVICES DIVISIONS

The department is divided into the following professional services divisions or autonomous units within larger divisions, each with its own goals and objectives in addition to the common goals and objectives of the department.

Child Support Enforcement Agency

The Child Support Enforcement Agency (CSEA, or agency) provides assistance to children and families by collecting, disbursing, and enforcing support payments (both financial and medical) owed to custodial parents. In some cases, CSEA collects and disburses reimbursements to the Department of Human Services (DHS) for public assistance provided to the child and family. CSEA's mission is to promote the well-being of children and the self-sufficiency of families through the timely and effective operation of its responsibilities while providing excellence in customer service.

This past year CSEA installed point of sale devices in office locations statewide (Oahu, Maui, Hilo, and Kauai). The devices allowed neighbor island branches the ability to collect child support payments and expanded payment options to

debit and credit cards. Child support payments can also now be made at any Walmart store nationwide.

CSEA information technology staff also developed and implemented an appointment line system. This allowed the agency to maintain safety protocols in the customer service area and provided an easy way for case participants to schedule an appointment.

Additionally, CSEA partnered with the DHS and implemented an employment program for non-custodial parents. Through referrals by CSEA, this program helps non-custodial parents with job training and job placement so that they may be able to meet their child support obligations.

CSEA is a partnership with the Federal Office of Child Support Enforcement (OCSE). CSEA receives 66% federal matching funds to meet its operating costs, requiring only 34% to be paid by the State's general fund. Both CSEA and OCSE are committed to improving operations and their service to families.

Goal 1: Enhance performance in the five categories identified by OCSE to measure agency effectiveness².

Objective: Achieve an increase in the performance percentage reported on the annual OCSE-157 report. The OCSE-157 report is a statistical report submitted to the federal Department of Health and Human Services at the end of every federal fiscal year evaluating the effectiveness of the state's Child Support Enforcement program.

Increase the number of paternity establishments.

Increase the number of orders establishing financial and medical support.

Increase collections of current child support.

Increase collection of past-due child support.

Increase the agency's cost-effectiveness.

Action Plan: Improve the CSEA's ability to locate non-custodial parents and employers in order to establish orders for support and then collect on the obligations.

² The Five Performance Measures are (1) Paternity Establishment Percentage, (2) Support Order Establishment, (3) Current Collections, (4) Arrearage Collections, and (5) Cost Effectiveness.

Retrain staff to initiate conversations about current support obligations and past-due balances with non-custodial parents to encourage voluntary payments and compliance with court orders.

Update CSEA's website and communication with case participants to convey CSEA's willingness to work with parties.

Target: The target date for this goal is ongoing.

Goal 2: **Enhance service to case participants through the development of online portals and outreach programs. Provide *pro se* parties with increased access to legal services through Family Court relating to child support issues.**

Objective: Increase case participant satisfaction and the implementation of pilot programs to increase services to case participants

Provide *pro se* parties with increased access to legal services through Family Court relating to child support issues.

Action Plan: Enhance CSEA's website to provide more information and answer frequently asked questions to reduce the need for in-office visits or customer service calls.

Enhance CSEA's website to allow participants the ability to submit documents and requests online.

Partner with Family Court to expand the Access to Justice program. Currently, legal services are limited to a couple of hours a week. Expanding the Access to Justice program should utilize Title IV-D of the federal Social Security Act, matching funds to hire a full-time attorney dedicated to helping pro-se parties navigate through the judicial process regarding paternity, custody, and child/medical support orders.

Target: The target date for this goal is ongoing.

Goal 3: **Increase participation in the non-custodial parent employment program.**

Objective: Identify a list of cases where the child(ren) is receiving public assistance, the non-custodial parent is unemployed, and the agency has not received child support payments for a designated period.

Action Plan: Develop a process to identify eligible participants, provide case management to help ensure success in the program, and refer to the DHS for participation.

Target: The target date for this goal is ongoing.

Goal 4: **Ensure the continued operation of CSEA's statewide computer system as a federally certified system.**

Objective: Move CSEA's certified statewide computer system (KEIKI), which was implemented in 1998, off of the mainframe and into the cloud to prevent unanticipated system disruptions and failures due to outdated and unsupported technology.

Action Plan: Identify funding sources for this IT initiative.

Obtain ETS and OCSE approval for a shift of the KEIKI system from the mainframe to the cloud. This could also include some recoding of the current system to prepare for an incremental approach to modernization in the future.

Target: The target date for this goal is ongoing.

Crime Prevention and Justice Assistance Division

Crime Prevention and Justice Assistance Division (CPJAD) serves as the central agency to provide the Attorney General with the information and resources needed to address crime and crime prevention. CPJAD accomplishes this by:

- Researching crime issues and reporting comprehensive crime statistics for the State;
- Utilizing federal and state funds and non-financial resources to address crime problems and criminal justice system issues;
- Planning, developing, and implementing education and crime prevention programs to promote community involvement in crime prevention efforts;
- Developing and maintaining a computerized juvenile offender information system;
- Assisting in locating, recovering, and reuniting missing children and runaways with their families; and
- Supporting the Hawaii Sexual Assault Response and Training (HSART) program and the statewide standards for responding to sexual assaults.

This enables the Attorney General to facilitate and coordinate efforts to improve the criminal justice system and to encourage community partnerships in addressing crime.

CPJAD's mission is to assist the criminal justice system agencies to improve service delivery and to promote the involvement of communities in the prevention of crime.

CPJAD includes: Community and Crime Prevention Branch, Grants and Planning Branch, Juvenile Justice Information System, Missing Child Center – Hawaii, Research and Statistics Branch, and HSART Program.

The following are some of the CPJAD accomplishments in FY 2021:

- Distributed CARES-CESF funding to state and local criminal justice and public safety agencies to prevent, prepare for, and respond to the COVID-19 pandemic.
- Received \$10.2 million in federal formula grants and distributed the grants to local and state government criminal justice agencies and community non-profit service providers.
- Upgraded the NCIC interface to include Amber Alert caution codes.
- Implemented the automated interface between Department of Human Services, police, and the National Center for Missing and Exploited Children (NCMEC) for the reporting of missing foster children.
- Completed the Hawaii Youth Correctional Facility Recidivism Report for CY 2016-2019 and Interagency Council on Intermediate Sanctions (ICIS) 2019 Hawaii (Adult Criminal Offender) Recidivism Report.
- Participated in 12 multi-disciplinary teams, including a minimum of five state, county, federal, private, and/or non-profit agencies, to improve the state's response to victims, crime and crime prevention.

Goal 1: **Improve the criminal justice system's response to crime.**

Objective: Leverage resources to address crime-related issues. Increase the number of grants administered and tangible benefits from the grant-funded projects.

Increase the number of victims served and actual improvements to the criminal justice system.

Accept and process referrals from law enforcement and Child Welfare Services to NCMEC for missing foster children per federal law and to the Missing Child Center-Hawaii for any missing children.

Action Plan: Seek, apply for, and administer federal and state funding to improve criminal justice response to crime and services to victims of crime, and provide workshops on grant administration and

reporting for new recipients and basic grant writing for interested applicants.

Participate in multi-disciplinary, multi-jurisdictional working groups to leverage resources to address statewide issues that include victim services, sexual assault, domestic violence, offender recidivism, substance abuse, risk to vulnerable populations, and missing children.

Maximize and coordinate resources to benefit CPJAD and its stakeholders by seeking and applying for technical assistance from technical assistance providers, such as National Center for Missing and Exploited Children, National Criminal Justice Training Center, National Criminal Justice Association, and Office for Victims of Crime Training and Technical Assistance Center.

Address public safety and public health issues related to illicit and prescription drugs by collecting and properly destroying unused prescription drugs and conducting community presentations on preventing misuse and abuse of prescription drugs.

Improve coordination among local, state, and federal law enforcement, courts, social services, victim service providers, and national organizations to enhance their assistance to missing children who are highly vulnerable to assault, sexual exploitation, substance abuse, or death while missing.

Target: The target date for this goal is ongoing.

Goal 2: **Collaborate with communities, government agencies, and service providers to address crime-related issues with training, conferences, and meetings.**

Objective: Increase the number of trainings, projects, and activities conducted in partnership and/or collaboration with other groups. Collect evaluations from the trainings to document the benefits of the training.

Action Plan: Increase public awareness of how to prevent identity theft and sex assault; how to prevent crimes against visitors and community members; how to use the internet safely; and how to mobilize the community in these efforts.

Continue the implementation of the Hawaii State Victim Assistance Academy to improve or enhance victim services related to, but not limited to, domestic violence, child abuse, intimate partner violence,

sex abuse, and sex trafficking. The training audience includes new victim advocates who provide direct services to crime victims, victim advocates that had minimum training, project staff that receive funding from the Victims of Crime Act Victim Assistance grant, and, if space is available, other police, prosecutor and judiciary advocate staff, and victim service providers. Training will be held virtually vs. in-person due to COVID-19.

Target: The target date for this goal is ongoing.

Goal 3: **Conduct research on adult criminal offender recidivism in Hawaii as a result of the Interagency Council on Intermediate Sanctions' (ICIS) evidence-based policies and practices applied to parolees and felony probationers.**

Objective: Provide documentation of objective research findings and evidence-based recommendations to ICIS agencies (principally the Hawaii State Judiciary, Department of Public Safety, and Hawaii Paroling Authority).

Action Plan: Follow the ICIS Strategic Plan activities and timeline.

Provide research-driven information on crime and justice in Hawaii.

Utilize available resources to enhance data-driven and evidence-based research capacity and policy-relevant recommendations throughout the criminal justice system.

Target: The target date for this goal is ongoing.

Goal 4: **Provide timely and complete information to criminal justice practitioners and policymakers.**

Objective: Improve the Juvenile Justice Information System (JJIS).

Action Plan: Provide for a disaster recovery site for the Next Generation JJIS. This requires a system migration to the ETS Government Privacy Cloud (GPC).

Target: The target date for this goal is December 2022.

Goal 5: **Create a state repository program for the National Incident Based Reporting System (NIBRS) that will expand the crime reporting data provided by the county police departments.**

Objective: The launch and FBI certification of the State's NIBRS data repository and the certification of the county police departments.

Enhance online resources for presenting crime data and analyses by launching and then expanding a Hawaii NIBRS Dashboard.

Action Plan: Continue the statewide transition from the FBI's Summary Reporting System (SRS) version of the Uniform Crime Reporting Program to the NIBRS version, which provides substantially more and richer data on the nature and extent of crime. Hawaii's SRS is currently an Excel-based reporting program. NIBRS data from the county police will be submitted to a new web-based data repository.

Target: The target launch date is summer 2022.

Hawaii Criminal Justice Data Center

The Hawaii Criminal Justice Data Center (HCJDC) is responsible for the statewide criminal justice information system (CJIS-Hawaii), the statewide Automated Biometric Identification System (ABIS), which includes the statewide Automated Fingerprint Identification System (AFIS), the statewide mug photo and facial recognition systems, and the statewide sex offender registry. HCJDC also serves as Hawaii's point of contact for the Federal Bureau of Investigation's (FBI) National Crime Information Center (NCIC) program.

Goal: Continued modernization of critical criminal justice systems managed by HCJDC – CJIS-Hawaii, Green Box, ABIS, and LOTC.

Objective: Upgrade CJIS-Hawaii for browser compatibility to have CJIS-Hawaii accessible on any browser platform providing better access mobility (i.e., Chrome, Firefox).

Upgrade the CJIS-Hawaii hardware infrastructure to have CJIS-Hawaii installed and working on new hardware, being up to date on security compliance, and increasing the lifespan of the system.

Modify the LOTC to improve workflows and process transactions more efficiently to deploy modifications to LOTC to improve data processing in both accuracy and performance.

Modify Green Box for browser compatibility and to improve background services to have the Green Box booking system accessible within different browsers and with less downtime in background services.

Action Plan: Identify all components of the system that need to be modified to function in different browsers.

Identify any areas where software can be modified to process more efficiently.

Work with ETS to obtain and configure hardware.

Test application in all environments on new servers.

Complete functionality to allow users to resend transactions to HIJIS.

Identify components of the system that need to be modified to allow the admin tool to function in different browsers.

Identify components of the system that need to be modified to allow users to see when a transaction is waiting for another system to reply.

Identify all components of the system that need to be modified to function in different browsers.

Modify background services to process arrests more efficiently and with less downtime.

Target: The target date for this goal is ongoing.

Investigations Division

The Investigations Division provides a full range of law enforcement and investigative services at the direction of the Attorney General. Investigators engage in the investigation of felony crimes, but also serve in a supportive role in other criminal, civil, regulatory, and administrative matters. The focus is high-profile, complex financial crimes and public corruption, but the division serves in any capacity needed by the community including uniformed response to emergencies. Investigators are both professional and flexible, rising to any challenge or service needed by the community.

Investigators are vested with statewide law enforcement authority pursuant to section 28-11 HRS. The division works in partnership with other law enforcement agencies across the full spectrum of services and emergency response. The investigators are highly experienced and proficient law enforcement professionals with exceptional skills and superlative training.

Investigators conduct thorough, fair and impartial investigations, and provide other valuable law enforcement services. Investigators are committed to protecting the lives, safety, and rights of all people in our community.

Some of our accomplishments over the last year include:

Enforcement of the Tobacco Master Settlement Agreement and protection of the public health through inspections and criminal investigations. Investigators engaged in inspections and enforcement to ensure compliance with the legal requirements of the Master Settlement Agreement payments under chapter 675 HRS. Investigators diligently enforced the requirements of the agreement to protect minors from exposure to tobacco addiction and mitigate the harm associated with tobacco products. Inspections and criminal investigations of violators ensure both compliance with the law and sustained revenue for public education and health services. Through funding provided by the Tobacco Enforcement Unit, investigators conducted 1,849 inspections and made 14 seizures of illegally imported cigarettes in the previous fiscal year.

The division partnered with the Hawaii Criminal Justice Data Center in coordinating a strategic initiative to develop a single multiagency Records Management System for state law enforcement. This is designed to improve both the efficiency and effectiveness of state law enforcement with seamless information sharing and interoperability among agencies, provide data for crime analysis and investigations, provide a common technology standard for case reporting and record keeping, and enable the state to meet reporting requirements. There are potentially significant savings since it is not cost-effective for individual agencies to procure and maintain multiple systems. Information sharing and management are inefficient and require expensive interfaces between different, proprietary systems. A shared system makes sense. We continue to develop solutions for storage, search, and analysis of investigation data and high volumes of digital evidence. This will result in the ability to access information much faster and obtain in-depth analysis to identify links in criminal organizations, cash flow in money laundering, and other applications than is presently available with manual processes.

Goal 1: **To investigate serious crimes, including complex white-collar crimes, public corruption, fraud schemes, identity theft, forgery, securities fraud, money laundering, violations of procurement law by public officials and other financial crimes and support the Criminal Justice Division to prosecute cases in court.**

Objective: Investigations of serious crimes requires meticulous examination of financial records and other relevant documents and digital information. The division strives to maintain the highest level of expertise in financial crimes investigation and ensure that

investigators continue to build experience and expertise in high-profile, high-stake investigations.

Action Plan: Vigorous investigation of public corruption is essential to maintain integrity and public trust.

Conduct in-depth investigations to reveal the anatomy of complex financial crimes and criminal organizations, including utilizing search warrants, digital evidence recovery, forensic accounting, and financial analysis to expose fraud, malfeasance, and money laundering schemes and recover misappropriated funds and assets.

Examine financial records and obtain search warrants for relevant records from financial institutions, cell service providers and social media to reveal associations and convoluted mechanisms used to divert and conceal funds.

Maintain the highest level of expertise in financial crimes investigation and continue to build experience and expertise in high-profile, high-stake investigations.

Digital Forensics. Continue to develop digital forensic examination capabilities and digital evidence recovery services. This includes the examination, identification, recovery and preservation of evidence in digital media, computers, cell phones, digital cameras, and where possible, networked and cloud storage. Maintain these capabilities through continual training and upgraded technology and software as information technology continues to evolve. These capabilities are used for evidence recovery and preservation in white collar crimes, computer fraud, computers as instrumentalities or targets of offenses, complex frauds and thefts, computer intrusion, phishing, cyber-hacking, money laundering, political campaign finance violations, and other crimes in which computers, cell phones, and other digital devices are used or are repositories of evidence.

Target: The target date for this goal is ongoing.

Goal 2: To investigate serious crimes such as aggravated assault, robbery, burglary, auto theft, arson and firearms offenses that arise at correctional facilities, the Daniel K. Inouye International Airport, Honolulu Harbor and other areas of state jurisdiction in direct support of the Sheriff Division and Harbor Police.

Objective: Continue to develop effective communication and working relationships with other law enforcement agencies and work together to enforce law and order.

Action Plan: Fulfill the compelling operational need for felony criminal investigations in support of state law enforcement agencies. Investigators investigate serious crimes, including aggravated assault, robbery, burglary, auto theft, arson, and firearms offenses. Investigators are the lead investigators in some murder, suicide, and sexual assault cases in correctional facilities with the support of county police crime scene forensics and laboratory services.

Provide training, crime scene management, and 24-hour response. Investigate leads, prepare cases for charging, prepare arrest warrants, confer with Deputy Attorneys General, prepare information charging, and serve warrants of arrest. In extraditions, consult with the Criminal Justice Division, and help prepare complaints and affidavits and perform all required processing, coordinate with requesting agencies, and file documents with the court. Develop and maintain effective communication and working relationships with other law enforcement agencies and work together effectively in crime scenes and in the identification of suspects.

Target: The target date for this goal is ongoing.

Goal 3: **To deter recidivism by convicted sex offenders and prevent sexual assaults on vulnerable members of our community.**

Objective: Maximize the benefits of partnering with the Hawaii Criminal Justice Data Center in supervising sex offenders.

Action Plan: Investigators provide a key component in the overall strategy to prevent sexual assaults through sex offender registration and the investigation of noncompliant sex offenders. This provides a significant deterrent to the population of convicted sex offenders, preventing further predation and victimization. This aligns with the national and state strategy to prevent sexual assaults through management of sex offenders who have been shown to have a high risk of repeat crimes. The division and the Hawaii Criminal Justice Data Center are closely integrated partners in supervising sex offenders. The division is the primary law enforcement element in the state for investigating violations of chapter 846E, HRS and mandatory compliance. These are primarily felony crimes, and can involve complexities including interstate violators, engagement with the population of offenders without permanent residences, and

high-risk offenders. Investigators partner with United States Marshals, Adult Probation and other agencies in compliance checks and locating fugitives. Investigators update information for the public sex offender website which is an important resource for communities and offender information. The division is dedicated to preventing sex crimes and protecting vulnerable members of the community.

Target: The target date for this goal is ongoing.

Goal 4: **To engage in effective emergency operations and management to protect lives and the safety of our community.**

Objective: Assist the State in emergency management operations as needed.

Action Plan: Continue duties as a core member of the State Law Enforcement Coalition (SLEC) and coordinate with the Hawaii Emergency Management Agency on behalf of SLEC during emergencies as the designated Planning Section. Operate within the Incident Command System and maintain readiness through training and operations to apply National Incident Management System (NIMS) standards to help save lives and mitigate property losses in emergencies. Remain prepared to be a part of the law enforcement team fielded in response to serious incidents, major events, emergencies, and natural disasters. Provide mutual aid to other state law enforcement agencies.

Pandemic Community Protection. The division has been and continues to be at the forefront of the COVID-19 response, conducting thousands of quarantine compliance checks and enforcing emergency orders to protect against the spread of the pandemic. As the threat continues, investigators must persevere in their commitment to lifesaving and mitigating the public health threat through direct action. Investigate high-profile quarantine violators and flagrant social media influencers violating emergency rules. Work closely with other law enforcement agencies to encourage compliance and educate the public through enforcement. Field a high volume of calls asking for information and reporting suspected violators. Work collaboratively with the Safe Travels program, serving as an information resource for other law enforcement agencies. Through August 2021, the division made sixty-three arrests for violations of the emergency order and 4,051 quarantine compliance checks.

Target: The target date for this goal is ongoing.

Goal 5: To achieve peak performance, the highest professional standards and operational readiness.

Objective: Obtain necessary training and incorporate best practices and updated procedures to best serve the community.

Action Plan: Training and Certifications. Investigators require continual training, certification, and recertification in core capabilities and to enable them to evolve in step with the community and requirements for the law enforcement profession. The division has assembled a cadre of experienced and proficient trainers who are expanding their mission to include investigators throughout the department. Core training areas include firearms, active shooter response, less-lethal Taser, self-defense, and physical arrest processes. Professional skills include ongoing training provided by respected subject matter experts including the Federal Bureau of Investigation, the Federal Emergency Management Agency, the National White-Collar Crime Center, United States Secret Service to enhance the investigation of complex financial crimes, emergency response, digital evidence management and investigations.

Professional Standards and Best Practices. The division will continue to develop the professionalism of its investigators and incorporate best practices of law enforcement. The division is continually reviewing and updating policies and procedures to reflect Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA) standards and guidance from the International Association of Chiefs of Police. The division will incorporate best practices and standards into the work processes of the division to ensure ongoing professional development, improve the safety of investigators in their work, ensure the highest quality of services are provided, and evolve to best serve the community and community expectations.

Target: The target date for this goal is ongoing.

Office of Child Support Hearings

The mission of the Office of Child Support Hearings (OCSH) is to resolve child support disputes impartially and expeditiously. This is accomplished by child support Hearings Officers through an administrative hearings process. Orders issued by Hearings Officers establish, modify, terminate, and enforce child support obligations statewide. Orders may also include child support arrears, debt owed to the State for periods when the child and/or children received benefits from the State, and in certain cases, spousal support arrears. Hearings

Officers may also confirm, modify, and enforce out-of-state orders brought under the Uniform Interstate Family Support Act. Orders issued by Hearings Officers are filed in the Hawaii Family Court without further review and have the same force and effect as orders issued by Judges.

The administrative process: All cases handled by OCSH are processed through the Child Support Enforcement Agency (CSEA), which is a separate division of the Department. If there is a request for hearing in a case being processed by CSEA, the case is scheduled for an administrative hearing with OCSH. Hearings are conducted pursuant to chapters 91 and 576E, Hawaii Revised Statutes, and Title 5, subtitle 3, chapter 34, Hawaii Administrative Rules, and the most current Hawaii Child Support Guidelines.

One of our greatest accomplishments was to be able to modify our OCSH office and hearing policies and procedures to adapt them to pre-pandemic levels while abiding by COVID-19 protocols and restrictions, so that we could continue providing full services to the public. All hearings were conducted as scheduled with no interruption to the hearing process or related services.

1,733 hearings were conducted from July 1, 2020, through June 1, 2021, which is similar to pre-pandemic amounts. This was accomplished with half the office staff, as unfilled positions could not be filled due to a statewide hiring freeze.

To continue to accomplish its mission, OCSH has the following goals:

Goal 1: **Continue to conduct hearings and provide the public with full services despite the effects of the COVID-19 virus.**

Objective: Conduct hearings, complete work, and maintain office functions at pre-pandemic levels, while following COVID-19 protocols to protect the health and safety of all parties and staff.

Action Plan: Continue to serve the public fully by adapting OCSH office and hearing policies and procedures to restrictions caused by the COVID-19 pandemic.

Target: The target date for this goal is ongoing.

Goal 2: **Continue to improve the hearing process.**

Objective: Discuss issues, form various plans for change, implement the plans, and receive positive results.

Action Plan: Continue to update and improve OCSH office and hearing policies, procedures, and staffing.

Utilize telephone hearings. OCSH is not able to conduct in-person hearings because of distance and safety restrictions caused by the COVID-19 pandemic, as hearings rooms are too small. All hearings were converted to phone hearings at the start of the pandemic on May 1, 2020 and will continue at least through December 31, 2021. This required a change in OCSH policies, procedures, and documents. Participants appreciated this change because it made the administrative process more convenient and accessible to them. This was especially useful because the judicial process was affected differently by pandemic restrictions and may not have been available or convenient for participants to use during this time.

Update the OCSH website and forms: The OCSH website and all office forms were modified, updated, and improved to provide the public with more information which they could access easily at any time. This allowed the public to learn more about the hearing process and to better prepare for it. The public regularly accessed the OCSH website for information and was able to use the forms provided to communicate with OCSH about issues that concerned them. This reduced the amount of phone calls received by OCSH and increased the amount of requests and documents parties submitted for a hearing. Provide more updates as necessary.

Personnel and training: When the statewide hiring freeze was lifted in 2021, OCSH hired two hearings officers and a legal assistant. Position descriptions and interview questions were reviewed before this happened, and a training program was developed which included extensive reference and training documents, along with personal instruction. This allowed new personnel to learn at their own pace and as a team at the same time.

Target: The target date for this goal is ongoing.

Office of Dispute Resolution

The mission of the Office of Dispute Resolution (ODR) is to impartially and expeditiously adjudicate administrative proceedings initiated pursuant to the Individuals with Disabilities Education Act (IDEA) and section 504 of the Rehabilitation Act of 1973 (Section 504).

To accomplish this mission, the following goals and objectives are specified below.

Goal 1: Promptly resolve due process hearing requests.

Objective: Keep quantifiable records and qualitative data to confirm these deadlines have been met.

Action Plan: Continue adhering to agency guidelines for prompt resolution of due process hearing requests within the timelines mandated by state and federal law.

Issue hearing orders and decisions within the mandated timelines (or within permissible extensions).

Continue to hold frequent telephone conferences with the Technical Advisor to ensure ODR continues to adhere to the best practices under the IDEA, Section 504, HRS, and HAR.

Target: The target date for this goal is ongoing.

Goal 2: Training for hearing officers to ensure they meet mandatory continuing education requirements.

Objective: Ensure that all hearing officers meet annual CLE and other appropriate training requirements to be effective hearing officers.

Action Plan: Hearing Officers attend and complete training to meet annual Continuing Legal Education (CLE) credit requirements.

Attend a weeklong training with a nationally renowned Technical Advisor retained specifically for ODR's hearings officers to provide: (1) current educational training on the IDEA and Section 504, (2) insight on conducting impartial hearings; (3) practical advice on handling high volume caseloads; (4) instruction on handling cases with pro se litigants and (5) hands-on advice on writing orders and decisions.

Hearing Officers are to attend the National Academy for IDEA Administrative Law Judges and Hearing Officers to ensure that the Hearing Officers possess: (1) a fundamental understanding of IDEA, (2) the knowledge and ability to conduct due process hearings, and (3) the ability to decide and write decisions that comply with the appropriate, standard, legal practice.

Target: The target date for this goal is ongoing.

Goal 3: Conduct system-wide educational meetings regarding the hearing process.

Objective: Completion of semi-annual stakeholder educational meetings.

Action Plan: Explore scheduling semi-annual stakeholder meetings to address systemic issues and solicit feedback. The event should include, Petitioners Attorneys, Parents, Disability Rights Stakeholders, the Department of Education, and Hearing Officers.

Create an ODR web page containing relevant forms and explaining the process and procedures for impartial due process hearings in Hawaii.

Target: The target date for this goal is ongoing.

Goal 4: Proficiency in conducting virtual administrative hearings due to the COVID-19 pandemic.

Objective: Completion of seamless proceedings while maximizing CDC safety protocols.

Action Plan: Because of stay-at-home orders, office closures, and the need for social distancing, ODR had to adapt its procedures to allow for continued operations in a safe manner. Our plan is to continue to hold administrative proceedings in a virtual format as long as necessary to ensure the safety of ODR personnel, the Parties, and necessary service providers.

Attend available trainings related to the virtual platform to ensure ODR remains adept to the features and functions of the program. Success is measured by ODR personnel's expertise in capitalizing on its usage of the program.

Target: The target date for this goal is ongoing.

SECTION 6: CONCLUSION

This report was prepared with the input of all of our department's divisions and has tried to capture the goals and objectives of our department as a whole as well as the unique considerations of our individual divisions. It is our belief that as a department we succeed in meeting our primary goal of serving the legal needs of the State on a daily and ongoing basis, while always striving to improve.