

CALIFORNIA DEPARTMENT OF JUSTICE

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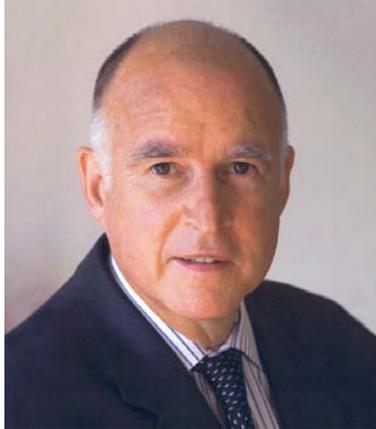
# BIENNIAL REPORT

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MAJOR ACTIVITIES  
2009-2010



EDMUND G. BROWN JR.  
ATTORNEY GENERAL



**EDMUND G. BROWN JR.**

**THE ATTORNEY GENERAL,  
AS CHIEF LAW OFFICER OF CALIFORNIA,  
CARRIES OUT HIS CONSTITUTIONAL RESPONSIBILITY  
TO ENSURE THAT STATE LAWS ARE  
UNIFORMLY AND ADEQUATELY ENFORCED  
THROUGH THE PROGRAMS OF THE  
DEPARTMENT OF JUSTICE.**

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# EXECUTIVE SUMMARY

# HIGHLIGHTS OF

# 2009 AND 2010

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**The last two years** of the Attorney General Edmund G. Brown Jr. administration were marked by unprecedented challenges. California's economy continued to languish as it slowly began to recover from the worst recession in modern times, and California's government faced huge budget shortfalls and gridlock.

Attorney General Brown refocused his priorities to face these new challenges head on. He aggressively investigated and prosecuted Wall Street and other financial firms and agents that contributed to the economic crisis or that preyed on its victims. These entities and agents included banks, mortgage lenders, bond-rating agencies, investment placement agents, loan-modification companies, and health-care insurance providers.

And to help reduce the budget deficit during the biennial period, Attorney General Brown implemented strict fiscal controls in the department, eliminated 450 positions (over 800 positions since his administration began), reduced expenditures by tens of millions of dollars, and returned over \$130 million to the State Treasury (over \$285 million since his administration began).

As he confronted new challenges, Attorney General Brown also continued to advance the other priorities that have been the hallmark of his administration: fighting crime, protecting the environment, attacking corporate abuse, protecting consumers, enforcing workers' rights, protecting civil rights, investigating the misuse of public funds, and prosecuting Medi-Cal fraud.

Some highlights of Attorney General Brown's accomplishments during the biennial period include the following.



## **Protected Consumers and Taxpayers, and Fought Corporate Abuse**

### **Forced Modification of Bad Loans**

The Attorney General secured an \$8.6 billion nationwide settlement against one of the nation's largest mortgage lenders, Countrywide Financial (which eventually merged with Bank of America), for fraudulent and misleading lending practices. (*People v. Countrywide Financial Corporation.*)

### **Stopped Mortgage and Loan Scams**

The Attorney General brought civil and criminal lawsuits against dozens of loan-modification companies that scammed borrowers who were trying to refinance their mortgages. Unscrupulous companies were closed down and restitution and penalties were recovered.

### **Secured Recovery of Investment Losses**

The Attorney General recovered over \$700 million for California investors from Wells Fargo affiliates who misrepresented, marketed and sold auction-rate securities as safe investments. (*People v. Wells Fargo Investments.*)

### **Recovered Hundreds of Millions of Dollars for Medi-Cal Program**

Between 2009 and 2010, the Bureau of Medi-Cal Fraud and Elder Abuse recovered nearly \$300 million for the Medi-Cal health system and provided restitution to elderly victims of fraud and abuse.

### **Investigated Health Insurance Practices**

The Attorney General issued subpoenas to seven of the largest health care insurance providers in California to review their business practices of denying claims, rescinding coverage, and engaging in deceptive marketing. The investigations of Aetna Health, Anthem Blue Cross, CIGNA, Health Net, Blue Shield of California, Kaiser Permanente and PacifiCare are ongoing.

### **Stopped Bank from Sweeping Credit Card Balances**

The Attorney General obtained a stipulated judgment against Citibank to stop a computerized process that removed positive credit card account balances without notifying consumers. Refunds were obtained of the more than \$14 million that was improperly swept from these accounts, including \$1.6 million that was taken from California customers. (*State of California ex. rel. Mellon v. Citigroup.*)

### **Sued to Recover Overcharges to Pension Plan**

The Attorney General filed a suit seeking recovery of more than \$200 million against State Street Bank for manipulating foreign exchange rates and overcharging California's two largest public pension plans, CalPERS and CalSTRS. (*People v. State Street Bank.*)

### **Ended Drug Company Marketing Scheme**

The Bureau of Medi-Cal Fraud recovered for California \$95 million from Eli Lilly and Company for promoting the drug Zyprexa for uses unapproved by the Federal Drug Administration. The company's illegal marketing scheme included giving payments to health care providers to encourage them to prescribe the drug. (*Woodward v. Eli Lilly.*)

### **Stopped Misuse of Charity Donations**

The Attorney General filed enforcement actions against 94 individuals and entities that falsely claimed that donations benefitted police, firefighters or other charitable organizations. The Attorney General's actions led to the dissolution of some charities and repayment of misused donations.

### **Investigated Use of Prepaid Funeral Funds**

The Attorney General is working with the Board of Funeral Directors and Embalmers and the Cemetery Bureau to investigate whether 27,000 consumers were defrauded when they invested over \$65 million with the California Master Trust, an entity that holds funds paid for pre-need funeral services.

### **Required Warning for Snacks Containing Carcinogens**

The Attorney General secured a settlement requiring Frito-Lay to reduce acrylamide, a chemical known to cause cancer, or provide a warning to consumers and pay civil penalties. The case arose because Frito-Lay was not letting consumers know that its snack foods (Cheetos, Doritos, Fritos, Rold Gold, Ruffles, SunChips, and Tostitos) contain acrylamide. (*People v. Snyder's of Hanover.*)

### **Eliminated Lead in Artificial Turf**

The Attorney General sued three major manufacturers of artificial turf after analysis revealed that people who play on the product can be exposed to significant levels of lead. The companies agreed to reformulate all turf products to eliminate lead, stop using existing leaded products in California, and mail warnings to customers. This judgment is the nation's first binding standard for lead in artificial turf products. (*People v. AstroTurf.*)

### **Sued Bell City Officials to Recover Excessive Salaries and Reduce Pension Benefits**

The Attorney General sued top City of Bell officials to recover excess salaries and to reduce pension benefits to reasonable levels. One official received compensation of over \$800,000 annually. Three of the highest-paid officials resigned after their salaries were revealed. The case is pending. (*People v. Rizzo.*)

## **Waged War on Crime**

### **Vastly Expanded DNA Data Bank**

DNA samples from adult felony arrestees were added to the Cal-DNA data bank, bringing the total number of offender and arrestee profiles to 1.5 million. The database is now the fourth largest DNA database in the world.

### **Identified Serial Murderer “Grim Sleeper” Through Familial DNA Search**

Familial DNA searches, used only in major violent crimes, use the DNA of family members to find suspects through the state’s DNA data bank. The Attorney General’s ground-breaking Familial DNA Search Program led to the identification and arrest of the accused “Grim Sleeper” serial murderer who is believed to have carried out the murders of 10 women in the Los Angeles area over the past 25 years.

### **Solved Cold Murder Through DNA**

The Attorney General’s DNA lab identified the killer in a 22-year-old homicide. In 2007, Brian Harper was convicted of bank robbery and his DNA was added to the California’s DNA database. The lab matched Harper’s DNA to blood found at scene of the unsolved murder. He was convicted and is currently awaiting sentencing.

### **Seized Massive Quantities of Illicit Drugs**

In 2009, DOJ drug investigations led to 1,762 felony arrests and the seizure of 1,026 pounds of cocaine, 318 pounds of methamphetamine, and 200 pounds of heroin.

### **Confiscated Thousands of Guns from Prohibited Owners**

DOJ special agents, in coordination with local law enforcement, disarmed violent offenders and others prohibited from owning weapons. Over 2,500 firearms were confiscated and taken off the streets.

### **Dismantled Mafia Extortion Operation**

Thirty-one suspects were indicted on 46 felony charges in an extensive Mexican Mafia extortion operation in Imperial County. Charges included conspiracy to commit extortion, narcotic crimes, torture, attempted murder, solicitation of murder, kidnapping, assault, selling heroin and methamphetamine, and illegally possessing and selling firearms. The defendants’ sentences totaled more than 200 years in state prison.

### **Impeded Illegal Border Activities**

After a decade-long legal battle, the Attorney General and four border state Attorneys General settled with Western Union to release records on money laundering activities along the U.S.–Mexico border. The Attorneys General formed an anti-money laundering alliance in coordination with Mexican law enforcement officials to combat money laundering connected with cross-border narcotic, human and firearms smuggling.

### **Prosecuted Political Corruption in San Bernardino**

The Attorney General and the San Bernardino District Attorney joined forces to investigate and prosecute a massive political corruption scheme. Evidence revealed widespread corruption, including extortion and bribery by members of the County Board of Supervisors. There are six cases currently pending.

### **Disrupted Internet Prescription Scheme**

The Attorney General secured felony convictions of participants of a scheme to sell prescription drugs over the Internet. The scheme operated in California, Costa Rica and Cyprus, and involved unlicensed physicians who prescribed medications online without a doctor-patient relationship. (*People v. Harrington and Hiller.*)

### **Improved Monitoring of Prescription Drugs**

The prescription monitoring program was enhanced to provide licensed health care practitioners, pharmacists, law enforcement and regulatory boards automated access to patient prescription records to identify abuses of controlled substances. Pharmaceutical drug investigations led to 50 arrests and the seizure of nearly 12,000 dosage units of controlled substances and narcotics. Investigations included cases pertaining to the untimely deaths of high-profile celebrities such as Michael Jackson and Anna Nicole Smith.

### **Prosecuted Gang For Defrauding Credit Union**

The Attorney General prosecuted a case in which the San Diego County Grand Jury returned a 347-count indictment against 61 defendants involved in a criminal street gang that defrauded a credit union of more than \$600,000. Credit union members were recruited to provide account information and use their debit cards for cash. The conspirators deposited counterfeit or fraudulent checks in compromised bank accounts to boost the balances, and then withdrew cash at a local casino by manipulating the cash advance system. More than 47 defendants entered guilty pleas; aggregate prison sentences exceeded 58 years. (*People v. Prather.*)

### **Curtailed Recycling Fraud**

DOJ special agents, working closely with Department of Resources CalRecycle inspectors and local law enforcement, shut down three beverage-container recycling fraud rings in which criminals trucked millions of cans and bottles from Arizona and Nevada to illegally claim \$3.5 million in refunds from the California Redemption Value program. In one case originating in Nevada, a ring imported 1.6 million pounds of cans and bottles to California – enough to fill 464 big rigs.

## **Safeguarded California's Environment**

### **Fought to Preserve Clean-Energy Retrofit Program**

The Attorney General sued Fannie Mae (the Federal Home Loan Mortgage Association) and Freddie Mac (the Federal National Mortgage Association) for imposing unjustified lending rules, which effectively halted California's Property Assessed Clean Energy Program (PACE). PACE

allows property owners to repay energy improvements through property tax assessments. The case is pending. (*People v. Federal Housing Finance Agency.*)

### **Defended Challenge to Gas Emissions Regulations**

The Attorney General intervened in a case to defend the U.S. EPA's authorization for California to enact its own regulations governing automobile greenhouse gas emissions. EPA's authorization is necessary for California's regulations to become effective. The case is pending. (*U.S. Chamber of Commerce v. U.S. EPA.*)

### **Sued Oil Company for Underground Tank Violations**

After a state investigation of over 1,000 petroleum underground storage tanks owned or operated by Equilon and Shell Oil Company revealed numerous environmental violations, the Attorney General obtained a permanent injunction against the company and a judgment for \$20 million in penalties and costs. (*People v. Equilon.*)

### **Reached Historic Agreement on City's Housing Cap**

The Attorney General forged a historic agreement with the City of Pleasanton to prevent urban sprawl. The settlement was reached after the Attorney General obtained a court order striking down a city limit on new housing construction that would have encouraged long commutes and increased traffic and pollution. (*People v. City of Pleasanton.*)

## **Enforced Workers Rights**

### **Sued Companies for Workers' Deaths**

The Attorney General and the Colusa County District Attorney obtained a judgment against Farmers' Rice Cooperative after two workers were suffocated by rice in one of its silos. The judgment imposes penalties and costs, calls for the development of new safety rules and training programs, and requires follow-up inspections. (*People v. Farmers' Rice Cooperative.*)

### **Sued on Behalf of Neglected Field Workers**

The Attorney General sued an Imperial Valley farm contractor who supplied field workers to onion farms in Kern County, Coachella Valley and the Mojave Desert but failed to pay the workers minimum wages and overtime, and failed to ensure that they received adequate rest breaks, drinking water and shade. (*People v. Munoz.*)

### **Recovered Fair Wages for Workers**

The Attorney General obtained a judgment against a drywall company for back wages for 200 construction workers. In addition to awarding back pay, the judgment prohibits the company from denying fair wages and overtime pay, paying employees in cash to avoid taxes, and allowing supervisors to take kickbacks from their employees' paychecks. (*People v. Evleth Construction.*)

## Litigated Major Constitutional Challenges

### **Argued in Favor of Disclosure of Contraceptive Information**

The Attorney General joined six other Attorneys General to challenge a federal regulation that could limit a woman's access to information about contraceptives, including emergency contraceptives such as "the morning after pill." The action is pending. (*State of Connecticut v. United States of America.*)

### **Argued that Proposition 8, Banning Same-Sex Marriages, Violated Equal Protection**

In two cases receiving national attention, the Attorney General argued that Proposition 8, which bans same-sex marriages, violated principles of due process and equal protection. In the first case, the California Supreme Court concluded that Proposition 8 was permissible under California's state constitution, but could not retroactively invalidate existing same-sex marriages. In the second case, a federal district court struck down Proposition 8 under the federal constitution's equal protection guarantee. Neither the Attorney General nor the Governor filed an appeal of the federal decision, but an appeal by the proposition's proponents is pending. (*Strauss v. Horton*; *Perry v. Schwarzenegger.*)

### **Defended Laws Requiring Identification of Initiative Donors**

The Attorney General is defending provisions of the Political Reform Act that require public disclosure of people who donate \$100 or more to initiative measures. The plaintiffs claim that this disclosure leads to harassment and chills the exercise of the donors' First Amendment rights. The Attorney General asserts that the law informs the electorate of the true sponsors of initiatives and assists the state in enforcing contribution limits. (*ProtectMarriage.com v. Bowen.*)

### **Defended Constitutional Officers' Authority**

This lawsuit was brought by the Governor after the Attorney General, all of the other elected constitutional officers, and the Board of Equalization refused to force their employees to take unpaid furloughs. The trial court held that the Governor has the power to furlough the employees of other constitutional officers. The constitutional officers appealed, and the case is pending in the California Court of Appeal. (*Schwarzenegger v. Chiang.*)

### **Defended Transfer of School Monies**

The Attorney General defended a redirection by the Legislature of \$2 billion in redevelopment agency funds to local schools. Although the trial court ruled that the transfers were legal, the Court of Appeal rejected a request for an immediate stay. (*California Redevelopment Association v. Genest.*)

## Protected Civil Rights

### Obtained Injunction Against School Gang

The Attorney General partnered with the Los Angeles Police Department and the Los Angeles City Attorney to obtain the first gang injunction under the California Bane Civil Rights Act. The injunction prohibits four gangs from engaging in activities that interfere with Fremont High School students' constitutional right to attend a safe and secure campus, access a public education, and travel to and from school free from intimidation. (*People v. Swan Bloods.*)

### Prevented Police Misconduct

The Attorney General forged a court-approved settlement after an investigation of the Maywood Police Department revealed a pattern of excessive force, a disregard for citizens' complaints, and unconstitutional detentions, arrests, searches and seizures. The settlement requires the city to adopt far-reaching reforms with appropriate monitoring. (*People v. City of Maywood.*)

## Improved Efficiency of Department

### Reduced Expenses and Generated Savings

The Attorney General strengthened the department's internal controls to cut expenses. Out-of-state travel was reduced by over 70 percent, in-state travel was cut by 47 percent and overtime costs were cut by nearly 30 percent. DOJ subsequently transferred over \$130 million to the State Treasury, including over \$56 million to the General Fund.

### Transferred Settlements to State General Fund

In addition to budgetary savings, the Department sent to the General Fund hundreds of millions of additional dollars in settlements recovered from legal cases, including over \$90 million directly transferred from the department, and \$234 million indirectly transferred as part of recoveries obtained in Medi-Cal cases.

### Avoided Furloughs and Layoffs

The Attorney General cut back on hiring, eliminated hundreds of vacant positions, instituted extensive cost-saving measures, and made other budget cuts that allowed the department to save tens of millions of dollars and meet its budgetary goals without laying off or furloughing employees.

### Created Legal Policy Guidelines

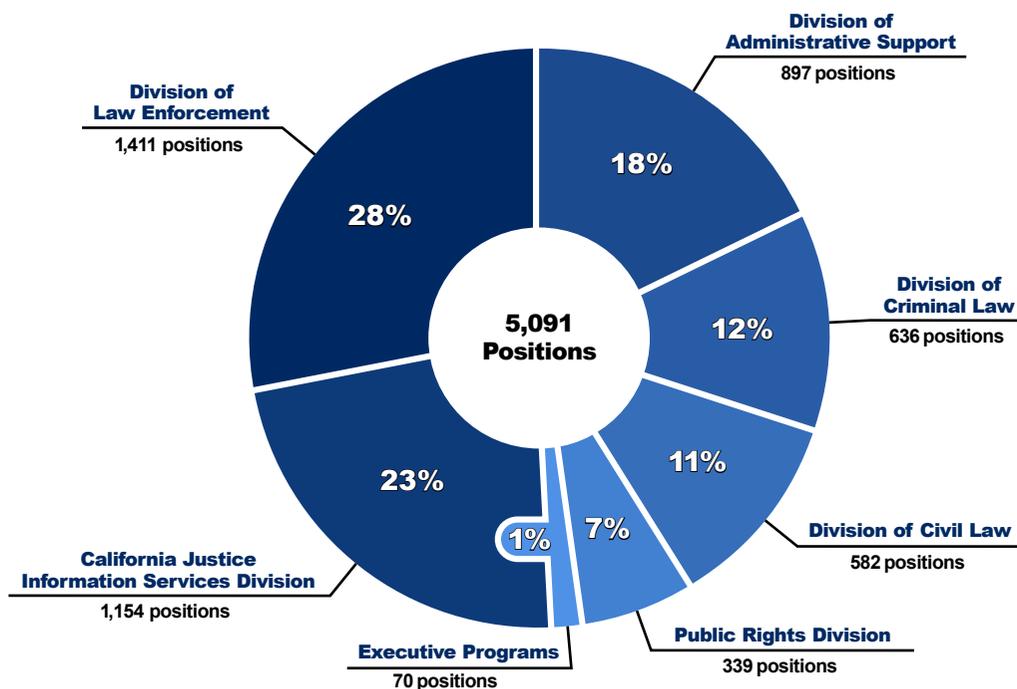
A consolidated set of policies was developed for all practice areas within the legal offices. These guidelines provide detailed procedures and policies to ensure consistency in the operation of the legal divisions.

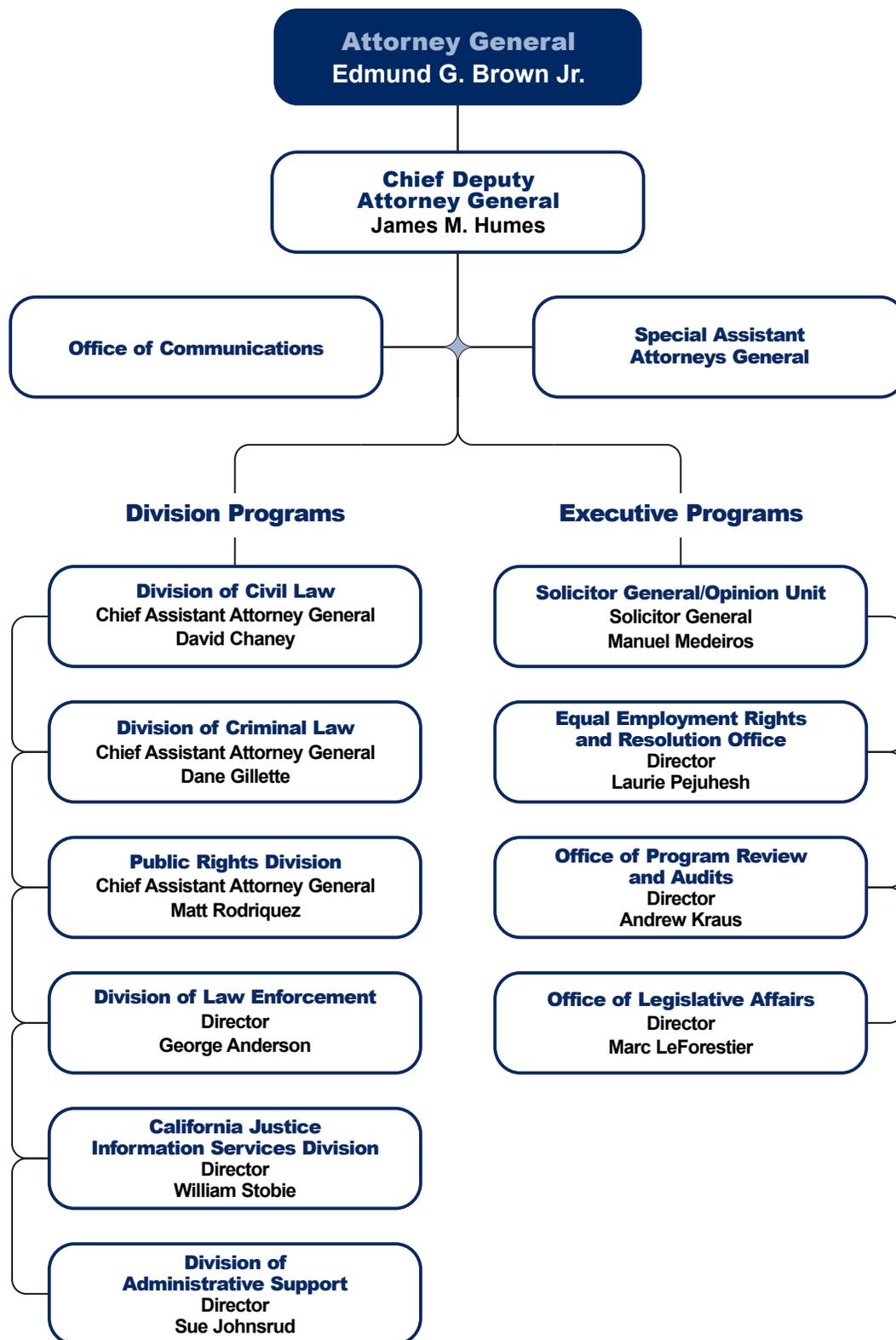
## Department Overview

The Attorney General's responsibilities are fulfilled through the diverse programs of the Department of Justice, which has over 5,000 employees, six divisions, and an annual operating budget of over \$700 million.

<b>Division of Law Enforcement</b>	<b>\$247,685,000</b>
<b>Public Rights Division</b>	<b>\$84,946,000</b>
<b>Division of Civil Law</b>	<b>\$144,963,000</b>
<b>Division of Criminal Law</b>	<b>\$122,179,000</b>
<b>California Justice Information Services Division</b>	<b>\$155,221,000</b>
<b>Division of Administrative Support</b>	<b>\$77,690,000</b>
<b>Executive Programs</b>	<b>\$8,536,000</b>
<b>Total Operating Budget</b>	<b>\$754,994,000</b>

Through its dedicated employees, the Department represents the People in matters before the appellate and supreme courts of California and the United States, serves as legal counsel to state agencies, coordinates efforts to fight crime, provides identification and information services to criminal justice agencies, and pursues projects designed to protect the People of California from fraudulent, unfair and illegal activities.





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# DIVISION OF LAW ENFORCEMENT

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**The Division of Law Enforcement**, through its over 1,400 employees, provides comprehensive law enforcement services, including forensics, investigations, intelligence and training. The division provides a wide range of support services to law enforcement agencies and manages several of its own crime suppression programs. The division also ensures that the state's firearm laws are fairly administered and enforced, and it regulates legal gambling activities to ensure they are conducted free from criminal and corruptive elements.

The Division of Law Enforcement consists of the following bureaus:

- Bureau of Forensic Services
- Bureau of Investigation and Intelligence
- Bureau of Narcotic Enforcement
- Bureau of Firearms
- Bureau of Gambling Control
- Western States Information Network



## Bureau of Forensic Services

The Bureau of Forensic Services provides services to state and local law enforcement, district attorneys and the courts. The bureau's laboratories conduct forensic examinations across a broad range of physical evidence and also maintain several specialized programs, such as forensic toxicology, latent prints and questioned documents. The bureau also provides forensic service training for DOJ scientists and local government crime laboratory staff.

### **Established Forensic Quality Assurance Unit**

The bureau has established a robust quality management system that encompasses standardized policies and technical procedures, training plans, proficiency testing and management audits. The bureau ensures compliance with industry and accreditation standards and also works to improve the DOJ's processes and services. All DOJ laboratories are now accredited under the American Society of Crime Laboratory Directors-Laboratory Accreditation Board International Program.

### **Expanded CAL-DNA Data Bank Program**

Proposition 69 requires collection of DNA from all convicted felons and registered sex and arson offenders. As of January 2009, DNA samples from adult felony arrestees were also required. By mid-2010, the database contained more than 1.5 million offender and arrestee DNA profiles, making it the fourth largest DNA database in the world. To handle the increase in volume, the bureau initiated an outreach program for local agencies to send

data electronically that will identify DNA samples submitted to the laboratory. The bureau has trained all 58 counties on the new process.

### **Identified Serial Murderer "Grim Sleeper" Through Familial DNA Trace**

Familial DNA searches used only in unsolved violent crimes, compare the DNA of family members to an offender's DNA collected at the crime scene. California's groundbreaking search program led to the identification and arrest of the "Grim Sleeper" serial murderer who is believed to have raped and killed 10 women in the Los Angeles area over the past 25 years.

### **Initiated Cold Hit Project**

A "cold hit" is when DNA from an unsolved crime is matched to an offender in the DOJ data bank. The DOJ data bank, the Western States Information Network and eight counties initiated a pilot project in September 2009 to track cold hit outcomes. The objective is to provide a complete picture of data bank outcome and impact.

### **Identified Missing Persons Through DNA**

Investigators agree that the most significant lead in a homicide case is the identity of the victim. The Jan Bashinski DNA Laboratory in Richmond assists California coroners in the identification of deceased persons by comparing their DNA to the DNA of family members. During the biennial period, the bureau identified 150 individuals. Approximately 64 percent of the identifications represent known or presumed homicide cases.

## Bureau of Forensic Services

Forensic Casework Completed in 2008-2009	Completed	Percentage of Workload
Offender/Arrestee DNA Samples	186,879	64.9%
Breath Tests	39,986	13.9%
Blood/Urine Analyses	23,123	8.0%
Controlled Substance Analyses	15,228	5.3%
Toxicology Analyses	14,274	4.9%
Biology Analyses	1,588	0.6%
Latent Print Analyses	2,145	0.7%
DNA Analyses	1,570	0.5%
Firearms Analyses	1,532	0.5%
Missing and Unidentified Persons	920	0.3%
Other Criminal Cases	543	0.2%
Clandestine Labs	180	0.1%
Questioned Document Analyses	154	0.1%
<b>Total</b>	<b>288,122</b>	<b>100%</b>

## Bureau of Investigation and Intelligence

The Bureau of Investigation and Intelligence uses innovative techniques to conduct criminal and civil investigations.

### Major Crimes Teams

The major crimes teams specialize in the investigation of complex or violent crimes, including homicides, major fraud, cold cases, organized crime, sex crimes and officer-involved shootings. An example of a recent significant investigation follows.

- **Investigated Felony Child Abuse Case**  
The team worked with the Hanford Police Department on a child abuse case where an infant was severely injured and later died. Detectives and agents conducted an extensive investigation that resulted in the arrest of the infant's parents for homicide/murder and felony child endangerment.

### Special Investigations Team

The special investigations team provides investigative support to lawyers in the Attorney General's Office. An example of a recent significant investigation follows.

- **Investigated Mortgage Modification Scam**  
Two convicted felons, representing themselves as Foreclosure Freedom, offered to negotiate new mortgage loans for homeowners who faced foreclosure in Tulare County. The bureau's investigation revealed that over 160 victims were conned out of thousands of dollars for non-existent loan modification services. The two women scam artists pled guilty to 71 criminal counts including grand theft, conspiracy and unlawful foreclosure consulting. In addition to jail time, they were ordered to pay restitution to dozens of cheated homeowners.

### California Witness Relocation and Assistance Program

The bureau handled over 490 cases during the biennial period and relocated over 1,400 witnesses and their family members. An example of a recent significant relocation case follows.

- **Protected Homicide Witness**  
The Alameda County District Attorney's Office requested relocation of a witness in a homicide case who was shot eight times by the defendant's gang. After relocation, the witness testified against the defendant who was sentenced to life without the possibility of parole.

### Los Angeles Regional Criminal Information Clearinghouse

The task force is an information management system that supports local, state and federal narcotic law enforcement in California and Nevada. During the biennial period, major activities of the task force included:

- Posted 82,542 critical events.
- Conducted 340,914 target inquiries.
- Provided support to 45 wiretap investigations.
- Supported 162 major investigations.
- Processed 1,592 California-related seizure bulletins and target packages.
- Hosted 234 classes.

In recognition of the task force's efforts, President Obama's National Office of Drug Control Policy awarded the clearinghouse the 2009 National High Intensity Drug Trafficking Area Intelligence Support Center of the Year Award.

## **Bureau of Narcotic Enforcement**

The Bureau of Narcotic Enforcement enforces state and federal controlled substance laws. The bureau handles complex cases involving the investigation, arrest and prosecution of major drug dealers, clandestine drug manufacturers and prescription drug violators.

### **Campaign Against Marijuana Planting**

The department established CAMP in 1983 to help counties stop illegal marijuana cultivation and trafficking. In 2009, CAMP assisted 41 counties with marijuana eradication efforts. CAMP conducted 665 raids, resulting in 111 arrests and the seizure of 89 firearms. Over 4.4 million plants, including 3.4 million on state and federal public land, were destroyed or removed, making it a record year of marijuana eradication.

### **Controlled Substance Utilization Review and Evaluation System Program**

The CURES Program maintains and monitors over 150 million prescription records for specific controlled substances. CURES receives 5 million prescription records each month from over 6,700 licensed pharmacies. In September 2009, the Attorney General launched a prescription drug monitoring program that allowed licensed health care practitioners, pharmacists, law enforcement and regulatory boards to access patient prescription history information. The program permits prescribers and pharmacists to evaluate their patients' care and identify patients who may be abusing prescription drugs.

### **Gang Suppression Enforcement Program**

The bureau established this program in response to California's escalating gang violence. The program provides innovative investigative techniques to local law enforcement to disrupt criminal gang activities. The unique strategy of the program targets the leadership and organizational structure of criminal street gangs, rather than foot soldiers who are easily replaced. In 2009, the program resulted in 165 arrests.

### **Special Investigations Unit**

The unit assists agencies in tracking and apprehending suspects in high priority investigations, including homicide, kidnapping, violent crimes, missing persons and officers killed or severely injured. In 2009, the unit assisted in 99 cases, resulting in 71 arrests.

### **Diversion Program**

The diversion program seeks to end the illegal market of prescription drugs. DOJ special agents investigate and assist in prosecuting licensed medical professionals who illicitly prescribe or dispense prescription drugs and people who forge prescriptions. In 2009, investigations led to 50 arrests and the seizure of nearly 12,000 dosage units of controlled substances and narcotics. In a developing trend, DOJ agents now spearhead or assist in high profile investigations where a death has resulted from abuse of a prescription drug. Recent investigations handled by DOJ agents included Anna Nicole Smith, Michael Jackson, and Corey Haim.

## Bureau of Firearms

The Bureau of Firearms ensures that the state's firearms laws are administered and enforced fairly and uniformly.

### **Redesign of the Automated Firearms System Database**

The database redesign provides California law enforcement agencies with more comprehensive firearm records and enhanced firearm tracing capabilities. In May 2010, the bureau implemented the first phase of the database redesign. The second phase will begin in December 2010.

### **New Firearms Dealers Acquisition System**

In June 2010, the bureau implemented electronic reporting by secondhand dealers and pawnbrokers for firearms purchased, taken in trade, pawned or accepted for consignment or auction. Using the new system, the bureau will electronically provide reports to law enforcement agencies within one business day. This procedure aids in the identification of stolen firearms and allows law enforcement to retrieve and return firearms to their rightful owners.

### **Mental Health Firearms Prohibitions System**

The system provides public and private mental health facilities with the capability to report dangerous mental patient information online. The reporting is intended to prevent dangerous mental patients from acquiring firearms, or from obtaining employment or licensing that would involve the use or possession of firearms.

### **California Firearms Licensee Check System**

The electronic system tracks and verifies license requirements of businesses and people who accept interstate firearm shipments in California. The bureau enhanced the system to enable firearms dealers to electronically cancel or modify previously submitted firearm shipment requests. There are currently over 6,500 federal firearms licensees enrolled in the system; 300,000 firearms have been approved for shipment since June 2008.

### **Armed and Prohibited Persons System**

This system allows the Attorney General to continue his efforts to disarm convicted felons, the mentally unstable and anyone subject to a domestic violence restraining order. The bureau has conducted 2,274 investigations, leading to the seizure of 2,541 firearms.

## Bureau of Gambling Control

The Bureau of Gambling Control has responsibility for the following:

- Investigating license applicant backgrounds.
- Monitoring regulatory compliance.
- Investigating suspected gaming-related criminal activity.
- Coordinating the statewide exchange of criminal intelligence data among gambling establishments and law enforcement agencies.
- Regulating charitable gambling events.
- Administering the DOJ's Responsible Gambling Program to identify and treat problem gamblers.

### **Card Room and Tribal Licensing Investigations**

Since January 2009, 2,414 background investigations were completed on applicants seeking new or renewal licenses or permits for California card rooms. The bureau also conducted suitability investigations on 17 businesses and their 173 principals that supply gaming products and services to the tribal casinos, and on nearly 1,200 key licensed tribal casino employees.

### **Compliance and Enforcement**

During 2009, the bureau conducted 224 regulatory compliance and criminal investigations on card rooms, tribal casino-related matters and general law enforcement investigations. Criminal investigations resulted in the arrest of 107 individuals and the seizure of illegal gaming devices and contraband used to cheat various games.

### **Charitable Gambling Registration Program**

Since January 2009, non-profits registered over 625 gaming events with the bureau.

### **Responsible Gambling Awareness Program, Self-Exclusion Program**

The bureau made the Self-Exclusion Program available online for people who are gambling addicts. During the biennial period, over 400 people registered in the program to exclude themselves from California's cardrooms and casinos.

### **Tran Organization Multi-State Card Scam**

This five-year investigation involved a large-scale card scam that cheated 18 casinos out of \$10 million. The investigation, involving law enforcement from seven states, the federal government and Canada, resulted in a federal indictment of 40 members of the Tran organization who bribed casino dealers at blackjack and mini-baccarat games. Casino dealers used a pre-determined set of playing cards in the games, enabling the organization to cheat the casino out of thousands of dollars in a single sitting. In 2009, the last of the suspects in the Tran card cheat scam case were indicted and sentenced to federal prison.

## Western States Information Network

The Western States Information Network (WSIN) was established by Congress as one of six Regional Information Sharing Systems in the United States. WSIN responds to the intelligence needs of more than 1,350 law enforcement agencies in Alaska, California, Hawaii, Oregon and Washington. As of April 2010, nearly 30,000 officers have used WSIN's services.

### Deconfliction of Law Enforcement Operations

WSIN's 24-hour Watch Center electronically monitors law enforcement activities to detect dangerous conflicts in operations by identifying multiple agencies that are engaged in surveillance, service of search warrants, undercover activities, arrests and probation/parole searches. More than 93,000 law enforcement operations were posted and monitored in 2009.

### WSIN Criminal Intelligence Database

The criminal database contains records on suspected criminal activity, including narcotics, gangs and terrorism. The database has a seamless search capacity with 19 other state and regional intelligence databases nationwide. In 2009, member agencies made 231,237 database inquiries and 169,859 database submissions. The database contains information on nearly 1.6 million subjects, vehicles, locations, gangs, weapons, phones and other intelligence information.

### Analytical Assistance for Alaska Prosecution

In 2008, a defendant in Sitka, Alaska killed both of his grandparents, his aunt and her boyfriend, and attempted to murder another family member. A WSIN analyst provided the Sitka Police Department and the Alaska Attorney General's Office with several crime scene diagrams that assisted the lead prosecutor in interviewing eyewitnesses. The diagrams were also used in sentencing. In February 2010, the defendant was convicted and sentenced to 140 years in prison.

### Pseudoephedrine Violator Tracking System

In order to assist law enforcement identifying possible manufacturers of methamphetamine, WSIN and the Bureau of Narcotic Enforcement developed this database to track illegal purchases of pseudoephedrine. California law limits sales to 3.6 grams daily and 9 grams in a 30-day period. The system allows retailers to securely upload their electronic pseudoephedrine log books and the database identifies purchases outside the legal limits. Currently, there are more than 360,000 records in the system.



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# PUBLIC RIGHTS DIVISION

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**The Public Rights Division**, through its over 300 employees, serves Californians by safeguarding the state's environment and natural resources, protecting state lands, maintaining competitive markets, preventing fraudulent business practices, protecting consumers against misleading advertising claims, preserving charitable assets and protecting civil rights. The division is currently handling over 2,600 legal cases.

The Public Rights Division consists of the following sections:

- Consumer Law
- Corporate Fraud
- Environment Law
- Natural Resources Law
- Antitrust Law
- Civil Rights Enforcement
- Indian and Gaming Law
- Land Law
- Tobacco Litigation and Enforcement
- Charitable Trusts



## Consumer Law Section

The Consumer Law Section enforces the laws against false advertising, deceptive marketing and unfair competition through civil and criminal prosecutions brought on behalf of the People. In these cases, the Attorney General seeks restitution to consumers and civil penalties and injunctive relief to halt the illegal activities. The section also maintains the registries of travel sellers and foreclosure consultants.

Recent significant cases and activities include the following:

### ***People v. Countrywide Financial Corporation***

In this case, the Attorney General filed a complaint in 2008 alleging that Countrywide's loan officers and brokers failed to disclose that borrowers would experience dramatic increases in monthly payments. In addition, the loans were made without regard to whether the borrowers could afford them. The suit against Countrywide (which eventually merged with Bank of America) resulted in a landmark, multi-state judgment that provided up to \$8.6 billion of home loan and foreclosure relief nationally, including \$3.5 billion to California borrowers.

### ***People v. Eli Lilly; People v. Pfizer; People v. Bayer; People v. Airborne***

In these cases, the Attorney General and other states collaborated to end deceptive marketing and advertising of widely used drugs and products. In the *Lilly* and *Pfizer* cases, settlements were reached to stop unfair and deceptive marketing practices and promotion of off-label uses for the anti-psychotic drugs Zyprexa and Geodon. In the *Bayer* case, settlements resolved Bayer's failure to disclose the risks of Baycol, a

cholesterol lowering drug that was pulled from the market in 2001, and forced Bayer to launch a corrective advertising campaign for the contraceptive Yaz. In the *Airborne* case, a settlement was reached that ended Airborne's false advertising of its dietary supplements as cold remedies.

### ***People v. H&R Block; People v. Liberty Tax***

These cases stopped two large nationwide tax preparation companies from deceptively marketing refund anticipation loans as early tax refunds, and engaging in unfair debt collection practices. The judgments resulted in over \$6.2 million in penalties, costs and restitution to California consumers.

### ***People v. Your Travel Biz***

Yourtravelbiz.com (YTB) ran a pyramid scheme that lured consumers into its Internet travel business with deceptive marketing and false promises of wealth. In this case, the Attorney General entered into a settlement requiring YTB to pay \$1 million in penalties, costs and restitution to California victims, and restructure its marketing of travel and website sales.

### ***People v. CashCall***

CashCall ran a high-price, short-term loan business with high interest payment rates, and regularly violated debt collection and related laws. In this case, the Attorney General agreed to a settlement that ended the company's abusive debt collection practices, and imposed \$1 million in penalties and costs.

### ***People v. Rena Ware International***

Rena Ware sold cookware door-to-door, primarily to Latino immigrants, touting false health benefits of its cookware.

The Attorney General, in cooperation with the Los Angeles District Attorney and the county Department of Consumer Affairs, obtained a stipulated judgment requiring Rena Ware to pay penalties, costs and restitution, and retain an independent monitor to change its business practices.

### ***People v. HyCite***

HyCite Corporation sold high-priced cookware to Latino consumers through high pressure sales techniques. Many consumers used the company's financing plan and were misled about the interest rate. They were unable to afford the payments, faced debt collectors and damaged their credit ratings. The Attorney General, in cooperation with the Los Angeles County Department of Consumer Affairs, obtained a judgment against HyCite and its top executives to pay \$1 million in restitution to victims, plus penalties and costs.

### ***People v. Lobel Financial***

Lobel provided high-interest financing to consumers with poor credit so they could purchase vehicles through used-car dealerships. Lobel violated California's Fair Debt Collection Act by repeatedly calling customers, their employers and families, and using false names when calling. The company also used sophisticated tactics to obtain confidential information about its customers. The Attorney General obtained a stipulated judgment to stop Lobel from its abusive debt-collection practices and pay \$250,000 in penalties and costs.

### ***Deceptive Tax Mailers***

In these cases, the Attorney General brought suit against individuals and companies that blanketed the state with mailers, falsely implying they were a government entity. In one case, the mailers represented that

homeowners could apply for property tax reassessment for a fee of \$200; however, counties offer this service for free or a nominal fee. In the other cases, mailers meant to look like official state forms were sent to small business owners indicating that a fee of \$150 or more was needed to file annual forms with the Secretary of State. As a result of the Attorney General's actions, this type of fraud dramatically reduced. Over \$1 million in penalties and restitution was recovered.

### ***Health Care Investigation***

The Attorney General issued subpoenas to seven of the largest health care insurers and providers in California (Aetna Health, Anthem Blue Cross, CIGNA, Health Net, Blue Shield of California, Kaiser Permanente and PacifiCare). The insurance companies often withdraw coverage after an insured member gets sick. They also deny claims or delay payment of claims which affects a member's medical care. The investigation into these practices is ongoing.

### ***Credit Rating Agency Investigation***

The Attorney General issued subpoenas to the three largest credit rating agencies (Moody's, Standard & Poor's and Fitch) that grade the creditworthiness of corporations, municipalities, bonds and securities. At the peak of the housing boom, these agencies gave their highest ratings to complicated financial instruments, including securities backed by subprime mortgages, making them appear as safe as U.S. government-issued Treasury bonds. In rating these securities, the agencies worked behind the scenes with the same Wall Street firms that created them, earning billions of dollars, nearly double what they earned for rating other financial products. The investigation seeks to determine whether the rating agencies violated California laws in fueling the housing crisis. The matter is ongoing.

### ***People v. CVS***

This investigation uncovered that CVS stores in Los Angeles, Orange and San Diego counties sold expired baby food, baby formula, over-the-counter medications and dairy products to consumers. The investigation also confirmed that five CVS

pharmacies improperly discarded documents and prescription bottles containing confidential personal and medical information in dumpsters. CVS was ordered to pay \$975,000 in civil penalties, attorney's fees and costs and must change its practices.

## **Corporate Fraud Section**

The Corporate Fraud Section investigates and prosecutes cases concerning:

- Securities and commodities fraud.
- Violations of state labor laws, such as underground economy schemes.
- Market manipulation arising out of California's energy crisis.
- Financial wrongdoing perpetrated against the state under California's False Claims Act.

Recent significant cases and activities include the following:

### ***People v. Wells Fargo Investments***

In this civil enforcement action, the Attorney General determined that three Wells Fargo affiliates violated California's securities law. The suit contended that Wells Fargo misrepresented, marketed and sold auction-rate securities as safe investments. Over \$2 billion in securities were purchased, yet investors were not informed about auction-rate securities, how the auction process worked, or the risks and consequences of auction failure. In 2009, Wells Fargo agreed to buy back \$1.4 billion in non-liquid auction-rate securities from thousands of retail customers, charities and small businesses nationwide, including \$700 million from California investors.

### ***People v. State Street Bank***

In this fraud suit, the Attorney General seeks more than \$200 million in illegal overcharges and penalties under the California's False Claims Act. California's two largest public pension plans, CalPERS and CalSTRS, were illegally overcharged for the costs of executing foreign currency trades. State Street Bank was obligated to charge the exchange rate at the time of the trade, but instead used the highest rate of the day. The bank concealed the fraud by deliberately omitting time-stamped data in its reports; therefore, the pension funds could not verify when the trades actually occurred. The case is pending.

### ***Multiple Litigation Against Sempra Energy and Its Subsidiaries***

In this civil action, Sempra Energy and its subsidiaries agreed to pay \$400 million and provide a tax indemnity to the Department of Water Resources to resolve claims of breach of contract and for refunds resulting from the 2000-2001 California energy crisis. The settlement helps customers of Pacific Gas and Electric, Southern California Edison and San Diego Gas in paying costs associated with the energy crisis.

***State of California ex rel. Mellon v. Citigroup, Inc.***

In this civil suit, Citibank used a computerized “credit sweep” process to pocket positive credit card balances without notifying 50,000 customers. More than \$14 million was improperly taken, including \$1.6 million from California customers. In 2008, the Attorney General obtained a stipulated judgment against Citibank to: 1) permanently stop the credit sweeps; 2) refund improperly swept funds to victims nationwide and pay California victims 10 percent interest; 3) pay \$3.5 million in damages and civil penalties to California; and 4) retain an auditor to ensure that Citibank fulfills its obligations.

***People v. Country Builders, Inc.***

In this lawsuit, the Attorney General alleged that the Livermore-based company Country Builders, Inc. cheated its workers out of wages, falsified payroll records to hide the underpayments, misclassified workers to reduce the company’s workers’ compensation premiums and violated state prevailing wage laws. The case is pending.

***People v. Munoz***

Munoz, an Imperial Valley farm contractor, supplied field workers to onion farms in Kern County, Coachella Valley and the Mojave Desert. The Attorney General sued Munoz for neglecting to provide rest breaks, drinking water or shade to field workers, and failing to pay minimum wages or overtime.

***People v. Charles Evleth Construction Inc.***

In this case, the Attorney General obtained a final judgment against Charles Evleth Construction, Inc., a Bakersfield-based drywall company, for back wages of 200 construction workers. The judgment prohibits the company from: 1) denying fair wages and overtime pay

for workers; 2) paying employees in cash to avoid state and federal taxes; and 3) permitting supervisors to take kickbacks from their employees’ paychecks.

***People v. MDP California***

In this lawsuit, MDP California, Inc., a Nevada Corporation doing drywall installation throughout Southern California, denied workers overtime pay, workers’ compensation and pay for actual hours worked. MDP California also failed to pay state-mandated unemployment insurance, state disability fund payments, and state and federal taxes. The case is pending.

***People v. Auto Spa Express***

In this case, the Attorney General sued a Los Angeles car wash for \$2.6 million for illegally forcing employees to work nearly 60 hours per week without paying overtime, ignoring minimum wage laws and denying injured employee’s workers’ compensation benefits.

***People v. Farmers’ Rice Cooperative***

Two employees working in a rice silo operated by the Farmers’ Rice Cooperative were engulfed and suffocated by draining rice. An unfair competition lawsuit was filed by the Attorney General and the Colusa County District Attorney against the Cooperative and a final judgment obtained requiring the payment of penalties, costs and development of a grain safety training program. The judgment also required follow-up inspections and the implementation of new safety rules.

## Environment Law Section

The Environment Law Section enforces state and federal environmental laws affecting California's natural resources, its communities and public health. The attorneys investigate and litigate matters concerning:

- Global warming.
- Hazardous waste. The section represents the Department of Toxic Substances Control in its enforcement of federal and state hazardous waste control laws and the "Superfund Law" that was created to protect people and communities from heavily contaminated toxic waste sites.
- Air and water pollution including Proposition 65, the Safe Drinking Water and Toxic Enforcement Act of 1986, which prohibits contaminated or illegal discharges into sources of drinking water and undisclosed exposures to toxins and carcinogens.
- Natural resources conservation.

The Attorney General has broad independent authority to bring environmental actions under the California Constitution, the Government Code and case law. The section investigates and litigates both state and federal cases.

Recent significant cases and activities include the following:

### ***Connecticut v. AEP***

In this case, California and a group of states alleged that greenhouse gas emissions from coal-fired power plants are reducing snowpack, raising sea levels and increasing the risk of forest fires. A landmark decision was issued in 2009 by the U.S. Court of Appeals ruling that the case could proceed. The case is pending.

### ***People v. City of Pleasanton***

Under state law, cities must address housing as part of their general plan. The City of Pleasanton, through an initiative measure, limited new housing, resulting in an imbalance between jobs and residences in the city, and causing workers to commute long distances, increasing traffic and pollution. The Attorney General joined a suit challenging the housing cap. The court found the cap illegal and struck it down. Subsequently, the Pleasanton City Council approved a settlement allowing housing to prevent urban sprawl.

### ***People v. Walmart***

An investigation revealed that Walmart stores in California violated hundreds of hazardous waste laws by routinely combining incompatible waste, disposing of it improperly, pouring waste down drains and failing to follow basic waste-handling requirements. In this case, the Attorney General and multiple district attorneys settled with Walmart to change its procedures for handling hazardous materials and waste. Walmart paid penalties and implemented training programs and environmental projects at its stores.

### ***Operating Industries Superfund Site***

In this case, the Attorney General, representing the Department of Toxic Substances Control, is working with the U.S. EPA to clean up 190-acres located in Monterey Park. There are 3,000 potentially responsible parties. The Attorney General and the U.S. EPA have arranged and reached partial consent decrees with some parties in federal district court. The settling parties will clean up the site at a cost of more than \$600 million. The Attorney General continues to seek settlements or enforcement against the remaining parties.

### ***People v. Equilon***

In this investigation of over 1,000 petroleum underground storage tanks owned or operated by Equilon and Shell Oil Company, the Attorney General revealed that many of the tanks failed to comply with numerous statutes, orders and notices of violation. After extensive settlement efforts, Equilon agreed to a permanent injunction and to pay \$20 million in penalties, costs and other payments.

### ***California v. U.S. Department of Agriculture***

The Attorney General, along with four other states, led a successful challenge to the U.S. Forest Service's attempted repeal of the "Roadless Rule." The rule protects 58 million acres nationwide from the building of roads and commercial logging. The Ninth Circuit prohibited roads in these areas. However, the State of Wyoming is seeking a different ruling from the Tenth Circuit. The Attorney General continues the fight to protect 4.4 million acres of California wilderness.

### ***People v. Snyder's of Hanover, Inc.***

In this civil action, Frito-Lay failed to warn consumers that its snack foods (Cheetos, Doritos, Fritos, Rold Gold, Ruffles, SunChips and Tostitos) contain acrylamide, a chemical known to cause cancer. In 2010, Frito-Lay agreed to reduce acrylamide to specified levels or provide a warning to consumers. Frito-Lay will also pay civil penalties.

### ***People v. AstroTurf***

In this lawsuit, the Attorney General sued three major manufacturers of artificial turf after analysis revealed that people who play on this product can be exposed to significant levels of lead. In 2009, the companies entered a settlement to reformulate all turf products to

eliminate lead, stop using existing leaded products in California, mail warnings to customers, fund studies to determine health risks, and other remedies. This judgment establishes the nation's first binding standards for lead in artificial turf products.

### ***People v. Mattel***

In this suit, the Attorney General alleged that toys containing lead were sold without providing warnings as required under Proposition 65. In 2009, the court approved the Attorney General's settlement with Toys "R" Us, Target and Kmart, that agreed to stricter lead standards and payment of civil penalties. The companies will also establish a toy testing fund within the Public Health Trust to test children's products for lead and conduct public education. To date, 20 child products have been tested and removed and one product resulted in a national recall.

### ***Global Warming General Plan Letter***

In 2009, the Attorney General distributed information to city and county officials regarding global warming and local strategies for reducing greenhouse gas emissions. The Attorney General recommended that local governments consider developing community-wide climate action plans.

## Natural Resources Law Section

The Natural Resources Law Section represents the majority of state agencies responsible for natural resources management or pollution control.

Recent significant cases and activities include the following:

### **Challenges to Greenhouse Gas Emission Regulations**

In this lawsuit, automakers and car dealers challenged California's regulations to reduce vehicle emissions of greenhouse gases. In 2007, a federal judge rejected the automakers' challenge to California's regulations, finding that the regulations are not preempted by federal law. The auto industry appealed; however, the action may be dismissed because an agreement between California, the United States and the automobile industry announced by President Obama in 2009 will increase fuel economy and reduce greenhouse gas emissions for all new cars and trucks sold in the United States.

### ***U.S. Chamber of Commerce v. U.S. EPA***

The Attorney General intervened in this case on behalf of the Air Resources Board to defend the U.S. EPA's authorization for California to enact its own regulations governing automobile greenhouse gas emissions. EPA's authorization is necessary for California's regulations to become effective. The case is pending.

### ***Coalition for Responsible Regulations v. U.S. EPA***

In this case, the Attorney General is challenging the U.S. EPA's endangerment finding so that the Air Resources Board can enforce greenhouse gas emission-related

rules, including those for new vehicles. The Attorney General joined 15 other states and New York City in petitioning the court for intervenor status. The case is pending.

### ***Rocky Mountain Farmers Union v. Goldstene***

This federal lawsuit brought by several ethanol industry groups challenges the Air Resources Board's 2009 low carbon fuel standards. The lawsuit alleges that the standards are preempted by the federal law and unconstitutionally discriminate against corn ethanol produced out-of-state. A related state court action is also pending.

### **Fire Suppression Cost Recovery Actions**

In these actions, the Attorney General represents the Department of Forestry and Fire Prevention to recoup the cost of fire suppression for numerous wildland fires that occur in California each year. From July 2008 to July 2010, the Attorney General litigated cases that resulted in \$15.3 million in recoveries.

### **Colorado River Board**

The Attorney General provides advice and counsel to the Colorado River Board of California in its effort to protect California's interests and rights to water in the Colorado River System. Most recently, the Attorney General's efforts have concerned the 2010 plan to store water for periods of drought.

### **Quantification Settlement Agreement Actions**

The Quantification Settlement Agreement is a collection of 38 agreements with California to reduce water usage from the Colorado River.

The agreement provides for settling disputes regarding priority and use, establishing water budgets for the parties, and providing for mitigation of environmental impacts and restoration of the Salton Sea. The Imperial Irrigation District filed an action to validate 13 agreements that constitute a portion of the Quantification Settlement Agreement. The trial court held the agreements are valid; this decision is on appeal.

***Pacific Lumber Company v. California***

Pacific Lumber Company and Scotia Pacific Company have sued California for breach of the Headwaters Forest Agreement. The complaint alleges that the state and various water boards enacted legislation and enforced regulations that prevented plaintiffs from realizing minimum timber harvest levels under the agreement.

***People v. Regal Stone, Ltd.***

In this case, the Attorney General represents state agencies in litigation arising from the 2007 oil spill that occurred after the ship M/V Cosco Busan collided with the San Francisco Bay Bridge. About 53,000 gallons of fuel oil was spilled, oiling extensive reaches of the

Bay, tidelands and habitat. The Attorney General sued the vessel owner and pilot, seeking natural resource damages, civil liabilities and other relief. The case is pending in federal court. (Cosco Busan Oil Spill Litigation case.)

***San Luis and Delta-Mendota Water Authority v. Locke; State Water Contractors v. Salazar***

The federal Endangered Species Act ensures that the coordinated operations of the Federal Central Valley Project and the State Water Project do not jeopardize the delta smelt fish and salmon, which are listed as endangered. The U.S. Bureau of Reclamation and the Department of Water Resources coordinate the federal and state projects to divert water from the South Delta for export throughout California. The U.S. Fish and Wildlife Service issued a biological opinion in 2008 for delta smelt, and the U.S. National Oceanic and Atmospheric Administration issued a biological opinion in 2009 for salmon. These opinions impose conditions on both water projects and are being challenged by districts that receive water from the federal project. The cases are ongoing.

## **Antitrust Law Section**

The Antitrust Law Section is responsible for civil and criminal enforcement of California's antitrust laws and has authority to file civil actions under federal antitrust law. The section works closely with other states and with federal antitrust enforcement agencies to ensure that anti-competitive and unfair business practices, such as price-fixing, are prevented and stopped. The section also investigates potential antitrust violations,

analyzes mergers and acquisitions, litigates cases in both state and federal courts and prosecutes criminal cases.

Recent significant cases and activities include the following:

***People v. DermaQuest, Inc.***

This case involved a vertical price fixing arrangement by DermaQuest with eight major

distributors and retailers. It was settled in 2010 with injunctive relief, and the payment of penalties and fees. This successful case by the Attorney General is the first since a U.S. Supreme Court decision in 2007 found such agreements were legal under federal law. California antitrust law is more explicit than its federal counterpart in condemning vertical and horizontal price agreements.

#### ***California v. Infineon***

This California-led multi-state case concerns price-fixing by manufacturers of computer memory chips. Several of the companies, including major manufacturers with domestic headquarters in the Silicon Valley, pled guilty to price-fixing in federal court. The states agreed to settlements with the defendants totaling over \$267 million.

#### ***California v. Safeway***

This federal lawsuit challenges a profit-sharing agreement among major supermarket chains in connection with a 2003-2004 Southern California strike and lockout of union employees. The case addresses the extent to which collective bargaining can shield anti-competitive agreements. Trial court rulings in 2008 were appealed to the Ninth Circuit. A final decision is pending.

#### ***In re Tricor***

This is one of several lawsuits filed by the Attorney General challenging agreements made by pharmaceutical manufacturers to delay the launching of cheaper generic equivalent drugs. Abbott Laboratories and Fournier Industries et Sante settled this multi-state litigation for \$22.5 million and substantial injunctive relief.

## **Civil Rights Enforcement Section**

The Civil Rights Enforcement Section enforces civil rights laws on behalf of state agencies and the Attorney General in his independent capacity. The section acts when there are civil rights law violations or where an important or unsettled issue of law is presented. The section conducts investigations and files civil actions in state and federal courts.

Recent significant cases and activities include the following:

#### ***People v. City of Maywood***

A comprehensive investigation of the Maywood Police Department uncovered patterns of excessive use of force, and unconstitutional detentions, arrests, searches and seizures. The city failed to investigate

citizen complaints alleging such misconduct by the police department. In 2009, the Attorney General secured a court order compelling the city to implement reforms to halt and prevent this conduct from occurring.

#### ***People v. Swan Bloods***

In this case, the Attorney General, in partnership with the Los Angeles Police Department and the Los Angeles City Attorney, secured the first gang injunction under the California Bane Civil Rights Act. The injunction prohibits four gangs from engaging in activities that interfere with Fremont High School students' constitutional rights to attend a safe and secure campus, access a public education, and travel to and from school free from intimidation.

### ***People v. Kelly***

In this case, the Attorney General secured a civil judgment under the Ralph C. Dills Act to redress a hate crime committed by two men who physically assaulted a Mexican immigrant because of his national origin. The judgment required the defendants to pay a civil penalty of \$50,000 to the victim and attorney's fees and costs incurred in prosecuting the case.

### ***State of Connecticut v. United States***

In this case, the Attorney General joined six other state Attorneys General in a civil action to challenge a federal regulation that could permit health care providers to refuse to provide contraceptives or information about contraceptives, including emergency contraceptives such as "the morning after pill." The action is pending.

### ***People v. Minh Development and Management***

This civil action was filed against an owner of 110 rental units who engaged in housing discrimination based upon race, ethnicity and national origin. An injunction was secured, along with an award of civil penalties, costs and attorney's fees.

### ***Von Saher v. Norton Simon Museum***

The Attorney General continued to support California law that provides extra time to seek recovery of art stolen during the Holocaust. The trial court ruled that California law is unconstitutional because it intrudes on the federal government's exclusive power to make foreign policy. The Ninth Circuit agreed that the law is unconstitutional. The Attorney General filed an amicus curiae brief urging the U.S. Supreme Court to hear this case.

### ***Movsesian v. Versicherung***

In this case, the Attorney General filed an amicus curiae brief urging the Ninth Circuit to

grant a rehearing to reconsider its decision striking down a California law that extends the time for insurance claims brought by victims of the Armenian Genocide. This case is pending.

### ***Coral Construction v. City and County of San Francisco***

In this case, the California Supreme Court requested that the Attorney General file a letter brief on whether article 1, section 31 of the California Constitution (Proposition 209) violates the Fourteenth Amendment of the U.S. Constitution by prohibiting race- and gender-based preferential treatment in public contracting. The court upheld Proposition 209.

### ***Access to Housing for Persons with Disabilities***

In 2010, the Attorney General conducted a series of investigations to determine whether apartments constructed in California were in compliance with applicable state and federal fair housing and access laws. Non-compliance was revealed at several complexes statewide. Owners agreed to correct or mitigate the violations, and pay civil penalties and fees incurred to conduct the investigations.

### ***Ralph's Grocery Co. v. United Food and Commercial Workers Union Local 8***

The Attorney General filed amicus curiae briefs in the Third and Fifth Appellate Districts urging the courts of appeal to support statutes that protect workers' right to speak during labor disputes. Ralph's Grocery Company contends the laws violate the equal protection clause of the Fourteenth Amendment; and discriminate on the basis of content, a violation of the First Amendment of the U.S. Constitution. The Third Appellate District held the statutes to be unconstitutional and the Fifth Appellate District case is pending.

## Indian and Gaming Law Section

The Indian and Gaming Law Section provides legal representation and advice regarding Indian law and gambling to the following:

- Governor's Office
- DOJ's Bureau of Gambling Control
- California Gambling Control Commission
- California Horse Racing Board
- State Lottery Commission
- Other officers and state agencies

Recent significant cases and activities include the following:

### **Gaming Compacts**

The Attorney General assisted the Governor in negotiating new compacts and compact amendments with a number of California's Indian tribes. These compacts enhance environmental, consumer and employee safeguards in the expansion of the Indian gaming industry in California, and ensure that the state receives a fair share of revenues from tribal gaming.

### **Administrative Adjudication**

The section represents the DOJ Bureau of Gambling Control in administrative licensing matters to ensure that the controlled gambling industry complies with applicable laws.

### ***Video Gaming Technologies v. Bureau of Gambling Control***

In this case, the DOJ Bureau of Gambling Control notified bingo halls in the Sacramento area that their electronic bingo devices violated state law. The device manufacturers and charities filed a lawsuit in federal court claiming that the Americans with Disabilities Act prevented the seizure of the devices. The federal district court issued orders to prevent

the bureau from enforcing the state law. The Attorney General successfully appealed twice to the Ninth Circuit, and the illegal devices were removed.

### ***McVeigh v. Department of Justice; McVeigh v. California State Lottery***

In these companion cases, the Attorney General argued successfully in the California Court of Appeal that phone cards sold by a private company with a "sweepstakes" chance to win money are illegal gambling opportunities, and, in contrast, that the State Lottery's scratch tickets, which provide substantial revenue to public education, are not lawful.

## Land Law Section

The Land Law Section represents and advises the state in land use litigation and in cases that involve lands that the state owns and administers for resource conservation or development. The section attorneys are authorities on laws pertaining to land use and resource regulation, real property, the public trust doctrine, oil and gas development, and administrative procedure.

The Land Law Section represents the following agencies:

- State Lands Commission
- California Coastal Commission
- San Francisco Bay Conservation and Development Commission
- Resources Agency; Department of Parks and Recreation
- Ten state conservancies
- Agencies that address the water supply and ecology of the San Francisco Bay Delta

Recent significant cases and activities include the following:

### ***Stop the Beach Renourishment, Inc. v. Florida Department of Environmental Protection***

The Attorney General plays a significant role in defending the state against allegations of taking property without just compensation. In the *Stop the Beach* case, the plaintiff claimed that a Florida Supreme Court decision upholding a state beach restoration program had taken private property by altering state law. The Attorney General and 25 states filed an amicus curiae brief arguing that a court decision cannot result in a liability for a taking and that the Florida courts had not altered state law. The U.S. Supreme Court agreed.

### ***Ocean Harbor House v. California Coastal Commission***

In this case, the owner of a condominium sought a coastal permit to build a seawall to protect his building. The Coastal Commission granted the permit, but the owner was required to pay a fee because the seawall would destroy an acre of public beach. The California Court of Appeal upheld the commission's authority to impose the permit condition and held that the fee was reasonably proportionate to the damage the seawall would inflict, and thus was not a taking. The California and U.S. Supreme Courts declined to review the case.

### ***Town of Atherton v. California High-Speed Rail Authority***

The California High-Speed Rail Authority prepared a plan for the state's high-speed rail system—one of the largest public works projects in California history. In 2008, the Authority adopted its final programmatic environmental impact report (PEIR) for the rail route from the Bay Area to the Central Valley through the Pacheco Pass. However, the town of Atherton challenged the PEIR in that it violated the California Environmental Quality Act. In 2009, the Attorney General defended the PEIR, and the trial court approved to PEIR subject to a few revisions.

### ***ARC Ecology v. United States Maritime Administration***

The Suisun Bay National Defense Reserve Fleet consists of old former military vessels maintained by the U.S. Maritime Administration and stored in Suisun Bay, Solano County. The vessels are discharging pollutants, including lead and other toxins into the waters of Suisun Bay. In this case, the

Attorney General, representing the San Francisco Bay Regional Water Quality Control Board, intervened in a federal action against the maritime administration for violating the Clean Water Act. The Attorney General negotiated a settlement with the maritime administration to clean exfoliated paint from the vessels, provide ongoing maintenance, and remove and dispose of the vessels that are in the worst condition.

***Foothill/Eastern Transportation Corridor Agency v. California Coastal Commission***

This case involves a Transportation Corridor Agency proposal to build a toll road linking southern Orange County with northern San Diego County by routing it through San Onofre State Beach. The California Coastal Commission objected to the route, and the Transportation Corridor Agency appealed to the U.S. Secretary of Commerce. After briefing by the Attorney General on behalf of the commission and a lengthy public hearing, the Secretary of Commerce upheld

the commission's objection on the ground that the Transportation Corridor Agency had feasible alternative routes for the toll road. The secretary's decision ended the Transportation Corridor Agency's plans for the route through the state beach.

**Sacramento – San Joaquin – San Francisco Bay Delta**

In this case, the Attorney General successfully defended the programmatic environmental impact report (PEIR) for the CALFED Bay-Delta Program in the California Supreme Court. CALFED was intended to provide for the restoration of the Sacramento – San Joaquin – San Francisco Bay Delta ecosystem, improve Delta water quality and increase the water supply. In 2009, the Legislature enacted bills to provide a more reliable water supply for California and protect and restore the Delta ecosystem. The Legislature created a Delta Stewardship Council to prepare a Delta plan to implement these goals. The Attorney General is advising the council as it begins its operations.

## **Tobacco Litigation and Enforcement Section**

The Tobacco Litigation and Enforcement Section protects and enforces California's rights under the nationwide Tobacco Master Settlement Agreement, which limits the marketing of tobacco products. Over the past 11 years, more than \$9.3 billion in settlement payments were made to California, its counties and four largest cities. The section also enforces state laws that control the marketing and sale of tobacco products.

Recent significant cases and activities include the following:

***People v. R.J. Reynolds Tobacco Co.***

In this case, the Attorney General sued R.J. Reynolds for violating the tobacco master settlement agreement by using cartoons in a Camel cigarette ad campaign known as "Farm Rocks." Reynolds immediately suspended the campaign, which included magazine and newspaper ads, musical events and CDs, insisting that the Farm Rocks images, which included surrealistic tractors and flying radios, were not cartoons as defined in the tobacco master settlement agreement. The superior court ruled that

some of the cartoon images were prohibited and awarded the state costs and attorney's fees. Reynolds appealed and the case is currently pending.

### **U.S. Smokeless Sponsorship of Professional Bull Riders**

In 2007, U.S. Smokeless Tobacco Company began sponsoring bull-riding events with its top-selling brand, Copenhagen. The Attorney General filed a lawsuit that the new sponsorship exceeded limits imposed by the tobacco master settlement agreement. In February 2009, the superior court entered a stipulated judgment that restricted sponsorship to one event series in California, the Built Ford Tough series. No more than three bull riders in that series can wear Copenhagen-branded clothing, and they are prohibited from wearing the branded clothing in other series or tour events in California.

### ***People v. Philip Morris, R.J. Reynolds***

In this case, the Attorney General forced 30 tobacco companies to make full payment to the state for cigarettes they sold in 2003. The court ordered arbitration, and state courts in 44 other states made similar orders. At stake in this pending nationwide proceeding is \$1.2 billion in settlement payments under the tobacco master settlement agreement. Arbitrators will decide whether tobacco companies not participating in the tobacco master settlement agreement must set aside funds in an escrow account to cover future liabilities to the state.

### **Tobacco Responsible Retailing Agreements**

In this case, the Attorney General played a key role in negotiating multi-state agreements with Shell and Valero companies to prevent access of tobacco products by youths in their stores

and franchise outlets. Shell and Valero will instruct store clerks on the health risks associated with children using tobacco, perform compliance checks to monitor sales practices, adopt policies on checking IDs and limit in-store advertising. This is an ongoing, multi-state enforcement effort, in which over a dozen agreements have been made with 7-Eleven, CVS, Walmart, Kroger, Walgreens, Rite Aid, and Conoco. A separate litigation settlement between the Attorney General and Safeway affected more than 100,000 retail outlets across the nation.

### **Internet Tobacco Sales**

In these cases, the Attorney General alleged that the Hemi Group, a New Mexico company, made over 100,000 illegal cigarette sales over the Internet to California consumers. The Attorney General entered into a stipulated judgment with the Hemi Group to stop selling cigarettes to California residents and to turn over its sales records to the Board of Equalization to determine state taxes owed. The Attorney General also entered into separate settlement agreements with First Regional Bank in Los Angeles and with Electronic Clearing House in Camarillo that facilitated over 166,000 illegal Internet sales through a New York Internet retailer.

### **Youth Access to Alcohol**

The Attorney General is actively involved in prohibiting youth access to alcohol. In 2007, the Attorney General negotiated a commitment from the nation's largest distiller, Beam Global Products, to adopt standards to limit the company's advertising to youth. A multi-state effort in 2008 resulted in assurances of voluntary compliance by Anheuser-Busch and MillerCoors to cease the manufacture and distribution of alcoholic energy drinks, which are particularly appealing to underage drinkers.

## Charitable Trusts Section

The Charitable Trusts Section has authority over 90,000 charities and 400 fundraising professionals. The section is responsible for:

- Identifying, registering, collecting and maintaining public records for California charities and their fundraisers.
- Prosecuting charity fiscal abuse, including fraud, diversion and mismanagement of funds.
- Reviewing transactions that have a significant impact on the charity and its assets, including mergers, sale of assets, conversion to another corporate status and disposition of assets when a charity is dissolved.
- Reviewing transactions involving the sale of nonprofit health facilities or the transfer of their assets, which requires the Attorney General's written consent.

Millions of dollars have been recovered for charities through negotiated settlements and civil judgments. Over 250 investigations and cases are currently pending, involving excess compensation or illegal loans to directors, losses or threats to charitable assets, and fundraising abuses. During the biennial period, the section conducted financial reviews of 360 transactions involving sales of assets and mergers of charities, reviewed 4,238 requests for dissolution waivers and responded to 62,390 requests for information.

Recent significant cases and activities include the following:

### ***People v. Harrison***

This investigation looked into a trust established to provide scholarships to students at Ukiah High School. The trustee had diverted over \$650,000 in funds for his personal use. The trustee agreed to a lifetime ban from serving as a charitable trustee and repaid the diverted funds.

### ***People v. L.B. Research and Education Foundation***

In this case, the foundation improperly distributed and redirected funds intended for medical research. The Attorney General obtained a settlement that: 1) prohibited the foundation from using funds to support the research and activities of its officers and directors; 2) prohibited the founder from serving as an officer; 3) required the board to change its policies; and 4) required training on newly created fiscal governance procedures. The director was required to repay funds that were diverted for his personal use.

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Public Rights Division continues on page 76



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# DIVISION OF CIVIL LAW

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**The Division of Civil Law** is comprised of eight sections and almost 600 employees. Most of the work of the division is non-discretionary, client-directed and defense-oriented. In addition to client work, the division represents the Attorney General and the state in civil matters, including elections, initiatives and referenda. The division is presently handling nearly 21,000 cases.

The Division of Civil Law consists of the following sections:

- Business and Tax
- Correctional Law
- Employment and Administrative Mandate
- Government Law
- Health, Education and Welfare
- Health Quality Enforcement
- Licensing
- Tort and Condemnation



## Business and Tax Section

The primary mission of the Business and Tax Section is to protect the state's treasury by defending California's tax structure.

The section helps to protect the insurance, real estate and financial interests of Californians, as well as the interests of members of the labor and business communities. The section represents three major state taxing agencies and various business and regulatory agencies and their officials, including:

- Franchise Tax Board (personal and corporate taxes)
- Employment Development Department (employment taxes)
- Board of Equalization (sales and use taxes, and utility and property taxes)
- Insurance Commissioner
- Department of Insurance
- Department of Financial Institutions
- Department of Real Estate and its Commissioner
- Industrial Welfare Commission
- High-Speed Rail Authority
- California Technology, Trade and Commerce Agency

Recent significant cases and activities include the following:

### ***California Taxpayers Association v. Franchise Tax Board***

The Attorney General successfully defended the corporate tax penalty created by Revenue and Taxation Code section 19138. The statute imposed a 20 percent penalty on corporate under-statements of tax in excess of \$1 million, which has produced nearly

\$3 billion in tax revenues. The case is on appeal to decide whether the statute imposes a valid penalty or is an unconstitutional tax under Proposition 13.

### ***Dicon Fiberoptics v. Franchise Tax Board***

Employers who operate in depressed areas and hire disadvantaged workers are entitled to a tax credit under Revenue and Tax Code section 23622.7. To receive the tax credit, employers must obtain a voucher certifying that they meet the statutory requirement. The California Supreme Court will decide whether the Franchise Tax Board has the burden to "look behind" a voucher issued to an employer to determine if the worker is qualified.

### ***Freedom from Religion Foundation v. Geithner***

This federal lawsuit challenges the constitutionality of excluding clergy housing allowances from state income tax. California adopted this exclusion in 2005 under federal tax conformity legislation. The case is pending.

### ***GEP Administrative Services v. Employment Development Department***

This case involves the manipulation of the State Unemployment Tax Act. Twenty-two affiliated plaintiffs seek a refund of more than \$40 million in unemployment taxes. They contend that as new employers they are entitled to lower tax rates despite the fact that the majority of them are shell companies.

## Correctional Law Section

The Correctional Law Section serves as litigation counsel for the following entities:

- Governor's Office (prison and parole litigation)
- Department of Corrections and Rehabilitation (CDCR), Division of Juvenile Justice and Board of Parole Hearings
- Department of Mental Health (custodial issues)

The section defends civil suits brought by state prisoners regarding prison conditions and aspects of parole proceedings. Over 165,000 prisoners, 130,000 parolees, and 1,400 juvenile offenders are under the jurisdiction of the section's client agencies.

The section is currently defending state officials in thousands of lawsuits brought by prisoners. Successful defense of these cases saves millions of taxpayer dollars in potential liability.

The Attorney General is defending 20 class action lawsuits, including:

### ***Farrell v. Tilton***

This lawsuit challenges many policies and practices of the CDCR's Division of Juvenile Justice. A far-reaching remedial plan has been implemented, and CDCR has made significant strides to improve the conditions of confinement for juvenile offenders. After a month-long hearing, the court declined to appoint a receiver in this case.

### ***Armstrong v. Schwarzenegger***

This case questions the CDCR's and the Board of Parole Hearings compliance with the

Americans with Disabilities Act (ADA). A stipulated injunction provides the framework to correct ADA deficiencies, although the scope of the case has been expanded by subsequent orders. Plaintiffs' attorneys serve as the monitors in this case and have billed over \$1 million per quarter for those efforts.

### ***Coleman v. Schwarzenegger***

This case challenges inmate mental-health care. A special master, in place since 1995, monitors and reports on CDCR's compliance with a remedial plan. CDCR's current challenge is to provide sufficient mental-health beds for the population and care for inmates who require the most intensive care.

### ***Plata v. Schwarzenegger***

This case challenges inmate medical care. In 2006, a federal receiver was appointed to manage inmate medical care after finding that California was unable to make needed changes. The receiver has spent billions of dollars and hired hundreds of health care professionals to improve inmate medical care. During the biennial period, the Attorney General successfully fought to prevent the receiver from spending an additional \$8 billion for hospital construction.

### ***Morales v. Tilton***

This case challenges the lethal-injection procedures used to carry out the death penalty. CDCR developed regulations on capital sentence procedures, which were recently approved under the Administrative Procedures Act and are expected to be implemented in late 2010.

### **Three-Judge Court Litigation**

A motion filed in this matter claimed that prison overcrowding is the primary cause of alleged unconstitutional medical and mental health care (*Plata* and *Coleman* cases). After an evidentiary hearing, the three-judge court

ordered CDCR to reduce the prison population by 40,000 inmates within two years. The panel stayed the order pending review by the U.S. Supreme Court. The Supreme Court has accepted review and will hear argument in Fall 2010.

## **Employee and Administrative Mandate Section**

The Employment and Administrative Mandate Section represents state agencies and state officials in court and administrative proceedings that involve personnel matters and claims of employment discrimination, harassment, retaliation and violations of other terms of employment. The section also provides advice and training on a variety of employment issues so that its client agencies can better detect, remedy and prevent problems in the workplace. In addition, the section represents specific law enforcement and regulatory state agencies in matters affecting public safety, such as vehicle licensing, liquor licensing and attempts by criminal defendants to obtain information from the personnel files of peace officers.

Recent significant cases and activities include the following:

### ***California Highway Patrol v. Superior Court for County of Santa Clara***

This class action case was brought regarding the amount that the California Highway Patrol charges for emergency response costs to people who are found guilty of driving under the influence. The Attorney General is defending the California Highway Patrol. The case is pending.

### ***Department of Motor Vehicles and People v. Cars 4 Causes***

In this case, the Attorney General seeks a court order to stop the unfair business practices of falsely advertising and selling unsmogged vehicles for export. The case is pending.

### ***Spielbauer v. County of Santa Clara***

In this case, the Attorney General filed an amicus curiae brief and successfully argued before the California Supreme Court that a public employer may conduct an administrative investigation of employee wrongdoing and take disciplinary action against an employee who refuses to answer questions based on the Fifth Amendment right against self-incrimination. The decision bolsters the ability of public entities to investigate alleged employee wrongdoing.

### ***Board of Chiropractic Examiners v. Superior Court (Arbuckle)***

This case provides guidance to state employers and employees regarding the significance of State Personnel Board decisions under the Whistleblower Protection Act (Gov. Code, § 8547 et seq.). The court found that a state employee may bring a civil action after suffering an adverse decision by the State Personnel Board without successfully seeking a writ of administrative mandate to set aside that decision.

## Government Law Section

The Government Law Section represents the state's constitutional officers, including the Governor and the Attorney General, in civil litigation. The section:

- Defends state statutes against constitutional challenges.
- Carries out the Attorney General's role in preserving the integrity of the electoral process by preparing titles and summaries for proposed initiatives.
- Serves as bond counsel to the State Treasurer and various state agencies.
- Assists state agencies in handling contract and procurement disputes.
- Advises clients on issues relating to public records, open meeting laws and conflicts of interest.

Recent significant cases and activities include the following:

### ***People v. Rizzo***

The Attorney General sued top City of Bell officials to recover excess salaries and to reduce pension benefits to reasonable levels. One official received compensation of almost \$800,000 annually. Three of the highest-paid officials resigned after their salaries were revealed. The case is pending.

### ***California Redevelopment Association v. Genest (Department of Finance)***

The Attorney General defended a redirection by the Legislature of \$2 billion in redevelopment agency funds to local schools. Plaintiffs asserted that the diversion of funds violated a number of state and federal constitutional provisions. Although the trial court ruled that the transfers were legal, the

Court of Appeals rejected a request for an immediate stay.

### ***National Meat Association v. Attorney General Brown and Schwarzenegger***

This case challenged a California law that restricts the sale and processing of animals that cannot walk. The National Meat Association argued that the state law is preempted by federal law. The trial court agreed and enjoined the law. However, in a published decision, the federal court of appeals disagreed and dissolved the injunction.

### ***Perry v. Schwarzenegger***

This case asserts that Proposition 8, California Constitution's ban on same-sex marriage, violates the due process and equal protection clauses of the U.S. Constitution. In August 2010, the federal district court ruled that Proposition 8 is unconstitutional because it is not supported by a sufficient governmental interest. Neither the Attorney General nor the Governor filed an appeal, but an appeal by the proposition's proponents is pending.

### ***Strauss v. Horton***

This case was filed after voters' approved Proposition 8, which limited marriage to opposite sex couples. In a published opinion, the California Supreme Court held that while Proposition 8 was prospectively valid under the state Constitution, it could not retroactively invalidate existing same-sex marriages.

### ***ProtectMarriage.com v. Bowen***

This case challenges provisions of the Political Reform Act that require public disclosure of people who donate \$100 or more to initiative

measures. The plaintiffs claim that such disclosure has led to donor harassment, thus discouraging their exercise of political speech in violation of the First Amendment to the U.S. Constitution. The Attorney General is defending the laws in the interest of informing the electorate of the true sponsors of initiatives, and is assisting the state in enforcing contribution limits.

#### ***Schwarzenegger v. Chiang***

This lawsuit was brought by the Governor to require the Controller to implement unpaid furloughs for employees of state constitutional officers and the Board of Equalization. The trial court held that the Governor has the power to unilaterally furlough these employees. This case is pending in the California Court of Appeal.

#### ***Shaw v. Chiang***

This case challenged provisions of the 2007 Budget Act and related legislation. Plaintiffs assert that \$1.2 billion in sales and use taxes collected on vehicle fuel was improperly appropriated. The trial court concluded that the \$409 million reimbursement to the state General Fund from the public transportation account for past debt service payments was illegal and the remaining \$779 million of appropriations was lawful. The California Court of Appeal agreed that the \$409 million reimbursement was illegal, but it overruled the trial court's finding that \$779 million in transfers was valid. A petition for review by the California Supreme Court was denied.

#### ***St. John's v. Schwarzenegger***

This case questioned the scope of the Governor's line-item veto. Plaintiffs asserted that the Governor cannot reduce legislative reductions to existing appropriations. The Court of Appeal disagreed in a published

decision, and stated that reductions authorizing the expenditure of state funds for a specific purpose are items of appropriation and can be reduced further by the Governor. The decision is now being reviewed by the California Supreme Court.

#### ***Schwarzenegger v. Entertainment Software Association***

This case addresses whether a law that prohibits selling extremely violent video games to minors violates the First Amendment of the U.S. Constitution. In 2007, a permanent injunction was issued prohibiting enforcement of the law, and in 2009, the federal Court of Appeals upheld the injunction. The U.S. Supreme Court will hear the case in Fall 2010.

## Health, Education and Welfare Section

The Health, Education and Welfare Section represents more than 30 state agencies that administer a multitude of health, education and welfare programs, and handles litigation pertaining to:

- Medi-Cal Program
- CalWorks
- State Developmental Centers
- Special education
- Charter schools
- Challenges to adoptions
- California community colleges
- In-home supportive services
- Foster care programs
- Large-scale public school testing
- Claims concerning state funding for public schools
- English language learners
- State mental hospitals
- Nursing home citations
- Child support enforcement
- Enacted state propositions that pertain to client agency programs

Recent significant cases and activities include the following:

### ***Hydrick v. Davis***

This class action brought by sexually violent predators (SVPs) who were civilly committed to Atascadero State Hospital, alleges that the conditions of their confinement violated constitutional standards. Plaintiffs sought wide-ranging changes at the hospital and monetary damages. SVPs were subsequently moved to a new facility and now seek monetary claims. Following the Attorney General's petition for a writ of certiorari, the U.S. Supreme Court remanded an earlier Ninth Circuit decision that denied the Attorney

General's motion to dismiss. The parties are currently engaged in settlement discussions.

### ***California Alliance of Child and Family Services v. Wagner; California State Foster Parents Association v. Wagner***

These cases challenge funding statutes for group homes and foster parents. In both cases, plaintiffs allege that California underfunds its foster care by not covering the full cost of foster care maintenance payments as defined in the Child Welfare Act. Both cases are pending in the Ninth Circuit.

### ***Capitol People First v. Department of Developmental Services***

This class action alleges that individuals with developmental disabilities are unnecessarily institutionalized in state developmental centers, in violation of the Americans with Disabilities Act, the State Lanterman Act, the Medicaid Act and other constitutional provisions. A settlement provided additional funding for regional center case management, training for staff and transfer of individuals from institutions to community-based living arrangements. A three-year settlement implementation and monitoring period is in place until June 2012.

### ***Katie A. v. Bonta (Department of Health Care Services)***

This class action against the Department of Health Care Services and Department of Social Services seeks to expand Medicaid-covered services under the Early and Periodic Diagnosis, Screening and Treatment Program for children who have a mental illness condition and are in foster care, or for those at imminent risk of foster care placement. The potential fiscal liability to the state ranges from

several hundred million dollars to over \$1 billion. Settlement discussions are ongoing.

### ***Martinez v. U.C. Regents***

In this case, the California Supreme Court will decide whether federal immigration laws preempt California law that permits illegal immigrants who have attended high school in California to pay in-state college tuition rates. The California Court of Appeal concluded that two federal immigration laws preempt California's statute. The court ruled that state law failed to allow illegal aliens to receive the tuition benefit (with specific reference to the federal law) and that high school attendance and graduation were de facto residency requirements in violation of immigration laws. The case is pending in the California Supreme Court.

### **Medi-Cal Rate Reimbursement Cases**

These class action cases challenge various budget reductions that were intended to reform and reduce Medi-Cal program expenditures. The cases involved motions for preliminary injunction, some of which were granted in the trial court; others were enjoined by the Ninth Circuit. Collectively, the reimbursements at stake amount to over \$1 billion. These cases are pending before the U.S. Supreme Court.

### **IHSS Payment Cases**

This group of class action cases challenge various budget measures aimed at reducing fraud and improving efficiency in the state's In-Home Supportive Services (IHSS) program. The challenges concern the state's reduction of the maximum amount it will contribute toward IHSS providers' wages and benefits, and the elimination of the state's subsidy for IHSS recipients' share of cost. Use of the functional index to determine eligibility for IHSS has also been challenged. These efforts have been preliminarily enjoined.

## Health Quality Enforcement Section

The Health Quality Enforcement Section directs investigations and prosecutes disciplinary actions against licensees of the Medical Board of California.

The section also prosecutes disciplinary cases for other health care boards within the Department of Consumer Affairs, involving:

- Podiatric Medicine
- Physician Assistants
- Speech Language
- Physical Therapy
- Psychology
- Examining Committee
- Pathology and Audiology
- Respiratory Care
- Acupuncture
- Osteopathic Medicine

As part of its prosecutorial function, the section seeks interim suspension orders and temporary restraining orders to prevent imminent harm to public health, safety and welfare. The section also defends lawsuits filed against client agencies relating to their implementation of licensing and enforcement programs.

Recent significant cases and activities include the following:

### ***American Board of Cosmetic Surgery v. Medical Board of California***

In this case, the Board of Cosmetic Surgery contested the denial of its application for specialty board status. The trial court ordered the Medical Board to approve the application. The Medical Board appealed and the California Court of Appeal reversed the trial court's judgment.

### ***In the Matter of the Accusation Against Jimenez, D.O.***

In this matter, Dr. Jimenez, who operated several medical marijuana clinics, advertised his services extensively on the Internet, and represented himself as a "cannabis specialist" and "qualified medical marijuana examiner" when no such specialty or qualification exists. His medical license was revoked.

### ***People v. Pormir, M.D., Hughes, and Hayes***

This criminal case was brought against Dr. Pormir, a nurse and a pharmacist for elder abuse and assault with a deadly weapon at the Kern Valley Healthcare District in Lake Isabella. The court granted the Medical Board's application for an order imposing a bail condition that prohibited Dr. Pormir from engaging in the practice of medicine.

### ***Watson, M.D. v. Superior Court (Medical Board of California)***

This case was brought against a physician who was arrested four times for driving under the influence. None of the arrests resulted in a criminal conviction, but the Medical Board disciplined Dr. Watson with a 30-day suspension from practicing medicine, stayed the revocation of his license, and placed him on five years probation and other conditions. The California Court of Appeal upheld the board's discipline.

## Licensing Section

The Licensing Section provides legal services to regulatory agencies created to protect consumers from harm from over one million licensed businesses and professionals who operate in California. The clients of the Licensing Section are responsible for the regulation of:

- Accountants
- Appraisers
- Architects
- Automotive Mechanics
- Barbers and Cosmetologists
- Behavioral Therapists
- Boxers
- Cemetery and Funeral Businesses
- Chiropractors
- Contractors
- Dental Hygienists
- Dentists
- Electronic and Appliance Repair persons
- Geologists
- Landscape Architects
- Optometrists
- Osteopathic Doctors
- Martial Arts Fighters and Promoters
- Pest Exterminators
- Pharmacists and Pharmacies
- Private Investigators
- Psychiatric Technicians
- Real Estate Businesses and Real Estate Appraisers
- Registered and Vocational Nurses
- Shorthand Reports
- Smog Check Technicians
- Suppliers of Home Furnishings
- Yacht and Ship Brokers
- Trainers of Service Dogs

Recent significant cases and activities include the following:

### **California Master Trust**

The California Master Trust is an entity that holds funds paid for pre-need funeral services. The section is working with the Board of Funeral Directors and Embalmers and the Cemetery Bureau to investigate whether 27,000 consumers who invested over \$65 million with the California Master Trust were defrauded.

### ***National Association of Optometrists and Opticians, LensCrafters v. Brown and Stiger***

In this case, LensCrafters challenged laws and regulations that restrict financial arrangements between optometrists and opticians as unconstitutional under the federal commerce clause. The Ninth Circuit reversed an earlier decision holding that the provisions are not discriminatory and remanded the district court to analyze the provisions under the lower constitutional standard set forth in *Pike v. Bruce Church*, 397 U.S. 137 (1970). The case is pending.

### ***Owen v. Sands, as Registrar of Contractors***

In a published decision, the California Court of Appeal affirmed an important victory for the Contractors State License Board, finding that the correct standard of proof necessary to support an enforcement citation is “preponderance of the evidence” as opposed to the heightened “clear and convincing” standard of proof. Since the decision, licensing agencies have started to issue citations rather than impose formal disciplinary actions to suspend or revoke licenses.

***People v. Mkhitarian  
(aka People v. Pick-Red)***

The Attorney General, on behalf of the Contractors State License Board, filed suit in this case against affiliated licensed contractors for fraudulent schemes that preyed on elderly customers for decades by using bait and switch and other misleading tactics for plumbing and electrical service calls. The section obtained a \$3 million settlement that included restrictions on consumer advertisement, restitution to consumers and civil penalties. The section also succeeded in freezing assets such as bank accounts, aircraft, homes and vehicles.

***People v. Glad (aka People v. MIDAS Auto Service Center)***

In this case, the Attorney General filed an unfair competition lawsuit with the Alameda and Fresno District Attorneys' Offices. They allege that customers were lured into Midas Auto shops by false and misleading advertising and pressured into buying unnecessary parts and services. A settlement was reached and defendants agreed to pay penalties, costs and fees.

## **Tort and Condemnation Section**

The Tort and Condemnation Section defends the state, its agencies, departments and employees in civil actions for personal injury, wrongful death, property damage and civil rights claims brought in state and federal courts. Primary components of the litigation include cases involving:

- Medical negligence and indifference to prisoners medical needs.
- Dangerous condition of public property.
- Defense of various law enforcement officers and entities.
- Automobile accidents.

The section also prosecutes matters relating to the acquisition of real property for public purposes (eminent domain) and defends against claims that a public project resulted in the taking or damaging of private property (inverse condemnation). The section also handles complex construction arbitration and

litigation cases that frequently involve multi-million dollar claims.

Recent significant cases and activities include the following:

***Adams v. California***

In 2007, the Department of Fish and Game poisoned Lake Davis to eradicate the northern pike fish, which threatened the salmon population. Two hundred plaintiffs and the City of Portola sued under inverse condemnation and tort theories to recover for loss of property value, business income, and tax revenue caused by the treatment and temporary closure of the lake. Plaintiffs have moved to have the case certified as a class action.

***Cosco Busan Cases***

In 2007, a 901-foot container ship, the M/V Cosco Busan, struck the San Francisco Bay Bridge in heavy fog, spilling 53,000 gallons of

fuel oil into the Bay. The United States, California, and Bay fisherman brought actions against Regal Stone, owner of the ship, for environmental damage and damage to the Bay Bridge. Claims against Regal Stone totaled tens of millions of dollars. Regal Stone attempted to shift responsibility for the collision to the San Francisco Bay pilot who was navigating the Cosco Busan at the time of the collision, along with the State Board of Pilot Commissioners for negligently licensing the pilot. The section is defending the board against Regal Stone's claims. This case is pending.

### **Delta Alternative Conveyance**

The section represents the Department of Water Resources in eminent domain actions in a project designed to develop a canal or tunnel to move water from the Sacramento – San Joaquin Delta to Central and Southern California. Many property owners have refused the Department of Water Resource's request to enter their property to conduct its studies. The Attorney General filed 275 petitions for court-ordered temporary entry permits. The petitions were consolidated and assigned to the San Joaquin County Superior Court. If the project is approved, it could result in eminent domain proceedings involving hundreds of parcels.

### ***U.S.A. v. 53.14 Acres of Land; U.S.A. v. 127.60 Acres of Land***

These eminent domain actions arise from the United States border infrastructure project that involves territory along the U.S. – Mexico border in San Diego County. Condemned properties include portions of the Border Fields State Park and the County of San Diego's Tijuana River Valley Park. The primary issue in both suits is the determination of just compensation. Aside from the debate concerning the construction of the border fence, issues include: 1) the potential for a dramatic increase in sediment runoff which could cause permanent damage to sensitive wetlands; and 2) concern that the project will eliminate access to a culturally significant area known as "Friendship Park." This case is pending.



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# DIVISION OF CRIMINAL LAW

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**The Criminal Law Division**, through its over 600 employees, represents the People of the State of California in criminal cases, as mandated both constitutionally and statutorily. The majority of the division's work involves criminal appeals. The division also investigates and prosecutes investment frauds, business crimes, Medi-Cal fraud and elder abuse and is presently handling over 18,000 legal cases. In addition, the division serves as a liaison to Native American tribes residing in California, and victims of crime.

The Criminal Law Division consists of the following sections:

- Appeals, Writs and Trials Section
- Correctional Writs and Appeals Section
- Special Crimes Unit
- Bureau of Medi-Cal Fraud and Elder Abuse
- Office of Native American Affairs
- Victims Services Unit



## Appeals, Writs and Trials Section

Appeals, Writs and Trials is the core section that:

- Represents the People in all appeals of criminal cases.
- Handles criminal trials and investigations where local prosecutors cannot proceed due to conflicts or recusal.
- Advises the Governor on extradition and clemency matters.
- Provides advice to local, state and federal law enforcement and prosecutorial agencies, and state legislators regarding the state's criminal laws.
- Enforces the criminal provisions of the Political Reform Act of 1974.
- Conducts special prosecutions involving money laundering, asset forfeiture, wiretap cases and organized crime.

Recent significant cases include the following:

### ***Sirhan v. Galaza, Warden***

Sirhan is serving a life sentence for the 1968 murder of presidential candidate Robert F. Kennedy and the attempted murder of five others. Sirhan is attempting to overturn his conviction through a petition for writ of habeas corpus in federal court.

### ***Morales v. Ayers, Warden***

Morales was convicted and sentenced to death for the 1981 lying-in-wait murder of 17-year-old Terri W. in San Joaquin County. On the eve of execution in 2006, issues arose as to the legality of the lethal injection protocol and the execution was postponed. The California Department of Corrections and Rehabilitation later developed a new protocol, which was approved by the Office of Administrative Law and became effective in August 2010.

### ***Sims v. Brown, Warden***

Sims was convicted in 1987 for the murder of John Harrigan, a Domino's Pizza employee. In the penalty phase of the trial, the prosecution presented evidence that Sims, a former Domino's employee, had murdered two company employees in South Carolina a week before the California murder. Sims' petition for a writ of certiorari to the U.S. Supreme Court was denied in 2006. An execution date will be scheduled in the near future.

### ***Fields v. Ayers, Warden***

Fields was convicted and sentenced to death for the 1978 robbery murder of Rosemary C., a crime that he committed weeks after being paroled for manslaughter. Fields' petition for a writ of certiorari to the U.S. Supreme Court was denied in 2008. An execution date will be scheduled in the near future.

### ***Brown v. Ornoski***

Brown ambushed, raped and strangled a 15-year-old girl on her way to school, then made taunting telephone calls to her frantic mother. The case has gone to the U.S. Supreme Court once and the California Supreme Court three times, has been in federal habeas litigation since 1996, and was last argued in 2007 before the federal court of appeals. In May 2008, Brown filed a writ of certiorari in the U.S. Supreme Court, which was denied. An execution date has been scheduled in September 2010.

### ***Raley v. Ayers, Warden***

Raley has been on death row since 1988 for kidnapping and sexually assaulting two teenagers in San Mateo County. Raley murdered one girl, and attempted to murder the other. The U.S. Supreme Court rejected Raley's final appeal. An execution date will be scheduled in the near future.

***Knowles, Warden v. Mirzayance***

Mirzayance was convicted of the first-degree murder of his 19-year-old cousin whom he stabbed and shot to death in her home. The Attorney General won an appeal in the U.S. Supreme Court upholding the conviction. In a unanimous opinion, the high court rejected the Ninth Circuit's finding that Mirzayance's counsel was ineffective.

***Belmontes v. Ayers, Warden***

Belmontes struck a woman in the head 15 to 20 times with a steel dumbbell bar. After the murder, Belmontes and his accomplices stole the woman's stereo, sold it for \$100, and used the money to buy beer and drugs for the night. Belmontes was convicted of murder and sentenced to death. For the third time, the U.S. Supreme Court reversed the Ninth Circuit orders granting habeas corpus relief for his death sentence. The court rejected claims that Belmontes was denied effective counsel at trial.

***Harrington, Warden v. Richter***

While attempting to steal a gun safe from the home of an admitted marijuana dealer, Richter and his codefendant shot two men, killing one of them. They were convicted of murder and sentenced to life imprisonment without the possibility of parole. In a federal habeas corpus proceeding, the Ninth Circuit reversed Richter's conviction. The U.S. Supreme Court granted the Attorney General's writ of certiorari. Argument will be heard in Fall 2010.

***Chrones, Warden v. Pulido***

Pulido was convicted of murdering a gas station attendant during a robbery. The Ninth Circuit tossed out the conviction, and the Attorney General appealed. In a ruling with widespread ramifications, the U.S. Supreme Court agreed with the Attorney General that a criminal defendant is not entitled to have his conviction set aside for a trivial instructional error at trial unless the error had a "substantial

and injurious effect or influence" on the outcome.

***People v. Nelson***

Nelson was convicted of having killed a young woman in 1976. He was identified by a "cold hit" DNA match from evidence gathered at the crime scene. The California Supreme Court upheld the DNA match and the conviction.

***People v. Robinson***

Robinson raped a young woman in 1994, but the case remained unsolved until 2000. Just before the statute of limitations was to expire, the Sacramento District Attorney's Office filed a warrant for the still-unknown perpetrator. A month later, a DNA "cold hit" identified Robinson based on a mistakenly collected DNA sample. The California Supreme Court upheld the conviction.

***District Attorney's Office v. Osborne***

In 1993, Osborne and another man raped and attempted to kill a prostitute in Alaska. After his conviction, Osborne sought to obtain DNA testing in state and federal courts. The Attorney General filed an amicus curiae brief that was joined by 31 states arguing there is no federal constitutional due process right to post-conviction DNA testing. The U.S. Supreme Court agreed.

***San Bernardino Political Corruption Case***

The Attorney General and the San Bernardino District Attorney joined forces to investigate and prosecute individuals involved in a massive political corruption scheme. Evidence revealed widespread corruption, including extortion and bribery of members of the county board of supervisors. So far, six cases have been filed involving charges of conspiracy, theft, perjury and misappropriation of public funds. The investigation is ongoing and more charges are expected.

## **Border States Form**

### **Anti-Money Laundering Alliance**

In February 2010, after a decade-long legal battle, Attorneys General in states bordering Mexico reached a settlement with Western Union to release its transaction records. Under the settlement, Western Union will provide \$50 million to combat money laundering connected with cross-border narcotic, human and firearms smuggling.

### **People v. Ponce (Mexican Mafia Prosecution)**

In early 2006, the federal Drug Enforcement Administration and the California Department of Corrections and Rehabilitation jointly launched Operation Gangland to infiltrate the most organized and extensive Mexican Mafia extortion operation in Imperial County's history. In 2007, the district attorney asked the Attorney General to assist in prosecuting the case. Thirty-one individuals were subsequently indicted on 46 felony charges, including conspiracy to commit extortion and narcotic crimes, torture, attempted murder, solicitation of murder, kidnapping, assault, selling heroin and methamphetamine, and illegally possessing and selling firearms. By 2010, the Attorney General obtained 31 guilty pleas, totaling more than 200 years in state prison sentences.

### **People v. Gressett**

The Attorney General obtained a grand jury indictment against Gressett, a former deputy district attorney, for numerous sexual assault crimes against a junior deputy district attorney. The case is pending.

### **People v. Lopez; People v. Rutterschmid; People v. Gutierrez; People v. Dungo**

The California Supreme Court granted review in these cases to decide whether testimony presented by a supervisor or expert witness –

rather than the analyst who conducted alcohol, toxicology, drug or sexual assault examination testing – violates the confrontation clause under the Sixth Amendment to the U.S. Constitution. The court granted review to decide this important question in light of the U.S. Supreme Court's decision in *Melendez-Diaz v. Massachusetts* (2009) 129 S.Ct. 2527.

### **ACORN Investigation**

In mid-2009, political filmmaker James O'Keefe released videos secretly recorded in the national Association of Community Organizations for Reform Now (ACORN) offices across the country, including two in California. The recorded conversations discussed how to conduct a prostitution and human trafficking business, obtain housing loans and report illicit income for tax purposes. The Governor asked the Attorney General to investigate ACORN and the videos to determine if any crimes were committed in California. After a six-month investigation, the Attorney General released a report finding no criminal violations by ACORN employees, however, ACORN violated civil laws designed to protect personal and confidential information; solicited charitable contributions in California without properly accounting for funds; and failed to implement procedures for charitable assets. The investigation also found that the filmmaker likely violated California law by recording confidential communications without consent. The 30-year-old ACORN organization has since disbanded.

### **California Crime Laboratory Review Task Force**

The Attorney General organized and chaired this mandated task force, which made recommendations on how to improve crime lab services. The task force included representatives from labs, prosecutors, defense counsel, law enforcement, the courts and academia.

## Correctional Writs and Appeals Section

The Correctional Writs and Appeals Section is responsible for the following:

- Defending the policies and actions of prison officials.
- Ensuring convicted felons properly serve their sentences under the conditions prescribed by law. The majority of the section's work involves petitions for writs of habeas corpus and related appeals challenging parole denials and revocations.
- Defending against legal challenges brought by parolees, juvenile offenders and persons committed to state hospitals, and their conditions of confinement in prisons, state hospitals and state juvenile facilities.
- Defending quasi-class action lawsuits by groups of inmates seeking to invalidate a prison regulation or change to the parole system.

Recent significant cases include the following:

### **In re Lawrence**

Lawrence murdered her lover's wife in 1976, and lived as a fugitive for 11 years. In 1982,

she turned herself in and was convicted of first-degree murder. In 2005, the Board of Parole Hearings recommended Lawrence for parole release, but the Governor denied her parole. She successfully challenged the Governor's decision in the California Court of Appeal, however, the Attorney General appealed to the California Supreme Court. In a 2008 opinion, the court clarified the scope of review when inmates challenged orders by the board or the Governor denying parole. Lawrence was released to parole after the Supreme Court agreed with the Court of Appeal's decision.

### **Hayward v. Marshall, Warden**

Hayward stabbed and killed a man in a bar in 1978, and was convicted of second-degree murder. In 2002, the Board of Parole Hearings found Hayward suitable for parole, but then-Governor Davis denied parole. Hayward challenged the Governor's decision in federal court. The Ninth Circuit held, in an en banc opinion, that federal court review of state parole denials is limited to determining whether the petitioner had been afforded the rights authorized by state law. Hayward was returned to prison.

## Special Crimes Unit

The Special Crimes Unit is responsible for the following:

- Assisting federal, state and local law enforcement agencies in the investigation and prosecution of large-scale, multi-jurisdictional investment frauds and business crimes.
- Handling high-tech computer crimes where the scope and complexity exceed the investigative and prosecutorial resources of law enforcement agencies.
- Assisting in the investigation and prosecution of multi-jurisdictional identity theft crimes.

Recent significant cases include the following:

***People v. Malone and Hayes***

Malone and Hayes traveled through 34 states stealing merchandise and returning it for refund. Evidence showed they engaged in over 2,000 return transactions in five years, including over \$250,000 from Williams-Sonoma stores. They both pled guilty to conspiracy and theft, and were sentenced to state prison.

***People v. Hastert***

Hastert was convicted of 73 felony counts in connection with the sale of securities for real estate construction schemes. Hastert failed to follow statutory safeguards to ensure the real estate construction projects were completed. As a result, investors lost hundreds of thousands of dollars. Hastert pled guilty to embezzlement and fraud, and is expected to serve between 6 and 16 years in state prison.

***People v. Sweeney and Ryan***

Sweeney and Ryan were charged with selling fraudulent stock and operating a pyramid scheme through their Riverside-based companies, Big Co-op and EZ2Win.biz. Over 1,000 victims suffered losses of \$8.8 million as a result of their scams. The defendants are currently awaiting trial on charges of securities fraud and grand theft.

***People v. Clark***

Clark and three co-defendants contracted with a school district to build schools. Instead, they diverted the funds and failed to pay contractors or complete the projects. The school district lost more than \$3.6 million. The case is set for trial in 2010.

***People v. Harrington and Hiller***

Defendants participated in a scheme that operated in California, Costa Rica and Cyprus

to sell controlled substances on the Internet throughout the United States. Medications were prescribed by physicians who were not licensed by the State of California and did not have doctor-patient relationships with the online drug purchasers. Defendants recruited doctors from Georgia, Massachusetts, Florida and Ohio. Harrington and Hiller were convicted of felonies for issuing unlawful prescriptions.

***People v. Merritt-Osborne***

Six defendants engaged in a conspiracy to steal identities to create and incorporate fake businesses. They established credit lines for the sham businesses and used them to buy goods which they sold on eBay. The total loss to the victims exceeded \$2 million. Three of the most culpable defendants were sentenced to state prison.

***People v. Flora***

Flora, an insurance agent, conned 12 elderly clients into investing in real estate loans, then gambled their money away at a casino. She pled guilty to burglary and grand theft. She was sentenced to 13 years in state prison and ordered to pay over \$425,000 in restitution.

***People v. Sassman***

Sassman was prohibited by the Department of Corporations from selling investments to the public. He changed his company name then continued to offer investments in various real estate projects and stock programs. Most of the investments were fraudulent, and over 50 investors lost more than \$10 million. Sassman is currently in custody awaiting a preliminary hearing.

***People v. Prather***

The Special Crimes Unit prosecuted this case in which the San Diego County Grand Jury returned a 347-count indictment against

Prather and 60 other defendants involved in a criminal street gang that defrauded a credit union of more than \$600,000. Gang members and others recruited credit union members to provide account information and use their debit cards for cash. The conspirators

deposited counterfeit or fraudulent checks to the compromised accounts to boost the balances, and then withdrew cash at a local casino. More than 47 defendants entered guilty pleas. Aggregate prison sentences exceeded 58 years.

## **Bureau of Medi-Cal Fraud and Elder Abuse**

The Bureau of Medi-Cal Fraud and Elder Abuse has dual criminal and civil prosecution responsibilities. The bureau prosecutors work in close partnership with DOJ law enforcement personnel and forensic auditors to:

- Protect the state's \$39 billion Medi-Cal program from provider fraud and abuse.
- Investigate and prosecute elder abuse, neglect and poor quality of care in health care facilities, such as hospitals, skilled nursing facilities and residential care facilities.

Between 2009 and 2010, the bureau filed 279 cases and recovered nearly \$300 million in fines, penalties and reimbursement to the Medi-Cal health system, as well as restitution to elderly victims of fraud and abuse.

Recent significant cases include the following:

### ***People v. Fairhurst***

Fairhurst, Executive Director of the Alpine Healthcare Clinic, submitted over \$2 million in fictitious billings to Medi-Cal. Fairhurst was convicted of felony grand theft and ordered to pay restitution to her employer and reimburse California's Medi-Cal program.

### ***United States v. Sabaratnam***

Sabaratnam operated a scheme to pay illegal kickbacks for recruiting homeless people for

in-patient stays and unnecessary health care services at a medical center in Los Angeles. Four defendants were convicted of criminal charges, and in January 2010, Sabaratnam and defendant Bourseau were ordered to pay \$10 million.

### ***United States v. Buetow***

Defendants who operated clinics in Sacramento, Richmond and Carmichael were accused of submitting fraudulent Medicare and Medi-Cal claims. Defendants allegedly filed claims for patients who were never treated by physicians, and defendants were reimbursed for unnecessary or never-performed procedures. The indictments charge defendants with false billing and stealing over \$1 million from Medicare. The case is pending.

### ***People v. Wilson***

Wilson, a nursing home resident, set fire to her roommate's bed in an attempt to kill her two roommates. A few months later, while residing in a different facility, she set fires on the first, second and top floors of the building, causing panic and trapping elderly and disabled residents. She was convicted of attempted murder, arson, assault and other related crimes. Wilson was sentenced to over 19 years in state prison.

***Woodward v. Eli Lilly***

Eli Lilly Company engaged in a nationwide marketing campaign to promote the drug Zyprexa for uses not approved by the Federal Drug Administration. The illegal marketing scheme included kickbacks to prescribing health care providers. As part of a settlement, the Bureau of Medi-Cal Fraud recovered \$95 million in losses for California’s Medi-Cal program. In addition, Eli Lilly entered into a corporate integrity agreement with the U.S. Office of the Inspector General, which will closely monitor the company’s marketing and sales practices.

***Kruszewski v. AstraZeneca Pharmaceuticals LP***

In April 2010, the bureau entered into a \$520 million settlement with AstraZeneca Pharmaceuticals to settle allegations that it engaged in the dangerous practice of marketing Seroquel, its blockbuster antipsychotic drug, for unapproved uses such as aggression, Alzheimer’s, anger management and sleeplessness. As part of the settlement, AstraZeneca entered into a corporate integrity agreement with the U.S. Office of the Inspector General, which will closely monitor the company’s marketing and sales practices. The settlement includes \$31 million in restitution for California’s Medi-Cal program.

***United States ex rel. Kopchinski v. Pfizer, Inc.***

In September 2009, California settled allegations that Pfizer paid illegal kickbacks and conducted unlawful marketing campaigns for over a dozen drugs, and encouraged physicians to needlessly prescribe expensive Pfizer drugs at the expense of Medi-Cal. The settlement includes restitution of \$34.7 million to California’s Medi-Cal program.

***State of California ex rel. Ven-A-Care of the Florida Keys, Inc. v. Abbott Pharmaceuticals, Inc.***

The Attorney General settled a case against Schering-Plough Corporation and its subsidiary, Warrick Pharmaceuticals, alleging that Schering deliberately inflated the average wholesale price of certain Warrick drugs. This inflation caused Medi-Cal to pay excessive reimbursements to pharmacies. Medi-Cal determines reimbursements for Medi-Cal beneficiary prescriptions based on drug manufacturers’ reported average wholesale prices. The settlement includes \$ 20.1 million to California’s Medi-Cal program.

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Division of Criminal Law continues on page 76



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# CALIFORNIA JUSTICE INFORMATION SERVICES DIVISION

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**The California Justice Information Services Division (CJIS)**, through its over 1,100 employees, provides accurate, timely and comprehensive criminal history data and analysis to police and sheriffs, district attorneys, and local and state regulatory agencies. In addition, the division supports the critical DOJ information technology infrastructure. There are five bureaus within CJIS that perform a key role in enhancing law enforcement and public safety in California:

- Criminal Identification and Investigative Services
- Technology Support
- Criminal Information and Analysis
- Criminal Justice Information Technology Services
- Departmental Technology Services

The division provides a large and secure network that serves 800 California criminal justice agencies statewide, national criminal justice systems, and the DOJ. The criminal history system processes 1.5 million law enforcement identification requests and 1.8 million applicant background checks annually. DOJ maintains 22 million fingerprint files, and receives one million queries or updates daily on its systems. The division is making significant strides to improve its systems and reduce costs. Recent systems upgrades include: 1) a system that provides patient prescription drug histories to make informed decisions and prevent abuse of drugs; 2) an online system for problem gamblers to exclude themselves from gambling establishments; and 3) a database that tracks parolees, including those receiving supervised public mental health treatment.



## **Bureau of Criminal Identification and Investigative Services**

The Bureau of Criminal Identification and Investigative Services is responsible for the following systems:

- Missing and Unidentified Persons
- Megan's Law
- Violent Crime and Information Network
- Automated Property
- Stolen Vehicles
- Wanted Persons
- California Automated Restraining and Protective Order
- Automated Fingerprint Identification
- Automated Latent Print
- California Automated Palm Print

Recent significant projects include the following:

### **Violent Crime Information Network**

The bureau made significant progress in renovating this network. The California Sex and Arson Registry was updated to a web-based application and will be operational in 2010.

### **Secure Communities Initiative**

In cooperation with the U.S. Immigration and Customs Enforcement (ICE) Office and local authorities, CJIS is implementing the Secured Communities Initiative in California, which will improve information sharing between federal, state, tribal and local law enforcement agencies. On arrest, fingerprints are checked against the ICE database to determine immigration status. By the end of 2010, the program is expected to be operational in 35 counties.

### **California Restraining and Protection Order System**

This newly implemented system is one of the DOJ's many projects that transfers criminal justice applications to Unix, a more efficient relational database technology.

### **Live Scan DNA Automation Project**

This project provides law enforcement agencies with direction on when to collect DNA samples of arrestees. Live Scan DNA devices have been installed at 285 locations in 17 counties. Additional jurisdictions will be added as funds permit.

## **Technology Support Bureau**

The Technology Support Bureau designs, coordinates, installs and provides 24-hour support for communications applications, server infrastructure, and networks used by the DOJ, California criminal justice agencies and national criminal justice systems.

### **California Law Enforcement Telecommunications System**

The technology replaces a decades old system and expands the DOJ's ability to support a large volume of electronic transactions. It also accommodates evolving trends in law enforcement technology, such as the images and information with mobile devices.

## **Bureau of Criminal Information and Analysis**

The Bureau of Criminal Information and Analysis is the central repository of criminal history information used by local, state and federal law enforcement agencies, courts and regulatory agencies. The bureau collects, maintains and publishes criminal statistical data, and maintains the Child Abuse Central Index.

Recent significant projects include:

### **Foreign Adoption**

The bureau has adopted procedures in response to new law to release state summary criminal history information to a foreign nation in conjunction with an individual's application to adopt a minor child from that country.

### **New Applicant Transactions**

The bureau revised its system to conduct background checks of employees who provide in-home supportive services and emergency medical services.

### **Record Review Dissemination**

Under revised procedures, an individual may now obtain their full rap sheet, submit comments on past criminal history and refute erroneous or inaccurate information.

### **Criminal Offender Record Information Authorization**

The bureau enhanced and streamlined its processes for the Child Abuse Central Index and Criminal Offender Record Information. These changes will make it easier for government agencies, schools, and private industry to check the background of job applicants.

### **Justice Automated Data Exchange**

This new web-based application allows law enforcement agencies to update information previously submitted to DOJ's criminal history database. The new application has been implemented in eight counties. Prior to the new system, local agencies could only submit update requests by fax or U.S. mail.

### **Keeper of the Records Database**

The bureau established a new database to track and respond in a timely fashion to certified criminal history requests by agencies and courts.

### **Folder Control System**

The new folder control system which is under development, will rely on bar coding and document scanning to track over 6.5 million physical folders in the DOJ's master file.

### **Automated Archive System**

The system serves as a master repository that will consolidate over 50 million finger and palm prints and other criminal history archive documents used by law enforcement agencies and the DOJ. The bureau recently increased storage capacity to display mug shots.

## Criminal Justice Information Technology Services Bureau

The bureau supports the statewide investigative networking system and various other systems used by the DOJ's Bureau of Narcotic Enforcement and Bureau of Investigation and Intelligence. The bureau also provides reporting and testing support for CJIS application developers.

Recent significant projects include:

### **Firearms Eligibility Applicant File System**

This new system is used by the Bureau of Firearms to track and monitor individuals who

use firearms on the job. The system is one of many projects being implemented by the department as it replaces outdated legacy systems with more cost-effective technology.

### **Automated Firearms System**

This system was created for the Bureau of Firearms to allow agencies online access to gun registration information. In the past, law enforcement agencies relied on DOJ staff to process requests. Agencies can now directly access information and conduct gun registration searches.

## Departmental Technology Services Bureau

The bureau provides computer support to DOJ employees through its Technical Assistance Center. It also supports the department's desktop equipment, applications and shared storage environments. The bureau partners with DOJ divisions to ensure CJIS technical solutions meet their requirements.

Recent significant projects include:

### **Exclusion Management System**

The system was created for the Bureau of Gambling Control to allow problem gamblers to ban themselves from gambling establishments. The online application provides easy applicant registration, notifications to gambling establishments and visual identification.

### **Prescription Drug Monitoring Program**

This system was created for the Bureau of Narcotic Enforcement to provide physicians, veterinarians and pharmacists online access to prescription information. This information helps medical care providers avoid over prescribing medications and helps to curtail drug abuse. DOJ agents also use this information to identify doctors who overprescribe drugs and patients who abuse them.



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# DIVISION OF ADMINISTRATIVE SUPPORT

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**The Division of Administrative Support**, through its nearly 900 employees, supports the day-to-day operations of the DOJ and assists programs in administrative and technical areas, such as accounting, budgeting, personnel, asset management, facilities, procurement, contracting, conferencing, recycling, training, law library services, legal case management, time reporting, litigation support and legal support services.

The Division of Administrative Support consists of the following units:

- Fiscal Programs
- Office of Departmental Services
- Personnel Programs
- Office of Professional Development
- Legal Support Operations Branch
- Information Support Services
- Communications and Imaging Resource Center
- Management Analysis and Policy Development



## Fiscal Programs

The department's budget was reduced by \$69 million in Fiscal Year 2009-2010 to approximate the amount of savings that would have been generated by furloughing DOJ employees. In response, internal controls were strengthened to limit purchases, contracts, car and telephone costs, and other expenditures. Savings were also generated by freezing new hiring, eliminating hundreds of vacant positions, and refraining from filling other vacant positions.

As a result of these efforts, over \$130 million was returned to the State Treasury, including over \$56 million to the General Fund.

In addition to budgetary savings, the Department sent to the General Fund hundreds of millions of additional dollars in settlements, including over \$90 million directly transferred from the department, and \$234 million indirectly transferred as part of recoveries obtained in Medi-Cal cases.

### **Budget Office**

The Budget Office is responsible for the DOJ's annual financial plan and provides technical direction and support to program managers in the preparation, negotiation and management of the department's annual budget. As of September 2010, the DOJ budget was \$754 million.

### **Accounting Office**

The office is comprised of the Account Payment Program and the Financial Accounting Program. These programs maintain centralized records of appropriations, expenditures, revenues, reimbursements and legal billing. They also provide cash flow analysis and accurate accounting of DOJ activities to state control agencies.

### **Laser Check Pilot Project**

The department operates with one primary revolving fund unit in Sacramento and 25 revolving fund liaison staff in field offices. In 2008, the laser check project streamlined processes by allowing the field offices to input data directly into the DOJ accounting system.

### **California Automated Travel Expense Reimbursement System (CalATERS)**

In July 2009, the department implemented the CalATERS system. Employees now request advances and prepare travel claims online and obtain approvals electronically. Training for all DOJ staff was completed in February 2010.

### **Interest Penalty Reduction**

The department implemented an electronic billing process for certain high-volume vendors. This new process has significantly reduced penalties for late payments.

## Office of Departmental Services

The Office of Departmental Services provides a wide range of business support services throughout the DOJ, including facilities management, telecommunications services, contracting, purchasing, warehousing, printing, publication, media production and mail/delivery operations.

### Facilities Planning and Management and Telecommunications Section

The section manages the space needs of nearly 2 million square feet of DOJ facilities at over 90 locations statewide, including 6 legal offices, 11 forensic crime laboratories, 10 regional law enforcement offices, 39 anti-crime task force offices, 2 aircraft hangers, the Hawkins Data Center, and multiple field offices and radio sites. The section's recent significant projects include the following:

- **Consolidated Law Enforcement Offices.** Four offices in the Division of Law Enforcement were consolidated into one location in Fresno. Additional consolidation efforts are ongoing in Sacramento.
- **Refurbished Sacramento Laboratory.** The Sacramento crime lab was remodeled to meet current laboratory standards to increase efficiency for the handling of evidence. Space was also added for a new DNA unit.
- **Reconfigured Fresno Wire-Tap Facility.** Space was reconfigured in Fresno to create a new multi-functional telephone wire-tap facility to assist allied law enforcement agencies in terrorism, illegal drug trafficking and gang-related investigations. This facility complements larger wire-tap operations that are located in Commerce and Sacramento.
- **Refurbished Criminal Intelligence Offices.** Old office space at 4949 Broadway, Sacramento, was brought up to current building standards to house a new criminal identification and intelligence program during the biennial period.
- **Reduced Office Rents.** Office leases were renegotiated, resulting in significant rent savings at numerous DOJ locations statewide.
- **Upgraded Call Centers.** The DOJ call centers were upgraded to enhance telecommunications capabilities and better serve the needs of the programs and the general public.

### Business Services Section

The section is comprised of three units, Contracts, Purchasing and Central Services. The Contracts Unit prepares contracts for expert witnesses, outside attorney services, forensic services, law enforcement training and maintenance and repair of equipment. The Purchasing Unit oversees the ordering and purchasing of equipment, furniture and supplies. The Central Services Unit provides mail and warehouse services to DOJ, including shipments and document archive storage. The section's recent significant projects include:

- **Reorganized Contracts and Purchasing Units.** In July 2009, various staff who handle program-specific contracts and purchasing were relocated to the Business Services Section. This reorganization consolidated workflow, eliminated duplication of services, provided cross-training opportunities, and increased oversight of departmental contracting and purchasing procedures.

- **Implemented eProcurement.** In March 2009, the DOJ began using eProcurement, a web-based application that streamlines the contracting, purchasing and reporting activities of state agencies.

### **Communications and Imaging Resource Center**

The Communications and Imaging Resource Center provides publication and media production services to the department. These services include printing, publishing, editing and writing, graphic and web design, photography, video production, and audio recording. The center is part of the DOJ's

internal approval process for publications, which ensures that the department's print and media products (both internal and external) meet the highest standards for excellence.

### **Green Office**

The Office of the Attorney General is a recognized leader in green business practices and was awarded the first Best of California "Green IT" award in 2008, along with the prestigious Conference of Western Attorneys General award in 2009 for "Going Green." The Green Office-DOJ is a department-wide effort that targets ways to reduce greenhouse gas emissions, conserve energy and save money. ([www.ag.ca.gov/greenoffice](http://www.ag.ca.gov/greenoffice))

## **Personnel Programs**

Personnel Programs is responsible for all facets of employment for the DOJ's over 5,000 authorized positions. The section is comprised of five units that handle classification and pay, labor relations, risk management, testing and selection, and personnel transactions.

The section's notable activities include the following:

- **Program Support.** Efforts focused on providing support to program supervisors and managers through on-site visits and the establishment of regular office hours at multiple work sites.
- **Recruitment Program.** The Testing and Selection Unit completed several web-based projects to enhance recruiting efforts.
- **Examinations.** The Testing and Selection Unit held examinations that involved the review of over 6,000 applications.
- **Continuous Testing.** The unit increased continuous departmental examinations in order to speed up the hiring process and broaden the candidate pool for positions that are specialized and needed in remote and high-cost areas.
- **Health and Safety Program.** The Attorney General made reducing work injury claims a top priority during the biennial period. The department instituted safety inspections, ergonomic evaluations, and aggressive claims handling, that resulted in over \$1 million in reduced costs.
- **eNewsletter and Web-Based Training.** Personnel Programs created e-newsletters and web-based training to provide DOJ employees and managers consistent and timely information on attendance reporting and personnel procedures.
- **Automation of Personnel Actions.** In 2009, Personnel Programs developed a personnel action database to provide information to DOJ management.

## Office of Professional Development

The Office of Professional Development provides training and learning opportunities to all DOJ employees. Courses include new employee orientation, basic supervision, continuing legal education for attorneys and paralegals, professional and critical skills development, and desktop applications. The

office held over 800 classes during the biennial period.

Seven deputy attorneys general became certified instructors by the National Institute for Trial Advocacy and presented two new classes for lawyers in the Attorney General's Office.

## Legal Support Operations Branch

The branch is comprised of nearly 600 employees statewide who provide administrative support in the Attorney General's law offices located in Sacramento, Oakland, San Francisco, Fresno, Los Angeles and San Diego. Services are provided to 1,300 attorney and paralegal staff in 25 law practice areas. These areas include legal secretarial and clerical support, business and office services, digital printing and reprographics, docketing and records management, procurement and facilities management.

The space was also reconfigured to provide additional functionality.

### Law Library Services Section

This section provides research services and manages the statewide law libraries. The libraries maintain code and court rules books and manage online research services and obtain inter-library loans from across the country.

Activities during the biennial period include:

- **Electronic Faxes.** In 2009, the branch transitioned to electronic faxes transmitted by e-mail, thereby saving paper and reducing time.
- **The Paperless Law Office.** The department continued its efforts to convert from paper to electronic documents. The conversion to electronic files reduces photocopying and hard-copy storage costs, saves staff time that would otherwise be spent filing paper documents, allows legal documents to be readily available, and enhances the DOJ's green efforts by reducing paper consumption.
- **San Diego Law Office Remodel Project.** The legal office space in San Diego was consolidated into one building in 2009.
- **Legislative Histories.** Law library staff compiled 25 to 30 legislative histories each month that were used by attorneys to research the intent of statutes.
- **Legal Research Contracts.** A consolidated department-wide contract was negotiated with LexisNexis that resulted in a cost savings and increased access to the online service.
- **Law Book Reductions.** The librarians surveyed legal staff on whether to retain law books in their private offices. As a result of the library survey, a significant number of staff who perform legal research online voluntarily reduced books in their offices, resulting in a cost savings to the department.

## Information Support Services

Information Support Services provides litigation support, legal knowledge management, case management and time reporting, and project performance management.

### Business Project Management Team

This unit assists with a variety of complex business projects that use information technology solutions. The following significant projects are underway:

- **User Productivity Kit.** By recording steps used in an application, this software creates online tutorials and training materials for DOJ employees.
- **MyCalPAYS.** This statewide system will be used by state agencies for personnel administration, organizational management, time management, benefits administration, payroll and employee/manager self-service functionality. The department is preparing for deployment in October 2011.
- **FI\$CAL Project.** This multi-year project, sponsored by the Department of Finance and other control agencies, will standardize fiscal reporting among state agencies. The DOJ is involved in advisory work groups, procurement, system integration, system interface and business process documentation. DOJ will be one of the first agencies to use the new statewide accounting system. Implementation is projected for 2012.

### Litigation Support Section

The section provides professional services and software applications for attorneys and paralegals to manage evidence in litigation.

- **In-House Services.** The amount of litigation support work done in-house as opposed to using contract vendors, increased to 97 percent. The ability to perform the work in-house equates to significant cost savings to the legal divisions and their clients.
- **Electronically Stored Information.** Recent changes in the law require electronic information to be available in its native format, increasing the amount of data acquired during discovery. The section doubled its hardware storage capacity in order to manage the dramatically increased volume of electronic data.
- **Litigation Support in Oakland.** The section now provides full-time staff in Oakland to handle the increased volume of litigation support work generated by that office.

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Division of Administrative Support continues on page 76



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# EXECUTIVE PROGRAMS

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**The Executive Programs** function as a support network for the Attorney General and includes those functions not directly related to the office's litigation or law enforcement responsibilities.

Executive programs consists of the following units:

- Solicitor General / Opinion Unit
- Special Assistant Attorneys General
- Office of Communications
- Office of Legislative Affairs
- Equal Employment Rights and Resolution Office
- Office of Program Review and Audits



## Solicitor General Unit

The Solicitor General Unit ensures appellate excellence, particularly in the California Supreme Court and the U.S. Supreme Court. The unit helps to determine whether to seek review of a case in the state or federal supreme courts, assists deputy attorneys general in writing petitions and briefs, consults with deputies in preparing for oral argument and provides general instruction regarding Supreme Court procedures. The unit also coordinates and participates in the supervision of amicus curiae briefs filed by the Attorney General in state and federal reviewing courts, including the California and U.S. Supreme Courts and the Ninth Circuit Court of Appeals.

The Solicitor General is the Attorney General's liaison to state and federal appellate courts in matters relating to the conduct of the Attorney General's litigation efforts. The Solicitor General is also the Attorney General's liaison with solicitors general of other states and with the National Association of Attorneys General concerning matters relating to litigation before the U.S. Supreme Court. The Solicitor General is the statutory designee for receipt of service of all briefs filed in the California Supreme Court or state appellate courts concerning specified civil rights statutes.

The Solicitor General also oversees the Attorney General's Opinion Unit.

### Opinion Unit

The Opinion Unit prepares and distributes formal, written opinions in response to legal questions from legislators, state agencies, district attorneys, county counsel, city prosecutors and county sheriffs.

The unit also responds to requests for permission to bring quo warranto actions (disputes over the right of public office-holders to serve their term). Opinions published by the Attorney General may be cited by courts as persuasive authority.

Of the opinions issued during the biennial period, the following were of particular interest:

- **Opinion 07-302**  
**91 Ops.Cal.Atty.Gen. 28 (2008)**  
Under current state law, a court could invalidate a city's compromise settlement of a suit for damages brought by a city council member before his election to the council. The lawsuit would be against the city and its employees for alleged wrongful conduct committed against the member as a private citizen.
- **Opinion 07-1001**  
**92 Ops.Cal.Atty.Gen. 46 (2009)**  
A badge that resembles a peace officer's badge may be provided to and displayed by a public employee who is not a peace officer, but who has been granted limited peace officer powers in order to perform his or her official duties. The badge is used for identification in the course and scope of official duties, and must accurately identify the public employee by his or her specific limited-powers position.
- **Opinion 08-106**  
**92 Ops.Cal.Atty.Gen. 41 (2009)**  
When voters are asked to dissolve an existing community services district and, in the same election, to establish a new city

in the same area to provide services presently provided by the district, an individual may stand for election to both the existing district board of directors and the proposed city council on the same ballot.

- **Opinion 08-801**  
**92 Ops.Cal.Atty.Gen. 89 (2009)**  
Eligible military veterans and their registered domestic partners residing in California are entitled to state-funded veterans' benefits, including state-funded veterans' housing regardless of sexual orientation or gender
- **Opinion 08-803**  
**92 Ops.Cal.Atty.Gen. 56 (2009)**  
An entity or individual not licensed to practice medicine may not perform professional radiology services as part of a medical provider network or otherwise.

- **Opinion 07-801**  
**92 Ops.Cal.Atty.Gen 73 (2009)**  
The Constitution generally prohibits the Department of Transportation from selling or renting real property that it has acquired with motor vehicle fuel and use tax revenues for less than that property's fair market value or fair rental value. Below-market sales or rentals of such properties are constitutionally permissible as a limited exception to this general prohibition if the property qualifies as "surplus residential property" under the affordable-housing legislation known as the Roberti Law.
- **Opinion 08-806**  
**92 Ops.Cal.Atty.Gen. 102 (2009)**  
A community college benefits committee is not required to hold open meetings under the Ralph M. Brown Act to discuss employee matters.

## Special Assistant Attorneys General

The Attorney General appoints the Special Assistant Attorneys General to focus on the priorities of his administration, such as global warming, consumer issues and law enforcement. Special Assistants also serve as

the Attorney General's designees on task forces, commissions and committees and serve as liaisons with local, state and federal agencies, associations and advocacy groups.

## Office of Communications

The Office of Communications oversees media relations. The office organizes news conferences, provides media organizations with information on activities of the Attorney

General and the department, responds to daily press inquiries, conducts research, and prepares news releases.

## Public Inquiry Unit

The Public Inquiry Unit is the primary public point-of-contact for persons who seek assistance and information from the Attorney General's Office. The unit responds to thousands of written and telephone inquiries from the public, elected officials, law enforcement agencies and other governmental entities on a wide variety of subjects and issues.

### Alternate Dispute Resolution Program

The unit takes a leading role in helping consumers resolve their disputes with California businesses. In many instances, after a complaint is received, the Attorney General's Office contacts companies or individuals to resolve the issue through an informal mediation process.

### Consumer Protection

The unit works closely with attorneys in the Consumer Law Section on consumer issues, providing them with monthly reports of

complaints received and issues that may warrant further action. The consumer complaint information may be used to support investigations and lawsuits. The current economic downturn and housing crisis have led to a substantial increase in the volume of consumer complaints concerning predatory lenders and fraudulent loan modification companies.

### Public Inquiry Call Center

The Attorney General's telephone system provides frequently requested information to the public, and provides the option to talk to a PIU analyst.

### Accessibility for All Constituents

The unit has the ability to respond to telephone and written queries in foreign languages. The unit also provides reasonable accommodations to disabled constituents by offering services such as complaint transcription and materials in alternative formats.

## Office of Legislative Affairs

This office represents the Attorney General in legislative matters. The office is responsible for coordinating the Attorney General's communications with the state Legislature and Congress, as well as leading efforts to increase federal funding for the DOJ's programs.

The Attorney General sponsored 20 bills during the biennial period, most of which had a direct connection to the work of the

department. Some of the sponsored bills in this period included:

- **SB 53 (DeSaulnier)/AB 2496 (Nava)**  
Improves enforcement of the Tobacco Master Settlement Agreement. (SB 53 Chaptered 8-06-2009; AB 2496 Enrolled 9/02/2010.)

- **AB 428 (Ma, Fletcher)**  
Authorizes the release of criminal history information to facilitate foreign adoptions. (Chaptered 10/11/2009.)
- **SB 447 (Yee)**  
Requires a designee from an organization to initiate and receive criminal history background information. (Chaptered 8/06/2009.)
- **SB 449 (Padilla)**  
Requires the reporting of firearms transactions by pawn brokers. (Chaptered 10/11/2009.)
- **SB 484 (Wright)**  
Would have made the production of methamphetamine substantially more difficult by requiring a prescription for over-the-counter pseudoephedrine/ephedrine products. (Failed Passage 6/30/2009.)
- **AB 1209 (Ma, Hagman)**  
Permits law enforcement agencies to use mobile live scan devices in the field to book infractions and misdemeanors. (Chaptered 10/11/2009.)
- **AB 2514 (Skinner)**  
Will open PUC proceedings concerning electric providers' procurement of peak power from energy storage facilities. (Enrolled 9/08/2010.)

## Equal Employment Rights and Resolution Office

The office ensures equal employment opportunities within the DOJ, consistent with state and federal laws. The office administers the employee discrimination complaint process, monitors departmental employment processes, and provides training to provide a workplace free of discrimination and harassment.

### Training Programs

The office provided harassment and discrimination prevention classroom training to over 1,500 DOJ employees annually during the biennial period. It also provided diversity and inclusion awareness training and upward mobility skill-building workshops.

### Law Enforcement Programs

The office provides orientation for DOJ special agents to address the unique stressors inherent in law enforcement work. The orientations also cover procedures for critical incident debriefings.

### Employee Mediation Program

The office facilitates mediation services as a confidential alternative resolution process to help assist DOJ employees resolve conflicts in the workplace.

### Bilingual Services

The office provides translation services in 41 languages and now includes in-house translations of legal and law enforcement documents.

## Office of Program Review and Audits

The office is the DOJ's primary internal audit organization. The office ensures that the department meets Government Code requirements for accounting and internal controls.

The office reduces departmental risk by providing information and recommending solutions to DOJ programs to improve operational efficiency. The office also conducts internal control and program audits, program evaluations and management

reviews. The office coordinates external audit requests and responses from state and federal agencies and assists in defending the department's policies, processes and practices. The office coordinates responses to "whistle-blower" complaints.

The Director is the DOJ Information Security Officer and works closely with DOJ's Network Information Security Unit to develop procedures for privacy and information security.



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### **Operation False Charity**

This investigation led to enforcement actions against numerous individuals, telemarketers and charities that were engaged in deceptive solicitation practices. Millions of dollars were raised based on false claims that donations would benefit police, firefighters and veterans' organizations. The cases resulted in the dissolution of some of the targeted charities, repayments of misused donations and

injunctive relief that will prevent these individuals and entities from fundraising in California.

### **Registry Automation**

The Registry of Charitable Trusts has completed a multi-year implementation of an automation process for compliance issues, public access to documents filed with the registry, and online filing and registration.

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### **Special Programs**

The Victims' Services Unit provides assistance, information and support to families in capital cases. The unit is also the statewide contact for inquiries on Marsy's

Law. The Office of Native American Affairs advises the department on matters of tribal importance and serves as liaison between DOJ's legal and law enforcement divisions and tribal governments.

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### **Case Management Section**

This section is responsible for the support, training and maintenance of ProLaw, a legal case management and time reporting system used by the legal divisions.

During Fiscal Year 2009-2010, the section completed several important projects, including:

- ProLaw version 11 upgrade.
- Transition to Word 2007 from WordPerfect 8.
- Redesign of legal management reports.
- Customization of ProLaw for multiple legal practice areas.

## **Management Analysis and Policy Development Unit**

The Management Analysis and Policy Development Unit provides policy analysis and assistance to the Division of Administrative Support.

The unit monitors the statewide ssset

management system, by providing ongoing user training and modifying the system as necessary to meet the department's reporting needs. The unit also conducts mandated statewide physical inventories of all DOJ offices.