

C A L I F O R N I A
D E P A R T M E N T O F J U S T I C E

BIENNIAL REPORT *2017-2018*



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EXECUTIVE SUMMARY – HIGHLIGHTS OF 2017-2018

Confronting unprecedented challenges, the California Department of Justice in 2017-2018 remained steadfast in its mission to protect the people, values, and economy of our State. The last two years saw California continue to lead the nation and world in so many measures – even surpassing Great Britain to become the world’s fifth-largest economy – despite backlash from the Trump Administration and Washington, DC, against many of the people and policies that have made this success possible. Undeterred, the California Department of Justice continued to fight for rules that safeguard clean air and water, protect Californians’ access to healthcare, education, and economic opportunity, and promote public safety in our communities.

Preserving the rights and liberties of all Californians in the face of new threats instantly became a top priority for the California Department of Justice. Taking office just a few days after President Donald Trump was sworn in, Attorney General Becerra immediately jumped into the fight to stop the unconstitutional Muslim Travel Ban. He would go on to challenge several Trump Administration policies that targeted immigrants and LGBTQ Americans, as well as protecting funds for state and local law enforcement in light of the U.S. Department of Justice’s attack on “sanctuary jurisdictions.” Attorney General Becerra also secured a nationwide injunction to keep the Deferred Action for Childhood Arrivals (DACA) program in place so that DACA recipients can continue contributing to our economy and our communities.

Over the last two years, the urgency of California’s efforts to protect the planet became greater than ever, with historic floods and wildfires devastating our communities and claiming dozens of lives. Eight of the state’s most destructive wildfires have occurred in the past five years, a tragic fact made possible by a warming planet. The State of California continued to lead the way on policies to reverse climate change, from defending the state’s auto emissions standards to taking federal regulators to task for illegally undoing commonsense environmental policies. The Department also stood strong against reckless proposals to reopen out coast to offshore drilling. After President Trump announced that the United States will withdraw from the Paris Climate Accord, Attorney General Becerra in June 2017 proudly joined the “We Are Still In” coalition with leaders from government and business nationwide to reaffirm our commitment to confronting the most important global environmental issue of our time. At the heart of this work is protecting the people whose lives are upended by a changing climate, whether they pay with their health or pocketbooks.

The California Department of Justice went after companies that polluted the air and water, as well as ones that harmed consumers. For example, Attorney General Becerra secured a historic settlement with the Southern California Gas Company to resolve violations of state health and safety laws following a natural gas leak at its Aliso Canyon facility, as well as preventing oil giant Valero from acquiring a petroleum terminal in Benicia that could have meant higher gas prices for families in Northern California. Moreover, in the wake of natural disasters, the Department continued to enforce the state’s price-gouging law, bringing charges against those who would exploit fellow Californians in their time of greatest need.

Ensuring that Californians maintain access to quality, affordable health coverage remained impera-

tive in 2017-2018, with the gains of the Affordable Care Act threatened by the Trump Administration. The State of California intervened in a number of federal lawsuits to preserve the Affordable Care Act and its provisions that protect people with preexisting conditions and lower insurance premiums. The California Department of Justice also worked to ensure a level playing field in the state health care market, filing suit against health-care corporations whose anticompetitive practices raised prices for California families.

Leveling the playing field for California businesses that play by the rules remained a top priority for the Department of Justice. Leading the Tax Recovery and Criminal Enforcement (TRaCE) Task Force, the California Department of Justice continued to crack down on the underground economy, which harms vulnerable workers, businesses that follow the law, and taxpayers whose public services go underfunded. The Task Force is comprised of investigators and special agents from multiple agencies working together to investigate, prosecute and recover revenue lost to the underground economy. The TRaCE Task Force recovered wages and unpaid taxes from businesses in several notable cases in 2017-2018, including a janitorial subcontracting company in Orange County and a clothing retailer in Los Angeles. In April 2018, Attorney General Becerra sponsored legislation to expand the Task Force and establish permanent teams in every major metropolitan region across the state.

The national epidemic of gun violence also struck close to home in 2017-2018, with more than half of the victims in the Las Vegas shooting in October 2017 hailing from California. The California Department of Justice continued to enforce and defend the state's robust gun-safety laws, including universal background checks and a ban on assault weapons. California remains the first and only state in the nation to establish an automated system for tracking firearm owners who might fall into a prohibited status – due to a felony or violent misdemeanor conviction, serious mental illness, or protective order. Thanks to the work of the brave men and women of the California Department of Justice's Bureau of Firearms, the number of subjects in the APPS database remains at a historic low.

In response to the troubling expansion of self-manufactured weapons, Attorney General Becerra in June 2018 filed suit against the Trump Administration for reckless actions to allow blueprints for these weapons to become available without restriction. He concurrently released issued a consumer alert concerning the legal requirements that apply to self-manufactured guns. The California Department of Justice has also continued to keep up the drumbeat for real solutions to gun violence nationwide, like banning assault weapons and investing in counseling resources in schools.

Below are highlights from the biennial period:

Defending the Civil Rights of All Californians

Attorney General Becerra has worked to protect all Californians through the vigorous enforcement of civil rights laws and by taking a stand against discriminatory policies. The Attorney General intervened in ***Stockman v. Trump*** to challenge President Trump's ban on transgender individuals serving in the military. Joining individuals serving, and seeking to enlist in the United States armed forces, and Equality California, he challenged the ban under the First and Fifth Amendments to the U.S. Constitution. Together they secured a preliminary injunction against the ban, upholding transgendered American's right to serve while litigation is ongoing.

In another move to protect the rights of members of the LGBT community, Attorney General Becerra continues to enforce **State-sponsored travel restriction under AB 1887**, a law that prohibits state-funded travel to states that allow discrimination against LGBTQ individuals and communities.

Attorney General Becerra and the Department of Justice also took important steps to finalize and implement regulations under **AB 953, the Racial and Identity Profiling Act (RIPA)**. These RIPA regulations help build trust between law enforcement agencies and the community by giving officers clear instructions for about the process for collecting data pertaining to law enforcement stops. These regulations were formulated in a collaborative process with important input from stakeholders including civil rights groups, community organizations and members of academic.

The Attorney General also stood up against President Trump's discriminatory travel ban, filing an amicus brief in *Trump v. Hawai'i et al.* to detail the harmful impact the ban would have on California.

Defending the Environment & Holding Polluters Accountable

The Attorney General has fought to advance the cause of environmental justice in California, holding both corporate polluters and the federal government accountable. Since taking office, the Attorney General has successfully taken action against the Trump Administration **on 14 occasions** over their attempts to undermine the nation's environmental protections.

The Attorney General has defended California's right to clean air and water. In April, the Attorney General secured a ruling requiring the National Highway Traffic Safety Administration (NHTSA) to immediately implement **fuel efficiency standards for automakers**. He also opposed the Environmental Protection Agency's (EPA) unlawful delay of **ozone attainment standards**, securing a federal court ruling forcing the EPA to designate areas of the country with unhealthy smog levels. The Attorney General has also stood up for the **2015 Clean Water Rule**, filing suit against the Trump Administration's attempt to hand California's lakes, rivers, and streams to polluters.

The Attorney General has also taken action in-state to protect our environment. In August, the Attorney General announced **\$119.5 million settlement** with the Southern California Gas Company (SoCalGas) over the unprecedented natural gas leak from a ruptured well at its Aliso Canyon Natural Gas Storage Facility in Porter Ranch, California. He has also supported local communities' environmental efforts, endorsing the City of Oakland's ordinance prohibiting the storage and handling of coal and petroleum coke at the **Bulk Oversized Terminal**.

In light of these efforts, the Attorney General established **the Bureau of Environmental Justice** at the California DOJ to protect people and communities that endure a disproportionate share of environmental pollution and public health hazards.

Protecting the Health and Wellbeing of Californians

Attorney General Becerra is committed to protecting access to healthcare for all Californians. To defend Californian's right to quality healthcare, he established a new **Healthcare Strike Force** within

the California Department of Justice to monitor and defend against efforts to undermine the Affordable Care Act (ACA), Medicare and Medicaid, and access to quality, affordable healthcare for all Californians. Notably, Attorney General Becerra led a 20-state coalition opposing a Texas coalition's attempt to declare the ACA unconstitutional in *Texas v. HHS*.

He also filed suit and secured a preliminary injunction in *State of California v. Health and Human Services*, to block the Trump Administration's attempt to drastically limit access to contraceptive coverage by allowing employers or health insurers with religious or moral objections to opt out of the ACA's contraceptive-coverage requirement.

Keeping healthcare affordable for California families is of utmost importance. That's why in *California v. Sutter Health*, Attorney General Becerra filed suit against the largest healthcare provider in Northern California to challenge business practices that undercut competition in healthcare leading to higher prices for patients and consumers.

Protecting Consumers, Veterans, and Seniors

Ensuring that California's consumers are treated fairly by businesses remained a core focus of the California Department of Justice. In 2017-2018, the Department prosecuted dozens of businesses that broke California law, whether it be misleading advertising, abusive loan practices, or securities fraud. Historic settlements include **securing \$66 million from Volkswagen** for cheating on emissions tests and a **\$53 million from Dish Network** after it engaged in a nationwide campaign of illegal telemarketing. The Department also issued dozens of consumer alerts to provide Californians with information they need on price gouging, cybersecurity, Medicare fraud, and more.

The Department in 2017-2018 also built on the previous Administration's work to protect students who were defrauded by their for-profit colleges. With Corinthian Colleges shut down because of the Department's efforts, the Attorney General Becerra continued to advocate for victims, pressuring the U.S. Department of Education to expedite loan forgiveness and **securing a \$67 million settlement with Balboa Student Loan Trust** that will provide critical debt forgiveness and other much-needed relief for Corinthian students in California. The Department also took U.S. Secretary of Education Betsy DeVos to court three times for failing to enforce Obama-era regulations that protect students and borrowers.

The Charitable Trusts section also prosecuted scam charities, especially ones that claim to support veterans. Partnering with the Federal Trade Commission (FTC) and Attorneys General or regulators from every state in the nation, the California DOJ in July 2018 initiated "**Operation Donate with Honor,**" an education and enforcement campaign to help donors spot and avoid fundraising solicitations that falsely promise to help veterans and military servicemembers. Major enforcement actions included filing suit against Help the Vets, which used five different aliases to confuse donors and directed little of the \$20 million they raised between 2014 and 2017 to serving veterans.

Combatting Human Trafficking

Attorney General Becerra is focused on combating the pervasive issue of human trafficking in California and has made it one of his top priorities. Human trafficking is the world's fastest growing criminal enterprise; it has grown to a \$150 billion-a-year global industry through the exploitation

of our most vulnerable populations. Attorney General Becerra has taken major steps to disrupt this criminal industry by prosecuting human traffickers throughout the state and securing the permanent shutdown of the world's largest online brothel, Backpage.com, and affiliated websites. In 2017, The Department commenced a criminal prosecution against the operators of Backpage.com in *People of the State of California v. Carl Ferrer, Michael Lacey, & James Larkin*.

Attorney General Becerra also took steps to help equip Californians with tools to prevent human trafficking and protect the rights of survivors of sexual assault. As part of a new initiative, the Department provided resources including updated public posters that display information regarding services for victims of human trafficking and **“Sexual Assault Survivor’s Bill of Rights”** cards that local law enforcement agencies and district attorney offices distribute to survivors.

Attorney General Becerra also joined the California Department of Education to implement a first-in-the-nation program to provide education and training for teachers and students to prevent human trafficking. The Department of Justice is coordinating with school districts throughout California to outline these new requirements under Assembly Bill 1227, the Human Trafficking Prevention Education and Training Act.

Educating and Informing Immigrants, Fighting for Their Rights

California is home to over 10 million immigrants, who contribute to the state's vibrant culture and economy. Attorney General Becerra recognizes the value that our diverse population brings, and is committed to preserving immigrant's rights. In January 2018, Attorney General Becerra secured a nationwide preliminary injunction in *Regents of the University of California, et al., v. United States Department of Homeland Security, et al.*, ensuring that the federal Deferred Action for Childhood Arrivals program (DACA) would continue operating and providing protection to DACA recipients while litigation is ongoing. As a result, since January 10, 2018, more than 100,000 Dreamers have been able to renew their deferred action and work authorization under DACA, securing two more years of protection.

Attorney General Becerra has also made it a priority to go after fraudsters who prey on immigrants attempting to become legal citizens. These so-called “notarios” or “immigration consultants” purport to offer legal services to immigrants seeking citizenship, often charging thousands of dollars for legal services they are not qualified to give. He brought **charges against three suspects at “Oficina Guerrero”** in Inglewood, **obtained a guilty plea and \$371,709 in restitution** in a case against Yehlen Dorothea Brooks in Stockton, and secured **a five-year prison sentence for Oswaldo Rafael Cabrera** of Coalición Latinoamericana Internacional in Los Angeles, for defrauding immigrants.

The Department also released a guidance to help California's public K-12 schools and other local educational agencies develop policies to protect the rights of undocumented students and their families. The guide is designed to help schools better understand protections that safeguard the privacy of undocumented students and their families, and to serve as a model for local school districts.

Protecting Public Safety, Taking Down Gangs, Removing Firearms from Prohibited People

Attorney General Becerra is committed to protecting public safety by removing illegal weapons from our streets, disrupting criminal enterprises and defending State laws that protect public safety. Thanks to the continued hard work of the Division of Law Enforcement, families throughout the State of California can sleep easier at night knowing that major criminal gangs, drug traffickers, and felons are off the streets. The California Department of Justice continued to partner with federal, state, and local law-enforcement agencies to conduct major gang takedowns throughout the state. These partnerships have resulted in hundreds of arrests and the seizure of illegal weapons and stolen vehicles. Targets have included suspected members of the Mexican mafia and criminal gangs including MOB, Flyboys, East Coast Crips, and others. Intelligence gained throughout these investigations has also helped law enforcement prevent more violence; for example, a major takedown conducted in Orange County in May 2018 helped law enforcement prevent a number of violent crimes, including two attempted murders.

The California Department of Justice also continued to enforce the state's robust gun-safety laws, including those that aim to disarm individuals who have been barred from owning weapons due to a felony conviction, restraining order, or serious mental illness. The number of individuals who illegally possess weapons in California reached historic lows. To date, California Department of Justice officials have **seized more than 30,000 firearms from people prohibited from owning them** – more 18,000 of those firearms within the last five years. Agents continued to track down these weapons, with a few of their investigations leading to the recovery of unregistered firearms. In one seizure in February 28, agents recovered 25 firearms from an individual who was only known to possess two firearms. Other seizures have led to the recovery of automatic weapons and 3D-printed “ghost” guns.

Attorney General Becerra has also taken action to preserve California public safety laws and law enforcement funding from federal overreach. In *United States v. California* Attorney General Becerra successfully defended two California laws that provide for the safety, health, and welfare of its residents against a legal challenge by the United States' case seeking to invalidate Assembly Bill 103 (which requires state inspection and review of immigration detention facilities); and Senate Bill 54 (“the Values Act,” which generally prohibits state and local law enforcement from sharing certain immigration information with immigration authorities, without compulsory legal process. He has also filed two lawsuits *California v. Sessions and California v. Sessions II*, to oppose unlawful immigration enforcement conditions placed on a federal grant funds for local and state law enforcement.

DEPARTMENT OVERVIEW

The Attorney General’s responsibilities are fulfilled through the diverse programs of the Department of Justice, which has approximately 5,000 positions, four divisions, and an annual operating budget of over \$926 million.

<i>Division</i>	<i>Authorized Positions</i>	<i>Budget</i>
Legal Services Division	1,738	\$477,115,000
Division of Law Enforcement	1,104	\$251,810,000
California Justice Information Services	1,126	\$197,890,000
Directorate and Administration	1,006	(\$117,546,000)
<i>Total</i>	<i>4,974 positions</i>	<i>\$926,815,000</i>

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.

Major issues, significant cases, and improvements in the Department’s operations are highlighted on the following pages.

DIVISION OF OPERATIONS

Overview

The Division of Operations (OPS), through its nearly 900 employees, supports the day-to-day operations of the department and assists programs in administrative and technical areas such as accounting, budgeting, human resources, asset management, facilities, procurement, contracting, conferencing, regulations, recycling, training, law library services, legal case management, time reporting, litigation support, legal support services, and special projects.

The Division of Operations consists of the following sections and programs:

- **The Accounting Office** provides oversight and monitors the department's resources by maintaining centralized records through processing and reconciling of appropriations, expenditures, revenues, federal grants, travel, reimbursements, legal time reporting, and billing.
- **The Budget Office** is responsible for DOJ's annual financial plan and provides technical direction and support to program managers in preparation, negotiation, and management of the department's annual budget.
- **The Case Management Section** is responsible for the Office of the Attorney General's (AGO) legal case management, billing and business intelligence systems and all legal desktop applications. Supporting over 2,300 users in the three Legal Divisions, Division of Operations, and Executive Programs, CMS manages the systems responsible for recovering legal fees and costs of over \$200 million per year through the Legal Services Revolving Fund.
- **Legal Support Operations** provides administrative support and law library services for law offices in Sacramento, Oakland, San Francisco, Fresno, Los Angeles and San Diego. Services are provided to 1,375 attorney and paralegal staff in 30 law practice areas. The administrative services include legal secretarial and clerical support, business and office services, digital printing and reprographics, docketing and records management, procurement, and facilities management.
- **The Litigation Support Section** provides attorneys with services and applications to manage data for cases, investigations and Public Record Act requests. The section manages large-scale litigation using state-of-the-art software, Relativity, to design and implement databases to manage, sort, index, and extract large volumes of data produced in litigation. The section works with legal teams and client agencies to collect, preserve, and produce electronically stored information. Additionally, Litigation Support develops data management strategies, provides in-court technology assistance, provides training and user support for litigation software, and coordinates with vendors. Litigation Support also oversees the eDiscovery Committee which develops and

maintains procedures and policies in order to keep current with eDiscovery trends and changes. The Committee also provides ongoing training to legal staff.

- **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 and media production, and mail and delivery operations.
- **The Office of Human Resources** is responsible for all facets of employment for DOJ's 5,000 authorized positions. The section is comprised of eight programs: Classification, Performance and Labor Relations; Risk Management; Testing and Selection; Workforce Analytics and Recruitment; Position Control; Payroll and Benefit Services; FMLA and Special Leaves; and Justice HR.
- **The Office of Professional Development** monitors and provides training for the Department, standards for approval and training registration procedures, department mandated training, the Department of Justice (DOJ) Basic Supervision and mandated leadership training, training needs assessments, and employee training records.
- **Statewide Operational Services** provides analysis and assistance to DOJ in a variety of areas including fleet management, regulations, asset and records management, parking, merit awards, forms, conference services, wireless services, credentials and recycling.

Major Accomplishments

AGO Case Management System Enterprise Upgrade. The Case Management section successfully upgraded the ProLaw case management, accounting and billing systems to a current .NET platform ensuring a continued interoperability of the AGO's legal applications with the departments enterprise applications and IT infrastructure for the next five years.

Implementation of SB 467/B&P 312.2 Reporting Requirements. Business and Professions Code section 312.2 was added by the Legislature in 2015 (Senate Bill 467) and became effective on January 1, 2016. Section 312.2 requires the Office of the Attorney General to publish a report annually on January 1 each year, based on information from the previous fiscal year concerning accusation referrals received and adjudicated accusations for each Department of Consumer Affairs client agency represented by the Licensing Section and Health Quality Enforcement (HQE) Section of the Attorney General's Office. CMS, working closely with the HQE and Licensing Sections, developed new business processes, configured the case management system and leveraged business intelligence tools to automatically track the required case metrics to publish the first report on January 1, 2018.

Expansion of Online Resources and Legal Research Tools. Over the last two years, the Law Library Services team added hundreds of electronic resources to the library catalog through Westlaw Next, Lexis Advance, Accurint, HeinOnline and Courtlink. Research services were expanded through a combination of print and online resources, and new research tools for legal staff, such as

Westlaw Next and Lexis Advance, Courtlink, various legal research courses, webinars, one-on-one training sessions, and personalized research assistance with digitized, searchable legislative histories. The library also expanded its continuing legal education offerings with courses offered in all locations.

Significant Facilities and Telecommunications Upgrades. The Facilities Planning and Management team, which manages more than 1.5 million square feet of DOJ facilities statewide, oversaw the consolidation of Sacramento-area facilities and began a major effort to update the aging DOJ phone network with a Voice Over Internet Protocol (VOIP) system. The telecommunications upgrades affect more than 5,200 phone lines.

Office-Wide Reorganization of Human Resources Services. In order to improve customer service, OHR began an office-wide reorganization effort to allow staff to focus on specific service areas. This change has allowed OHR teams to provide consistent and focused service to DOJ staff without having to delay actions due to sudden assignments that take priority. Data has indicated increased customer satisfaction and reduced response times.

Expanded and Improved Recruiting. The Recruitment team worked to ensure a continued commitment to hiring both a highly qualified and diverse workforce. Through the 2017-2018 fiscal year, the Recruitment team's accomplishments include redesign of the department's public Careers page; participation and completion of the first year with the Mayor of Sacramento's Thousand Strong Program, employing five local high school students; completion of the first department-wide Workforce and Succession plan; and participation in over 30 career-related events. In addition, the team increased the department's social media reach with a 53 percent increase in social media followers across multiple platforms, and influenced 59 hires using LinkedIn Recruiter. The team leveraged its social media presence to execute an extensive recruitment campaign, specifically the Defend California campaign, to fill multiple Deputy Attorney General vacancies throughout the state and generated over 600 resumes from interested candidates.

Thinking strategically about recruiting a diverse workforce, the team developed recruitment workgroups for each legal division as well as for the legal internship coordinators. The team also launched a recruitment survey in order to collect demographic and recruitment information from job applicants to help improve upon the department's recruitment and selection processes. Lastly, DOJ recruiters completed the AIRS Certified Diversity Recruiter training and received tools, resources, and strategies to help them create and improve upon the department's overall diversity efforts.

Civil Service Improvement. In January 2018, the department participated in the statewide implementation of the Information Technology (IT) consolidation where 36 separate IT classifications were consolidated into 9 statewide IT classifications. The IT consolidation resulted in 321 departmental employees being converted to new IT classifications.

In support of statewide Civil Service Improvement (CSI), our office is actively participating in discussions and workgroups on various classification consolidation initiatives including the generalist and research classifications. Our office expects to resume participation in the upcoming attorney consolidation, to ensure parity with departmental attorneys.

Improved Health & Safety Programs. In May 2018, Risk Management staff developed and implemented a new and improved version of the department's Injury and Illness Prevention Program (IIPP) Health & Safety training. The training is web-based and is delivered over the department's intranet. In addition to significantly updating the content, the user experience has been greatly improved.

Establishment of New Family Medical Leave Act (FMLA) Unit. In order to centralize, streamline, and simplify the FMLA and temporary disability leave processes, the FMLA and Special Leaves Unit was created in November of 2017. This new unit provides enhanced support to supervisors with the administrative functions of approving leave requests for employees who may require FMLA or temporary disability leave. Additionally, the unit provides leave consultations to employees anticipating going on a protected leave. The unit also processes the payroll functions for employees who are on non-industrial disability leaves. Currently, the unit maintains over 300 active FMLA cases and over 70 disability cases. The unit responds to over 100 supervisor and employee inquiries per month.

Improved I-9 Process. The Payroll and Benefit Services Unit developed an improved method to track and process I-9 forms for newly hired employees. As part of this new process, an I-9 Coordinator was established to provide expert guidance and consultation to hiring programs to ensure forms are completed accurately, all required documentation is tracked and maintained, and the department is in compliance with federal regulations. The I-9 Coordinator is responsible for auditing required documents with expiration dates to ensure employees provide updated documentation when necessary.

Focus on Legal Support Operations (LSO). OHR conducted a study in an effort to examine the challenges faced by LSO and to identify potential strategies to address those challenges. The study focused on identifying strategies to attract and retain talent in LSO, specifically for the position of Legal Secretary. It was found that while somewhat lower salaries impacted recruiting, there are emerging changes to the field of legal support that impact the long term viability of the Legal Secretary classification. A number of recommendations were provided to help LSO address their challenges and we anticipate more actionable recommendations will be forthcoming early in fiscal year 2018-2019.

Training Needs Assessments. In response to results of the most recent Training Needs Assessment provided to the Department, the Office of Professional Development identified top training requests related to leadership, pre-leadership, Project Management, PowerPoint, and advanced Excel training. OPD now provides executive level leadership training, an Emerging Leader Program, a non-IT Fundamentals Project Management class, a PowerPoint Presentation course, and intermediate and advanced Excel classes. A new Training Needs assessment will be disseminated in the Fall of 2018.

Emerging Leader Program. OPD established this program by providing classes statewide through the Los Rios Government Training Academy focusing on topics related to preparation for leadership roles. As part of the development of the Emerging Leader Program, OPD partnered with the Equal Employment Rights and Resolution Office's Upward Mobility Program (UMP) by providing prior-

ity registration for official members of the UMP to attend any OPD class offerings identified where registration fills quickly. The Office of Professional Development also created an Emerging Leader intranet webpage highlighting emerging leaders focused classes, a tool box which includes career resources, career planning tools, and details related to DOJ's Upward Mobility Program.

Leadership Development Program. OPD launched a series of leadership training classes through the Los Rios Government Training Academy to provide leadership training across the State. Subsequently, OPD contracted with the California State University, Sacramento College of Continuing Education to bring leadership training targeted specifically to leaders at the executive level of the organization. This effort was found to be helpful once the revision to Government Code Section 19995.4 mandating initial and ongoing leadership training for new and existing leaders was established. Since then, many leaders have completed these courses.

Leadership Development Intranet Page. The Leadership Development Intranet page was the first phase OPD embarked on to prepare leaders and Training Coordinators (TCs) with a one-stop resource shop for all things leadership training mandate related.

eLearning for Leadership. OPD acquired an online portal through PACe in response to the need for leaders to have an alternate training option that would provide flexibility in time and attendance of leadership training content. OPD secured a 24/7 365 online optional resource to obtain mandated leadership training hours.

Statewide Training Coordinator (TC) Monthly Meeting. In response to the leadership training mandate, OPD developed processes, protocols, and procedures to provide a framework in which leaders can participate and report their mandated leadership training hours. As part of the structure, OPD developed a supportive community with the Training Coordinators and is in the process of drafting a Training Coordinator Manual.

Leadership Training Mandate Survey Monkey Evaluations. Survey assessments were sent to all leaders and all Training Coordinators related to the mandated leadership training process developed by OPD. The results will serve to reveal areas OPD can further improve internal processes, customer service, and customer satisfaction.

Training Policy, Basic Supervision Program Revision. Existing Training Policy caused some challenges to leaders attempting to adhere to the leadership training mandate. As a result, OPD proposed a revision to the Training Policy, Basic Supervision Program that would remove the requirement for a second attendance for those leaders appointed from outside of DOJ. Now DOJ will honor all external Basic Supervision certifications. This revision impacted close to 100 leaders that are now able to proceed with acquiring mandated leadership hours to meet compliance.

Blue Jeans Videoconferencing Service Acquisition. OPD launched a new videoconferencing service called Blue Jeans. In addition, OPD purchased and installed new videoconferencing equipment for nine offices statewide. OPD staff partnered with a Customer Success Manager from Blue Jeans and traveled across the state to provide training and increase the adoption rate of new users. Videoconferencing usage has increased a total of 152.97% from 2015 to 2017. Based on the current 2018

data, OPD projects a 38.92% increase resulting in a total of 4,855 videoconferences. It should be noted that OPD's work to promote this effort in the first quarter of 2018 has resulted in an estimated 2,295,421 miles of travel distance and a total of \$348,041 in travel costs saved.

Justice Journal Publication (formerly InfoNotes). The Legal Support Operations Statewide Manager requested OPD assume editing and publishing responsibilities for the InfoNotes quarterly publication. OPD accepted the responsibility and has changed the name to Justice Journal to encompass the spirit and culture of the Department in which we work. The Justice Journal will highlight areas of the Department not known by most to establish a community connection across the state and disciplines within the Department and will continue to provide recurring articles, such as the Leadership Café, The Writer's Block, in addition to new regular articles.

JusticeHR Project. The objective of this project is to replace the outdated and unsupported human resource and learning management databases with a fully functional and integrated system that will manage positions, time and attendance, and training for the Department as well as integrate with CalHR's Learning Management System. OPD recently assumed a signatory role for this project and continues to be a part of the weekly project team meetings. OPD is currently conducting business process analysis and reviewing the project management plan and special project report to the California Department of Technology. The expected date to begin execution of the new software is December 2019 with completion by June 2021.

Exchange 2016 Upgrade. This two-phase project involved upgrading Microsoft Outlook Exchange 2010 to 2016 statewide, then upgrading from Quest Archive Manager to Exchange 2016 Archive. OPD attended project team meetings, participated in testing, created an intranet webpage, and created job aids for end users.

Microsoft 2016 Upgrade. This project upgraded Microsoft software Department-wide from 2010 to 2016. OPD attended project team meetings, participated in testing, updated job aids for end users on the OPD Microsoft webpage, updated all of its Microsoft training classes, and increased its class offerings to meet the needs of DOJ employees adjusting to the upgrade.

DOJ Call Center Migration. As one of four programs that provide help-desk assistance statewide to DOJ employees, OPD played a key role in the project that migrated the DOJ Call Center from Quest to CenturyLink by performing testing, attending project meetings, and providing feedback to the vendor. CenturyLink provides a more robust platform for the help desk, an enhanced experience for customers, integration with the new VoIP phones, and integration with Bomgar secure remote access, which allows help desk agents to provide reliable remote support to end users statewide.

Employee Alert System. The unit worked with DOJ's Hawkins Data Center to secure a vendor and implement a reverse notification system that pushes alerts out to employees through various means (text, email, voice). The new system is called the Employee Alert System and runs concurrently with the existing DOJ emergency notification system in which staff call in for notifications. The Employee Alert System was implemented in March 2017, and allows for employees to access and maintain their own information and update it as needed (phone number, division, work location, etc.). The system also allows for employees to download an app to their smartphone and receive notifications

through the app rather than having to enter their personal cell phone number into the system. Specific offices or divisions can be targeted in the event of an emergency situation as opposed to a statewide notification that may not affect all employees. The system is maintained by SOS and a small number of individuals in Exec, Facilities, and SOS have access to send alerts.

Current Employees Without a DOJ Applicant Cycle. As part of the hiring process, candidates for employment with the Department of Justice must undergo a fingerprint criminal record (background) check, which includes a check of both California and Federal Bureau of Investigation (FBI) criminal history databases. Referred to as an “applicant cycle,” these fingerprint images are retained as part of the employee’s criminal history record for purposes of subsequent notification of arrests and/or disposition.

During review of DOJ employee applicant cycles, it was discovered that there were a number of current employees that did not have a DOJ applicant cycle. Without a DOJ applicant cycle, the department will not receive notification of the employee’s subsequent criminal justice related activity. All employees with a missing DOJ applicant cycle were required to be re-live scanned to establish that applicant cycle.

The Statewide Operational Services Unit worked with the Bureau of Criminal Information and Analysis (BCIA) in identifying the specific employees. The initial list consisted of 59 employees without a DOJ applicant cycle and after working with the specific divisions to get employees from their program(s) re-live scanned, there are only three employees from the original list that still need to complete their re-scan. BCIA has been able to monitor employee live scan records more closely on a monthly basis. As they review new records, additional names may be added, but are reconciled between SOS and the divisions on a much smaller scale. The current list consists of seven (7) employees, which includes the three not completed yet from the original list. Names on the current list are still being reviewed to determine if live scans were initially performed under a different last name, in which case, many names can be reconciled and removed from the list.

AB 953: Racial and Identity Profiling Advisory (RIPA) Board Regulations. The Legislature passed a bill requiring the Attorney General to establish the Racial and Identity Profiling Advisory Board (RIPA) to eliminate racial and identity profiling and improve diversity and racial and identity sensitivity in law enforcement. The bill would specify the composition of the board. The law also requires the board, among other duties, to investigate and analyze state and local law enforcement agencies’ racial and identity profiling policies and practices across geographic areas in California, and to annually make publicly available its findings and policy recommendations. The Attorney General adopted regulations outlining the reporting requirements of AB 953. The DOJ Regulations Coordinator worked closely with programs on ensuring the regulatory process was followed under the Administrative Procedure Act and acted quickly in each step of the process, including serving as the liaison between DOJ programs, the Department of Finance and the Office of Administrative Law. The regular rulemaking package was filed with the Secretary of State on November 7, 2017, ahead of the original due date.

Challenges Ahead

In the past few years, the Accounting Office has experienced the **retirement of key staff members with a few more expected over the next three years**. In order to mitigate any risk of loss or key dependency, the Accounting Office is working with the Office of Human Resources (OHR) to re-establish the Fiscal Systems Unit. The unit will work with the Accounting staff to assist with technical issues, maintain systems, and act as technical liaison. As the Accounting Office has been deferred from implementing the Financial Information System for California (Fi\$Cal), the unit will also take the technical lead on the Accounting Information System (AIS) unit databases and any future system acquisitions to ensure continued compliance with mandated changes and provide accurate and timely data.

Implementing JusticeHR. OHR, OPD and CJIS are working to procure a system for automating the time management, position control, and learning management processes used by the Department of Justice (Department). The Project will provide a centralized data repository governed by state laws and rules, minimizing redundant processes while allowing for accurate real-time reporting. The solution will include self-service capabilities to reduce workforce efforts in the areas of training registration and time tracking. The project launch date is projected for the first quarter of 2020, but a number of key OHR staff will be dedicated to system procurement for most of 2019, followed by system design and testing leading up to the launch date.

The Office of Human Resources is currently facing a **space crisis**. Given the growth of the office that has been necessary to both provide new services to programs as well as to enhance the responsiveness and efficiency of our traditional services, the office is projected to have no free space after hiring five new approved positions. This is particularly problematic, given anticipated further expansion due to centralizing some additional functions, as well as the creation of at least one new program to support our departmental program needs. The Office of Human Resources has worked with DGS and created preliminary remodel designs and obtained cost estimates necessary to better utilize our existing space. In some cases, this will involve significant remodeling while, in other cases, simple cubicle installations. The cost of the remodel project is anticipated to be \$452,400.

OHR struggles with the current **technology acquisition requirements** enforced by CJIS and the California Department of Technology that add months and years to requests that sometimes involve very little capital outlay and business process impact to other units in the organization. These cumbersome acquisition requirements hinder our ability to rapidly respond to Executive requests to enhance existing recruitment and assessment processes, imposing extraordinary delays when it comes to investigating technology solutions. A policy of identifying low-risk/high reward projects that may be expedited would go a long way to allowing the Office of Human Resources implement technologies that will greatly enhance our ability to recruit, assess and hire a diverse group of highly qualified applicants. One example is an effort by the Testing and Selection Unit (TSU) to subscribe to a cloud-based service that would permit the Department to administer high quality online examinations. This system would allow us to more efficiently reach a diverse potential applicant pool, as well as significantly increase the quality of available assessments compared to what is available through CalHR. A further enhancement is that the system would allow the Testing and Selection Unit to develop and

provide valid and reliable pre-hire assessments to managers and supervisors to aid them in making high quality hiring decisions. We anticipate the proposed solution will cost the Department less than \$30,000 per year.

Monitoring the effectiveness of recruiting efforts presents challenges for the Office of Human Resources. **Implementing an Applicant Tracking System (ATS)** would allow our Department to streamline the recruitment process, improve overall applicant experience, and save time and resources. An ATS would enable our Department to instantaneously organize and store resumes from prospective candidates. Recruiters would be able to easily search for candidates who have submitted their resume, quickly and easily by using keywords and filters. In addition, it would allow recruiters to be able to frequently market our vacancies and exams to relevant candidates within the ATS database. However, *in order to implement a standardized software solution like an ATS, it would require a more standardized hiring process.* Centralizing the hiring process would allow for a more standardized approach and a much more effective approach to recruitment, without this the Department is forced to lean on effective communication and ensuring proper training which also presents challenges.

Class Consolidation and Compensation Projects. Over the last few years, the state has been implementing some of the results of their civil service improvement plan, which includes class consolidation. The first consolidation effort came early this year in the form of the Information Technology (IT) class consolidation, which consolidated 36 IT classes down to only nine classes. In order to implement this change, the Department had to evaluate program structure, allocations, and placements for approximately 350 employees. In addition, the consolidation resulted in the need to reevaluate program structures and reporting relationships in order to avoid misallocations. Since that time, we have also implemented the Research classification consolidation and are currently evaluating the upcoming generalist consolidation, which poses a significantly larger impact to the Department than the IT consolidation did. In addition to the statewide consolidation efforts, the Department has evaluated some of the Department-specific classifications and determined the need to revise and update certain classifications for recruitment and retention purposes. Completing classification and compensation projects of this scale require dedicated resources to gather, evaluate, and analyze years of departmental data in addition to comparative data from private and other public entities. Unless additional resources are allocated, this will require existing staff to continue to split their time between these projects and their existing workload, which impacts the ability to maintain accurate and timely responses to day-to-day tasks.

Forecasting Revenues and Fees. The Department's budget has changed over the past ten years by going from approximately 50 percent General Fund to 25 percent General Fund and increases in special fund resources and revenues. In addition, the attorney hour billing rate has been unchanged since 2009 and currently sits at \$170 per hour despite numerous cost increases associated with employee compensation and other costs of doing business. With more reliance on special fund revenues and fees, the Department must be more proactive and engaged in managing fees and special fund resources.

DIVISION OF LAW ENFORCEMENT

Overview

The Division of Law Enforcement (DLE) is one of the largest statewide investigative law enforcement agencies in the United States. DLE is comprised of 1,101 sworn law enforcement officers, criminalists/forensic scientists and professional personnel. The division is organized into five major program areas:

- **The Office of the Chief** provides support functions to the four bureaus within DLE, administers local assistance funds, and offers training opportunities for local, state, and federal law enforcement agencies.
- **The Bureau of Firearms** serves the people of California through education, regulation, and enforcement actions concerning the manufacture, sales, ownership, safety training, and transfer of firearms. The Bureau ensures the state's firearms laws are administered fairly, enforced consistently, and understood uniformly throughout California.
- **The Bureau of Forensic Services** conducts scientific analyses of evidence for investigations conducted by state and local law enforcement agencies within California.
- **The Bureau of Gambling Control** conducts investigations into violations of laws associated with all card rooms and Indian gaming facilities within California. The Bureau ensures that gambling is conducted honestly, competitively and free from criminal and corruptive elements.
- **The Bureau of Investigation** investigates a wide range of criminal activities including human trafficking, drug trafficking, white collar crime, recycling fraud, Internet crimes, transnational criminal organizations, and the underground economy.

The overall purpose of the division is to enhance the effectiveness of state and local law enforcement agencies throughout California. Specifically, DLE special agents contribute unique technical expertise to criminal investigations and work together to provide investigative law enforcement services throughout California, while DLE scientists provide cutting-edge forensic services to agencies throughout the state. Together, the Office of the Chief and the four bureaus are dedicated to enhancing public safety and protecting Californians.

Major Accomplishments

Office of the Chief

Tobacco Grants Awarded. The Office of the Chief launched a competitive grant program in response to the passage of Proposition 56 (2016), which increased the sales tax imposed on each tobacco product by \$2.00 per item. The revenue generated by this measure included a mandate for the Department to administer \$30 million in local assistance funds through a competitive grant program in an effort to reduce illegal tobacco sales to minors. The Department conducted two application periods that resulted in \$37.5 million in fund distributions to 70 local governmental agencies.

Bureau of Firearms

Disarming Dangerous Individuals through the Armed Prohibited Persons System. Established in 2006, the Armed Prohibited Persons System (APPS) identifies registered firearm owners in California who subsequently become prohibited from owning firearms. The number of active prohibited subjects in the database changes on a daily basis due to the addition of new subjects and removal of others. Overall, the total number of active prohibited subjects in the database is steadily declining despite the continual addition of newly prohibited persons, primarily due to BOF's enforcement efforts. There were 10,634 active subjects in the APPS database on January 1, 2017, and 10,127 on May 31, 2018. During the same period, BOF enforcement teams conducted 11,380 investigations that led to the seizure of 4,701 firearms and 1,192,141 rounds of ammunition. The APPS program section processed 114,363 requests for firearm eligibility determinations and confirmed that 39,909 individuals were prohibited from ownership.

Notable APPS seizures in 2017-2018 include:

- ***Federal Search Warrant Served on Gun Club Results in Seizure of Numerous Assault Weapons and Non-Roster Firearms.*** A six-month investigation conducted by BOF agents assisted by the Bureau of Alcohol, Tobacco, Firearms, and Explosives culminated with the service of a federal search warrant at a Sacramento gun club. Agents had received allegations that the gun club owner was selling non-roster firearms to individuals utilizing peace officer identifications from previous clients. Agents served the search warrant and seized 14 assault rifles, three assault pistols, 31 non-roster handguns, and 75 large-capacity magazines. The gun club owner is being federally indicted.
- ***Ventura APPS Subject Arrested for Possession of Firearms/Assault Weapon.*** An APPS investigation in the City of Ventura resulted in the arrest of a subject and the seizure of one assault weapon, nine handguns, four shotguns, 21 rifles, and four large-capacity magazines. The suspect was prohibited from firearms ownership due to an active domestic violence restraining order. The APPS subject was convicted and sentenced to 90 days in jail and 36 months' probation.
- ***Numerous Weapons Found in Attic of Previously Convicted Felon.*** A previously convicted felon was arrested by BOF agents in the Sacramento area after conducting a consent search of

the APPS subject's residence. The subject was evasive with agents at first, but later admitted to agents that he had hidden firearms in the attic of his residence. As a result of the consent search, agents seized 12 rifles, 12 shotguns, one magazine, and approximately 30 rounds of ammunition. The subject was arrested and charges filed with the Sacramento County District Attorney's Office.

- ***Santa Clara Previously Committed Mental Health Patient Arrested with Assault Weapon/ Firearms and Ammunition.*** BOF agents conducted a consent search at the residence of an APPS subject in Santa Clara who was a previously committed mental health patient. The subject admitted to possessing firearms at his residence and gave agents consent to search. As a result of the consent search, agents seized one assault rifle, two AR-15 lower receivers, two rifles, five handguns, two shotguns, 33 magazines, and approximately 5,400 rounds of ammunition. The APPS subject was arrested, convicted, and sentenced to four months in jail and three years' probation.
- ***Search of Norwalk home yields arsenal of firearms under a bed.*** Agents hauled out more weapons than were listed in the APPS database for a subject residing in the city of Norwalk: three assault-style rifles, one shotgun, one handgun, and 6,500 rounds of ammunition. One of the rifles was outfitted with a bump stock, which allows a semi-automatic weapon to function similarly to a machine gun. In addition, two of the rifles are considered "ghost guns" – weapons free of serial numbers so they cannot be traced by law enforcement. The subject acknowledged that a judge had told him he couldn't possess weapons, but he made a decision to do so anyway. He was arrested, pled guilty, and was sentenced to 16 months in state prison.
- ***San Diego man under a DVRO caught with large cache of firearms and military ordnances.*** A search warrant conducted on an APPS subject in San Diego who is prohibited from owning firearms due to a domestic violence restraining order resulted in the seizure of nine assault rifles, two shotguns, six handguns, 147 magazines, approximately 3,500 rounds of various calibers of ammunition, and various types of military grenade flash bangs, smoke grenades, illumination flares, and small detonating devices. The subject was arrested, pled guilty, and was sentenced to four days in jail and three years' probation.
- ***Father and daughter charged with illegal possession of firearms, ammunition.*** A Temple City man and his adult daughter were charged with having an illegal cache of weapons, including more than a dozen assault rifles. The subject is banned from owning firearms due to previous felony convictions for possession of a machine gun and counterfeiting money. Agents raided the man's home looking for four illegal firearms that the man had registered, but instead found 28 firearms and more than 66,000 rounds of ammunition. The cache included 13 AR-15 style rifles, 11 "ghost guns," two fully automatic machine guns and several rounds of tracer ammunition. This case is pending in court.
- ***Agents execute search warrant obtained for an aircraft owned by an APPS subject and find assault weapon with bump stock.*** Agents conducted an APPS investigation in San Diego involving a subject prohibited from owning and possessing firearms due to a prior felony conviction for rape and a domestic violence restraining order. The subject was uncooperative and evasive about the location of firearms registered in his name, which led the agents to obtain a search warrant

for his residence and personal aircraft. When agents executed the search warrant, they seized two assault rifles, one of which was outfitted with a bump stock; a handgun, ammunition, and magazines from the aircraft. The subject was arrested on felony weapons charges and the case is pending in court.

- ***Agents seize more than two dozen guns from a North Hollywood man.*** Agents seized more than two dozen guns and thousands of rounds of ammunition from a North Hollywood man nearly five months after a judge barred him from having firearms. When agents went to the man’s home in North Hollywood looking for two guns that he had registered, they found 25 firearms, including rifles with high-capacity magazines, and thousands of rounds of ammunition. The man was arrested and pled no contest to four criminal counts including possession of a firearm by a prohibited person due to a criminal protective order, possession of ammunition by a prohibited person, importation of a large capacity magazine, and unlawful storage of a firearm. The man was sentenced to 184 days of house arrest followed by 180 days in county jail, in addition to 42 months of probation and 52 weeks of domestic violence counseling. Under the terms of his sentence, the man will remain prohibited from owning or possessing a firearm and is subject to search and seizure conditions from law enforcement at any time. All weapons seized in the case were ordered destroyed.

Implementing New Ammunition Vendor Licensing Laws. Effective January 1, 2018, a valid ammunition vendor license is required in order for any person, firm, corporation, or other business enterprise to sell more than 500 rounds of ammunition in any 30-day period. The Ammunition Vendor Licensing Unit within the Bureau of Firearms issued 266 AVL licenses as of May 31, 2018.

Updated Firearm Dealer Training. The Training, Information and Compliance Section within the Bureau of Firearms updated the format of their New Dealer Training webinar for new and existing firearms dealers into a Basic Firearms Dealer webinar. The four-hour training webinar is broken up into two-hour segments over the course of two days, which includes morning and evening sessions, and allows TICS to train multiple licensees and their employees at one time. This new format minimizes the number of hours that licensees and their employees have to take away from their regular work hours to complete the training.

Implementing New Assault Weapons Laws. With a 2016 bill expanding the definition of “assault weapon” to include weapons with a bullet button – an ammunition feeding device that can be readily removed from the firearms with the use of a tool – the Assault Weapons Registration Section of the Bureau of Firearms reviewed 14,096 applications and registered 11,303 bullet-button assault weapons between August 3, 2017, and May 31, 2018.

Bureau of Forensic Services

Providing World-Class Forensic Services to Jurisdictions Throughout California. The Bureau of Forensic Services (BFS), one of the largest laboratory systems in the nation, completed over 100,000 requests for analysis from client agencies over the biennial period.

<i>Forensic Discipline</i>	<i>Completed Requests</i>
Biological Evidence	1,809
Blood Alcohol (DUI)	19,619
Breath Alcohol (DUI)	39,970
Controlled Substance	26,270
Crime Scene Response	275
Digital Evidence	136 (47 computers, 89 mobile devices)
DNA	4,366
Firearms	1,072
Latent Print Processing and Comparison	2,037
Toxicology	8,798
Total	104,352

Notable cases aided by BFS efforts include:

- ***Fresno Laboratory Cracks Unsolved Murders.*** In late 2017, a Fresno senior criminalist worked for over a month on a DOJ Bureau of Investigation/Bakersfield Police Department case involving the unsolved murders of a 3-year-old and a truck driver. Evidence was seized as part of a regional wiretapping operation of a number of potential suspects. Examinations included comparisons of 15 guns with 164 cartridge cases and 6 bullets, resulting in the successful identification of a .40 Smith and Wesson pistol and three cartridge cases. These identifications tied the suspect(s) to the unsolved murders and led to arrests in the case.
- ***Freedom Laboratory Helps Solve Kidnapping and Murder Case.*** A Freedom laboratory criminalist re-examined clothing evidence in the 1998 kidnapping and murder of Christina Williams in Monterey County. This evidence had been examined previously by the FBI. A semen stain was identified and resulted in a DNA database hit to Charles Holifield, who was arrested and charged with kidnap, sexual assault, and murder. The trial is pending.
- ***Santa Barbara Laboratory Cracks Aggravated Assault and Gang Rape Case.*** A Santa Barbara criminalist provided lengthy testimony at the preliminary hearing for an aggravated sexual assault/gang rape case that occurred in 2014. The evidence was processed by the Santa Barbara laboratory immediately after the assault and a profile submitted to CODIS. The defendant, Daniel Chen, was identified in 2016 as result of a DNA hit and pleaded guilty after the preliminary hearing. He was sentenced to 36 years in prison in October 2017.
- ***Freedom and Santa Barbara Laboratories Solve Gun Violence Cases.*** Brad Azcona was convicted of multiple shootings in Salinas, including one that killed a 16-year-old. Firearms examinations by the Freedom Laboratory linked the shootings to each other and to Azcona's handgun, and DNA analysis performed by the Santa Barbara Lab linked Azcona to two of the crime scenes. Testimony was provided by both Freedom and Santa Barbara criminalists.

- ***Adjudication of a Fresno CODIS hit.*** In June 2018, Joel Viveros was sentenced to two consecutive 25-year terms for the 2009 aggravated kidnapping and violent sexual assault of a Fresno woman. The rapist's DNA profile was entered into CODIS in 2009, and it did not hit until 2016 when Viveros' sample was entered into CODIS after he was arrested for armed robbery. This case was a complete stranger rape that would not have been solved were it not for CODIS and the work done at the DOJ Fresno laboratory.
- ***Familial Search Provides Lead to Solve 1992 San Diego Rape/Homicide.*** In February 2017, the Data Bank Program provided an investigative lead which indicated that a full sibling of an offender currently in the database was likely the source of the male DNA recovered from the 84-year old victim's vaginal swab. The perpetrator was determined to be Jeffery Falls, who had died in a motorcycle accident in 2006.

Expanding Teaching at the California Criminalistics Institute. Recognizing the importance of and demand for professional development training for forensic scientists, BFS added a new course in Cognitive Bias to the regular course offerings at the California Criminalistics Institute in 2017. This course, along with others in professional conduct and communication, helps ensure delivery of fair and impartial results of analysis at BFS and other public crime laboratories throughout California.

Among the unique course offerings were eight special topic Armorer School Firearm courses and Bureau-wide training in the administration of Narcan® (naloxone hydrochloride), an inhaled drug used to mitigate Fentanyl exposure risks, in advance of deploying Narcan® supplies to all field laboratories.

Missing Persons DNA Program (MPDP) Assisting with Devastation of Historic Wildfires. The northern California wildfires of October 2017 were the deadliest fires in the U.S. in 100 years, killing at least 44 people. When the fires initially erupted, the MPDP reached out to the Sonoma County Sheriff-Coroner's Office (SCSCO) to offer assistance. Due to the overwhelming nature of the disaster, the SCSCO was severely short-staffed and requested that MPDP staff make a rare field response to their Santa Rosa office to assist with reviewing cases and selecting and packaging the remains evidence, as well as to transfer the evidence to the Jan Bashinski DNA Laboratory in Richmond. Items from five unidentified fire victims and DNA reference samples from grieving family members were selected for DNA testing and comparison. MPDP prioritized these cases and was able to quickly identify five victims of this tragedy.

Improved Toxicology Screening. With the legalization of marijuana in California, the driving under the influence of drugs (DUID) toxicology caseload is expected to increase significantly. The Toxicology Laboratory is responding proactively by validating and implementing new methods and workflows to expand capabilities, increase efficiency and mitigate backlogs.

The purchase of a second \$400,000 LC/MS/MS instrument is in progress and will help limit the impact of increased workload from DUID cases, should oral fluid testing be required in the future. Office of Traffic Safety grant funds were originally designated for this purchase, but because none of the vendors selling the LC/MS/LS equipment are Buy America Act compliant (all parts manufactured in the USA), the equipment will be purchased using BFS funds. The laboratory is also developing and validating a new benzodiazepine quantitation method for LC/MS/MS. The method will

include the ability to identify zolpidem (Ambien), fentanyl, and carfentanil in blood.

Eliminating the Rape Kit Backlog through Rapid DNA Service. The Rapid DNA Service (RADS) provides expedited processing and DNA typing of body swabs collected from rape victims. Sexual assault evidence kits are directly submitted to the DNA programs at the Jan Bashinski DNA Laboratory in Richmond and regional laboratories in Sacramento, Fresno, Redding, and the Central Valley. Following streamlined analysis of the sexual assault evidence, perpetrator DNA profiles are uploaded into CODIS where they are compared to the DNA profiles of over 2.8 million offenders/arrestees in California and over 16 million offenders/arrestees nationwide. Since the last biennial report, another 22 counties have become RADS participants for a current total of 39 participating counties. Implementation of the RADS program has contributed to DOJ's success in eliminating its sexual assault kit backlog.

Enhanced Sexual Assault Forensic Evidence Tracking (SAFE-T). Per California Penal Code section 680.3, all sexual assault kit evidence collected on or after January 1, 2018, must be entered into DOJ's SAFE-T database. This mandate was enacted to enable the state to track the collection and processing of every single sexual assault evidence kit collected in California.

Probabilistic genotyping. BFS's DNA casework programs have implemented STRmix™, a relatively new computer-based approach to DNA mixture interpretation. STRmix™ probabilistic genotyping software speeds up the deconvolution of DNA mixtures and facilitates the interpretation of complex DNA mixtures that would have been uninterpretable with past approaches. This new interpretation approach requires extensive validation and training, and it has allowed BFS to take a second look at interpreting older cases with DNA results that were previously deemed uninterpretable. STRmix™ has been validated at the Jan Bashinski DNA Laboratory where eight analysts are currently using it in casework. Analysts in BFS's six other DNA programs are currently in training.

Method Development Program. The Method Development group at the Jan Bashinski DNA Laboratory completed the validation of the Tecan liquid-handling robotic system for the use of both the Quantifiler Trio® DNA quantitation kit and the GlobalFiler® expanded core STR kit for casework applications. Additionally, work done by the Method Development group was published in three articles in the scientific journal *Forensic Science International: Genetics*. The articles described work done to improve the separation of different contributors to DNA mixtures recovered from sexual assault evidence as well as the validation of STRmix™ probabilistic genotyping software.

Cal-DNA Data Bank. In April 2018, the state databank reported the fifty-thousandth crime scene-to-offender hit in the CAL-DNA CODIS system. At the end of May 2018, the CAL-DNA Data Bank had 2,762,006 convicted offender and arrestee DNA profiles and 99,626 crime scene DNA profiles in CODIS. Also in April 2018, the California Supreme Court decided *People v. Buza* in favor of the state. Mr. Buza's misdemeanor conviction for refusing to give a DNA sample as an adult arrested for a felony arson charge was upheld, as was the constitutionality of arrestee collections under both the U.S. and California constitutions. The Buza decision allowed California to continue to participate with the FBI in the development of a Rapid DNA (RDNA) at Booking Stations Pilot Project, which was launched after the President signed the Rapid DNA Bill in August of 2017. Several BFS staff members serve on the FBI's Scientific Working Group on DNA Analysis Methods on RDNA and various other projects.

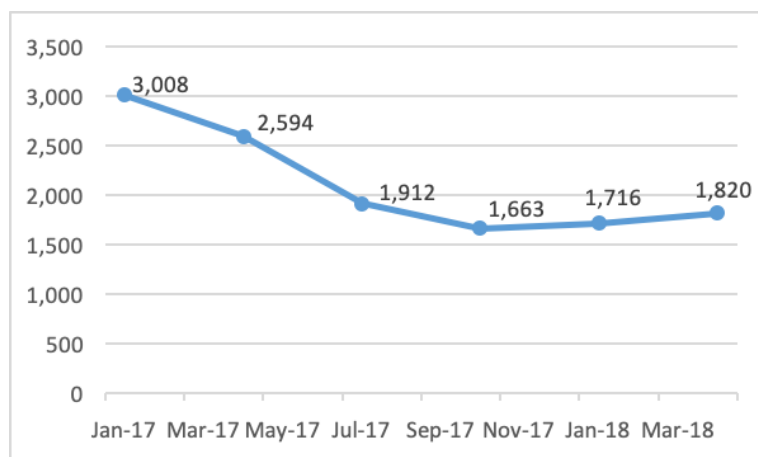
Familial Search Program. In January 2018, the DNA Data Bank program implemented a new processing stream for compromised samples. This program allows the Familial Search Program to get all of the data necessary to address the potential relatives of crime scene samples that are in the database. Ten familial searches have been completed thus far, and many more are currently in progress.

Bureau of Gambling Control

Major League Sports Raffle Program. The Major League Sports Raffle Program (MLSRP) authorizes nonprofit eligible organizations affiliated with Major League sports teams across California to conduct raffles at home game sporting events. Commonly known as 50/50 raffles, the MLSRP allows events where 50 percent of the gross receipts generated from the sale of raffle tickets are used to benefit or provide support for charitable purposes and the other 50 percent is paid to the raffle ticket winner. The MLSRP became effective January 1, 2016. In the 2017 calendar year, two suppliers, 17 eligible organizations, and 769 raffle events were registered. As of June 2018, this calendar year has registered two suppliers, 18 eligible organizations, and 618 raffle events.

Compliance and Enforcement. The Compliance and Enforcement Section (CES) is decentralized into two regions, north and south, each under the direction of a Special Agent in Charge. CES initiated 357 investigations and 180 regulatory compliance inspections of licensed card rooms and tribal casinos. As a result of criminal investigations, search and arrest warrants were issued and illegal gaming devices, illegal narcotics, and other contraband were seized. CES staff also generated 10 accusations, 46 statements of issues/particulars, 136 tribal inspection letters, and 42 letters of warning.

Licensing Section Increase in Position Authority. As of July 1, 2016, BGC received 20 positions with three-year limited term funding through a letter written and signed by each member of the Assembly Committee on Governmental Organization to assist with the backlog of background investigations required for applicants of California card rooms and Third-Party Providers of Proposition Player Services. As demonstrated in the chart below, the backlog has been significantly reduced as a result of the increase in staff for the Licensing Section. The initial strategy to reduce the backlog and train new staff members was to assign the least complex cases that could be worked quickly. The slight rise over the last two months can be attributed to the fact that staff are being assigned more complex cases to investigate.



Cracking Down on Illegal Gambling. In January 2018, the Benicia Police Department requested assistance with an investigation into an illegal gambling establishment/internet café. BGC agents conducted two separate undercover operations at the internet café. Based on information obtained during the undercover operations, search warrants were obtained for the business location and the residence of the business owners and arrest warrants were obtained for the business owners. On February 1, 2018, BGC and Benicia PD served the search warrants. Agents seized approximately 18 illegal gambling devices, U.S. currency indicia supporting illegal gambling activity, methamphetamine and illegal firearms. The business owners were both arrested pursuant to the arrest warrants and a third subject at the residence was also arrested on illegal firearms charges. Felony charges were filed against the owners of the business for conspiracy and illegal possession of a gambling machine. Additionally, one of the owners was charged with possession of methamphetamine.

Cracking Down on Internet Gambling. In late 2017, BGC agents received an anonymous phone complaint regarding an illegal internet gambling establishment located in Stockton. The agents conducted an undercover operation and confirmed that illegal gambling was taking place at the business location. On January 12, 2018, they executed a search warrant at the business and seized approximately 38 monitors and hard drives, customer records, pay/owes notations, and U.S. currency. The owner was interviewed and admitted to operating an illegal gambling site. Three suspects face charges of conspiracy, obstruction of justice, possession of a slot machine, possession of an illegal gambling machine, and perjury.

Combating Human Trafficking Occurring in Casinos. On January 26, 2018, at the request of a Tribal Casino, agents conducted an undercover operation regarding human trafficking/prostitution occurring at the casino. A subject was contacted using a website controlled by Backpage.com (which has since been closed in large part due to a previous Bureau of Investigation case). The subject arrived at the hotel attached to the casino and was arrested for prostitution after agreeing to provide sex for money. A subject who had transported the suspect to the location was identified and arrested for pimping.

Fraudulent Bank Accounts. In August 2017, a suspect was identified by a U.S. Bank investigator as one of several suspects who opened fraudulent business checking accounts at U.S. Bank and used the accounts to make fraudulent cash advance withdrawals at several casinos in Southern California. BGC agents, working with the U.S. Bank investigator, discovered that a fraudulent check was deposited into the suspect's U.S. Bank account using an Automated Teller Machine. Immediately following the fraudulent deposit, the suspect used the same account to conduct fraudulent cash advance withdrawals at two separate Tribal Casinos in Southern California in the amounts of \$4,429 and \$4,982. Agents interviewed the suspect who admitted to his involvement in the fraud scheme. An arrest warrant was issued and the suspect turned himself in to answer to grand theft charges with a bail amount of \$10,000.

Money Laundering. In 2017, the High Intensity Financial Crimes Taskforce (HIFCA), consisting of BGC agents, the Internal Revenue Service - Criminal Investigations, the United States Department of Homeland Security - Homeland Security Investigations, and the United States Attorney's Office, conducted an investigation into a California cardroom which led to a federal grand jury investigation

related to money laundering. In April 2017, the HIFCA Taskforce executed a federal search warrant at the cardroom. Evidence seized as a result of the search warrant included approximately 150 boxes of documents, approximately 10 computers, two servers, and six digital video recorders.

Nationwide Fraudulent Checks. In June 2016, BGC agents initiated an investigation of suspect who attempted to deposit a fraudulent \$50,000 cashier's check into his player's bank at a California cardroom. The investigation revealed that the suspect had an arrest warrant out of New Jersey for conspiracy to commit theft by deception in excess of \$75,000. The suspect obtained bank checks in the amounts of \$44,000, \$45,000, \$47,000, \$50,000, forged copies of those checks and cashed them in various casinos in Maryland, Pennsylvania, Connecticut, and Nevada. When the suspect returned to the California cardroom at a later date and deposited a \$75,000 cashier's check into his player's bank, cardroom personnel notified management of his presence in the venue. The suspect was arrested and transported to jail, where he faces felony charges.

Internet Café. In December 2016, BGC agents were contacted by the Santa Maria Police Department (SMPD) requesting assistance in the investigation of an internet café operating illegally within their city. Agents conducted an undercover operation at the business to establish probable cause for a search warrant and provided SMPD with expertise in elements of the crime for authoring the warrant and future filing for criminal charges. In April 2017, SMPD, with the assistance of BGC agents, executed the warrant and arrested the business owner for operating an illegal gambling operation. Agents observed approximately 20 gaming stations, three point of sale computers, one jackpot monitor and one fishing machine operating in the establishment. SMPD arrested one person for possession of illegal narcotics and four others for outstanding warrants. All evidence was maintained by SMPD and the case was submitted for review of prosecution.

Parolee-At-Large. In March 2017, BGC agents conducted a meeting with the California Parole Apprehension Team (CPAT) regarding a parolee-at-large who was known to frequent local gaming venues in Southern California. The suspect was believed to be a felon in possession of a firearm with a long criminal history for theft, fraud, and counterfeit offenses. San Diego County Sheriff's deputies and BGC agents contacted and arrested the suspect while conducting a traffic stop near a Southern California tribal casino. The suspect was arrested for absconding from parole supervision and on two outstanding felony warrants. An additional person in the vehicle and was arrested for possession of a controlled substance. Agents also contacted an associate of the suspect at a Tribal Casino where the associate was arrested on an outstanding felony warrant for fraudulent activity. All three are facing felony charges.

Bureau of Investigation

Cracking Down on the Underground Economy with the Tax Recovery and Criminal Enforcement (TRaCE) Task Force. TRaCE is a pilot program facilitated by California Assembly Bill 576 (Manuel Pérez, 2013), the Revenue Recovery and Collaborative Enforcement Team Act, and led by BI. TRaCE joins existing state and federal resources to collaboratively combat illegal business activities that rob California of public funds and its citizens of public services. The task force is comprised of investigators and special agents from multiple agencies working together to investigate, prosecute and recover revenue lost to the underground economy. In 2017, TRaCE had nine arrests, 42 search

warrants, six successful prosecutions, 11 prosecutions in progress, and \$8,580,814.53 in restitution recovered.

Notable TRaCE cases included:

- ***Fashion Q.*** Between March 2015 and May 2015, TRaCE conducted an investigation focused on the owner and operator of Fashion Q, a chain of approximately 34 clothing retail stores in Ventura, Los Angeles, Orange, and San Diego counties, for suspected sales tax evasion.

On May 6, 2015, TRaCE served eight search warrants in Los Angeles and Orange counties. The search warrants were executed at the subject's residence, the "Q" corporate office, each of his four separate offices, the subject's Certified Public Accountant's office, and a financial institution. The search produced 220 boxes of evidence, 36 computers, cell phones, digital devices, \$180,275 located in the subject's vehicle and \$255,893 located at the corporate office, which was all seized as evidence. Upon review of the seized evidence, records proved that over 40 percent of cash sales were unreported, resulting in a \$2.5 million tax loss to the California Department of Tax and Fee Administration (CDTFA) and a \$2.4 million tax loss to the Franchise Tax Board (FTB). In addition, a review of Fashion Q's employment records revealed that employees were paid by both check and cash, which resulted in an underreporting to both the Employment Development Department (EDD) and the Department of Insurance (DOI) in the amount of approximately \$1.2 million. The combined tax loss for CDTFA, FTB, EDD, and DOI totaled approximately \$7 million.

On June 22, 2017, the subject entered into a stipulated guilty plea agreement. He pled guilty to sales tax evasion, filing false income tax return, failure to pay tax, and workers' compensation fraud, and admitted enhancements for excessive taking and engaging in a pattern of fraud. The subject agreed to pay \$7,636,725 restitution, which includes tax liability, interest and costs of investigation, along with a two-year state prison sentence.

- ***Tesla Motors.*** Several Tesla Motors charging stations throughout the state were broken into and their circuit breakers were removed. These circuit breakers were valued at approximately \$2,800 each. The first theft occurred in November 2016; an additional 13 thefts or attempted thefts occurred between February and March of 2017. The thefts appeared to follow major freeways throughout California. Information obtained from surveillance footage at an attempted theft in Napa, California, provided leads on two suspects and a vehicle. With the assistance of detectives from the Rialto Police Department, the male suspects were identified along with their vehicle.

A search warrant was prepared authorizing the placement and monitoring of a GPS tracking device on the registered vehicle. Through GPS tracking, the vehicle was located in Redlands, California. In May 2017, agents from BI's Los Angeles eCrime Unit (eCU) conducted a surveillance of the vehicle where they followed it to the city of San Bernardino, where a suspect was arrested on an unrelated outstanding felony arrest warrant. Tesla estimated their loss to be approximately \$275,000.

- ***Green Dot.*** In 2017, Los Angeles eCU agents began an investigation into a group of individuals who allegedly filed fraudulent state income tax returns by using stolen personal identity information and claiming the tax refunds using “Green Dot” reloadable charge cards. As a result, the suspects defrauded the State of California out of approximately \$400,000 and the United States government out of approximately \$7,000,000. The investigation identified eight subjects as the suspects in the tax and identity fraud scheme. The Franchise Tax Board obtained search warrants and arrest warrants for the subjects and arrested five of eight outstanding suspects at various residences throughout Southern California.

El Dorado County Abducted Children Located in Mexico-Suspect Arrested. On August 24, 2016, the El Dorado District Attorney’s Office, Child Abduction Unit, requested the assistance of BI’s Foreign Prosecutions and Law Enforcement Unit (FPLEU) in locating two minors who had been abducted by their father and taken to Mexico. On the same date, a felony warrant was issued for the abducting father for violating two counts of Penal Code section 278.5, child abduction.

The FPLEU agents, working with agents of the State Preventive Police in Baja California (PEP), searched various locations in the city of Rosarito, Baja California. The suspect and the two abducted minors were spotted having lunch at a local taco shop. PEP officers contacted the suspect and took him into custody. The minors were released to the custody of the “left behind” parent. FPLEU agents transported the minors back into the U.S. via the Otay Mesa Port of Entry.

PEP agents turned the suspect, a U.S. citizen, over to Mexican Immigration authorities for his subsequent deportation back to the United States. FPLEU took custody of the suspect on the U.S. side of the border and booked him into the San Diego County jail for two counts of Penal Code section 278.5, child abduction. His bail was set at \$500,000.

America’s Most Wanted Homicide Suspect Arrested. On November 12, 2008, an arrest warrant was issued for a suspect in a gang-related homicide that occurred in the Silver Lake area of Los Angeles, California. This suspect was featured on the America’s Most Wanted television program.

On June 8, 2017, the Los Angeles Police Department (LAPD) formally requested the assistance of FPLEU agents in coordinating the suspect’s arrest in Mexico. FPLEU sent a request to the Tijuana Police Department (TJPD) requesting their assistance in locating the suspect. Included with the request were several photographs of the suspect, a copy of the arrest warrant, birth certificate and possible employment location in Tijuana. FPLEU was informed by TJPD liaison officers that the suspect had been located and detained without incident during a vehicle stop by patrol units at the address FPLEU provided. TJPD officers turned the suspect over to Mexican Immigration authorities for deportation proceedings.

FPLEU coordinated the suspect’s deportation back to the U.S. via the PED West Port of Entry. The suspect waived extradition and LAPD detectives took him into custody and transported him back to Los Angeles County. The suspect was booked into the Los Angeles County jail for one count of Penal Code section 187, homicide. His bail was set at \$2,010,000.

California Attorney General's Office Agents and Baja California Attorney General's Office Agents Work Together to Solve Homicide. On January 30, 2017, the Rosarito PGJE's Office contacted FPLEU requesting assistance in coordinating with DOJ's Bureau of Forensic Services (BFS) in conducting a comparative analysis of the dental remains in a homicide investigation against a possible voluntary missing person in Orange County. FPLEU received from the PGJE's Office a set of CAT scan images for John Doe and subsequently submitted them to the Missing and Unidentified Persons Section (MUPS) for comparison against known images of the missing person. FPLEU received written confirmation from MUPS advising that the John Doe located in Rosarito was in fact the missing person from Orange County.

On February 27, 2017, FPLEU provided verbal and written confirmation to the PGJE's office that their John Doe was in fact the missing person from Orange County. As a result of FPLEU and BFS's assistance in coordinating the Forensic Odontology Examination, the PGJE's Office will be officially charging two individuals with first degree murder. Both subjects are currently in state custody in Tecate, Baja California, Mexico.

Recycle Fraud Team (RFT) Dismantles a Multi-Million Dollar Corporation. This investigation involved the fraudulent processing of out-of-state beverage containers for the California Redemption Value (CRV) and fraudulent manufacturing of weight tickets generated by employees of Recycle Services Alliance Corporation (RSA) for profit and a conspiracy to pay recycling facilities for illegal material.

On May 11, 2016, agents executed a search warrant on the RSA facility and all banking records. They interviewed several employees and seized banking records, computers, and manually-printed single-pass weight tickets dating back to 2012. The audit and search warrants revealed a gross mismanagement of weight tickets that were generated to increase reimbursement for CRV, processing payments, administrative fees, and in some cases handling fee payments. RSA claimed and was paid a total of \$80,331,217.19 in program payments, including \$74,160,932.51 in refund value, \$4,316,260.96 in processing fees and \$1,854,023.72 in administrative costs for 2,727 processor invoices that were inaccurate, altered or falsified. RSA prepared 44,555 weight tickets that were altered or fabricated and failed to retain the original weight ticket for 33,243 "reprinted" weight tickets that were found to have been fraudulently edited. In addition, RSA prepared 11,312 manual weight tickets that were not weighed on a scale or other device approved, tested, and sealed as required by law. The investigation also identified the RSA employees who conspired to defraud the California Beverage Container Recycling Fund through the aforementioned fraudulent reimbursements.

Grand Jury proceedings initiated by RFP took place during the week of December 4-7, 2017, and resulted in the indictment of five suspects on a total of 166 counts. The charges included grand theft, recycle fraud, perjury, and conspiracy, with various special allegations related to fraud and dollar amount thresholds. The total loss to the Recycle Fund associated with the processor invoices claimed by and paid to RSA amounted to \$80,331,217.19.

High-End Apartment Brothel Operation Dismantled. In July 2017, the San Diego Human Trafficking Task Force (SD HTTF) initiated an investigation into a human trafficking organization working out of a high-end apartment complex located in San Diego, California.

SD HTTF utilized covert surveillance techniques, identified two suspects, and obtained a search warrant for the apartment for a violation of Penal Code section 236.1, human trafficking. The task force conducted an in-call prostitution sting operation, where a task force officer working in an undercover capacity entered the apartment and negotiated a sex act for money. SD HTTF agents immediately served the search warrant, took two suspects into custody for trafficking and rescued a 33-year-old female human trafficking victim. The brothel was part of an illicit telephone service that sends prostitution customers to predesignated locations with the agreed-upon price and customer description. This “compartmentalized” concept of operation is a technique used by sophisticated criminal organizations to prevent law enforcement from dismantling the entire organization during a single investigation. The two subjects in this investigation received state prison sentences and the victim was provided with support services.

Takedown of Complex Gun Trafficking Network in Merced Area. In January 2017, a joint investigation involving DOJ, the Merced Area Gang Narcotic Enforcement Team (MAGNET), the FBI and the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) culminated in the arrest of 68 individuals and seizure of \$227,000 in cash, 121 firearms and nine pounds of methamphetamine. The suspects were charged with homicide, attempted homicide, accessory to murder or attempted murder, conspiracy to commit assault with a deadly weapon and assault likely to produce great bodily injury, weapon possession, and sales of narcotics. Most importantly, 16 violent crimes were prevented by direct enforcement actions or planned interference using intelligence gained through the investigation. As a result, 17 subjects were charged with conspiracy to commit murder.

The Merced area had recently seen a distinct increase in violence on the streets, in the area, and inside local jails, as well as new access to firearms and narcotics. The multi-agency investigation initially focused on the Sureño street gangs operating under the direction of the Mexican Mafia in the Merced area and ultimately uncovered a complex weapons trafficking network run by the A-town Locs criminal street gang.

Bust of Westside Verdugo and “La Eme” Gangs Operating in San Bernardino County Results in 89 Arrests. The Westside Verdugo (WSV) criminal street gang operates in San Bernardino County and surrounding areas of the Inland Empire. WSV gang members are affiliated with the Sureños, a Southern California regional street gang that shows allegiance to the Mexican Mafia. The Mexican Mafia is a highly organized criminal organization that operates throughout the California prison system and is known by its Spanish slang name, “La Eme” (“the M”). The Mexican Mafia is allegedly involved with murders, assaults, thefts, and other criminal activities. Gang members may be punished or murdered for committing infractions, refusing orders or failing to demonstrate loyalty to the group.

In April 2017, a joint investigation with the San Bernardino County Sheriff’s Department and DOJ targeted the WSV criminal street gang and La Eme, resulting in the arrest of 89 individuals and seizure of 112 pounds of methamphetamine, 22 pounds of cocaine, 4.7 pounds of heroin, 402 pounds of marijuana, 43 firearms including assault rifles and semi-automatic weapons, and \$30,000 in currency. Most importantly, the investigation prevented several violent crimes orchestrated by WSV gang members at the direction of La Eme members and/or associates.

Takedown of Criminal Street Gangs Operating in Stockton. In August 2017, a joint investigation with DOJ and the Stockton Police Department's Gang Violence Suppression Unit resulted in the arrest of 56 individuals charged with a range of crimes, including conspiracy to commit murder, human trafficking, robbery, drug trafficking and firearms violations. The investigation, which focused on the MOB, Flyboys, East Coast Crips, Conway Gangsters, SVP 2400 and Glock Team criminal street gangs, resulted in the seizure of 45 firearms, 2 pounds of cocaine, 1.5 pounds of methamphetamine, and 34 pounds of marijuana along with \$49,365 in suspected drug and human trafficking proceeds. Additionally, through the investigation, agents were able to prevent five violent crimes including retaliatory gang shootings and armed robberies.

Investigation into Crips Gang Operating in Bakersfield Results in 57 Arrests. In August 2017, DOJ partnered with the Bakersfield Police Department (BPD), the FBI, United States Attorneys Office Bakersfield (USAO), and the Kern County District Attorney's Office (KCDA), in an effort to curb the violence being waged on the streets of Bakersfield. The investigation focused on the violent criminal street gang the West Side Crips, who were thought to be responsible for 19 shootings committed over the previous year.

Based on intelligence-driven policing, agents were able to solve three murders and several drive-by shootings, as well as prevent 14 violent crimes including a mass shooting at a public park. The overall investigation resulted in 57 arrests and the seizure of 42 firearms.

Bust of Violent Sureño Street Gang Operating at the Direction of the Mexican Mafia. In August 2017, a DOJ investigation resulted in the arrest of 50 individuals and seizure of 38 firearms, 60 pounds of cocaine, 13 pounds of methamphetamine, three pounds of heroin, and 125 pounds of marijuana along with \$91,000 in criminal proceeds, as part of an ongoing investigation into violent Sureño criminal street gang members operating at the direction and for the benefit of the Mexican Mafia.

The gang investigation focused on individuals operating in Riverside and Orange Counties and also encompassed the states of Colorado and Missouri, which led to evidence to substantiate the crimes of conspiracy to commit murder, narcotics trafficking, firearms violations, extortion, and conspiracy for the benefit of a criminal street gang.

Grand Jury Indictment of Los Angeles Criminal Street Gang Members and Mexican Mafia Associates. In December 2017, a joint investigation involving DOJ and the Bell Gardens Police Department resulted in the indictment of 46 criminal street gang members and/or Mexican Mafia associates. The indictments were the result of a 2015 investigation which resulted in the seizure of 41 illegal firearms, 3.5 pounds of methamphetamine, and \$26,000 in currency. The various charges included attempted murder, extortion, assault, drug and firearms trafficking, conspiracy, and participation in a criminal street gang.

The investigation focused on the Mexican Mafia faction controlling Sureño criminal street gang activities in several Los Angeles County cities, including Bell Gardens, Wilmington, San Pedro, Long Beach, Torrance, and Pasadena.

SACMCTF Arrest a Cold Case Homicide Suspect in Fremont. On January 31, 2017, the Southern Alameda County Major Crimes Task Force received a request for assistance from the Union City Police Department (UCPD) regarding the apprehension of a murder suspect. The murder was a cold case homicide that had occurred in Union City in 2009 and had recently been reopened. A Ramey arrest warrant was obtained for the murder suspect, a Penal Code section 290 registrant who was known as a transient in Fremont.

On February 1, 2017, agents conducted a search of the transient area near the Amtrak station in Fremont, where they located the suspect and took him into custody without incident. The murder suspect was transported to the UCPD station for questioning and was subsequently booked at Santa Rita Jail for the murder arrest warrant.

UNET Seized \$670,000 in U.S. Currency in Salinas. On Saturday, July 1, 2017, during the annual July 4th Motorcycle Rally in Hollister, plain-clothed investigators of the Unified Narcotic Enforcement Team (UNET) observed a subject scooping a white powder from a plastic bag so he and others could “snort” the substance through their noses. The subject was contacted by uniformed personnel and the plastic bag was retrieved from his pocket. The substance tested presumptive positive for cocaine. The subject was arrested and booked into the San Benito County Jail. Subsequently, the UNET conducted surveillance and obtained the address of the subject in Salinas, California. A search warrant was obtained; as a result, they seized \$670,000 in U.S. currency, firearms and ammunition.

Gang-Related Homicides Result in Two Life Sentences. On March 30, 2013, teenagers Matthew Fisher and Samantha Parreira were shot and killed while sitting on a bench in the backyard of a residence in the Atwater area. The two suspects in this case were connected with a street gang in Atwater. BI took over the investigation in April 2015 after the case was referred to the Attorney General’s office due to a conflict of interest with the Merced County District Attorney’s Office. Witnesses were initially uncooperative and attempted to avoid being located; they feared being targeted by the gang in retaliation for their cooperation with law enforcement.

In November 2017, one suspect pled no contest to two counts of voluntary manslaughter and was sentenced to 22 years in state prison. A jury found the second suspect guilty of two counts of first degree murder with special circumstances. He was ultimately sentenced to serve two life sentences without parole.

Stockton Lawyer Pleads Guilty to Defrauding Immigrant Families. In 2016, an investigation was initiated into a San Joaquin County immigration attorney who owned and operated Immigration Legal Defense Corporation in Manteca, California. After a lengthy investigation, the suspect was arrested for defrauding numerous immigrants out of hundreds of thousands of dollars. The investigation revealed a consistent pattern in which the suspect took payments from victims who trusted her, as an attorney, to assist them with obtaining legal status in the United States. The suspect targeted vulnerable immigrant clients and charged them \$3,000 to \$16,000 for services she failed to perform.

In December 2017, the suspect pled guilty to 15 felony counts of grand theft for defrauding immigrant clients seeking citizenship. The suspect entered her guilty plea in San Joaquin County Superior

Court for an expected five-year split sentence to be served locally. Under the terms of the plea agreement, the suspect agreed to pay a total of \$371,709 in restitution to the victims.

Fresno Methamphetamine Task Force (FMTF). In May 2017, FMTF, a High Intensity Drug Trafficking Area (HIDTA) initiative, conducted an investigation that began after an undercover FMTF agent negotiated with an unidentified subject in Mexico for the purchase of two kilograms of “synthetic” heroin. The undercover agent was told by the subject in Mexico that he would have the “synthetic” heroin delivered for a price of \$34,000 per kilogram. Agents conducted an undercover operation in Kingsburg, California, that concluded with the arrest of one subject who was found to be in possession of the “synthetic” heroin. FMTF agents donned personal protective equipment to search the vehicle and located two kilograms of the suspected narcotics in the driver’s side rear door. The “synthetic” heroin was analyzed by the BFS Fresno Regional Laboratory and determined to be fentanyl. This was the first major seizure of fentanyl in the Central Valley. Between the two kilograms, there were at least 250,000 lethal doses of the fentanyl drug.

Madera County Narcotic Enforcement Team (MADNET). In April 2017, MADNET received information on a marijuana drug trafficking organization (DTO) operating within Madera County. The information indicated that this DTO was responsible for several illegal indoor marijuana grows. The investigation revealed that the marijuana grows were being supplied with stolen electricity. Agents conducted surveillance operations that identified three residences where this DTO was illegally growing marijuana and secured a search warrant for the three locations. MADNET, along with the Chowchilla Police Department, the Madera County Sheriff’s Office, and the Madera County Probation Department, served search warrants at the suspected indoor grow locations. Agents seized 1,422 marijuana plants, eight pounds of processed marijuana and \$20,668 between the three locations.

Large Butane Honey Oil (BHO) Lab in Pomona. In April 2018, the Los Angeles Interagency Metropolitan Police Apprehension Crime Task Force (LA IMPACT) was called to assist the Los Angeles County Fire Department and the Pomona Police Department with a butane honey oil (BHO) lab investigation located in the city of Pomona. At the location were a large amount of marijuana with plugged-in extraction tubes under pressure; over 5,000 pounds of cannabis; approximately 30 large extraction material columns and various apparatus related to a THC extraction system. Approximately 700 pounds of finished concentrated cannabis were located in buckets with an estimated value of \$17 million. The size and sophistication of this lab required the assistance of DEA Group 1 (Clandestine Lab Squad). The Los Angeles County Fire Department had to ventilate the roof due to the high level of volatile organic compounds in the air.

LA IMPACT Operation at an Unlicensed Daycare Facility. In May 2017, task force officers conducted an undercover operation negotiating a 20-kilogram cocaine deal with a father and son. Surveillance at their residence in the city of Highland Park revealed numerous children being picked up from the location. A search warrant led to the discovery and seizure of 20 kilograms of cocaine, with an estimated street value of \$1.3 million, and confirmation that the location was being used as an unlicensed daycare. As a result of this investigation, both father and son were arrested. Task force officers and the DEA obtained a federal criminal filing with the U.S. Attorney’s Office.

Challenges Ahead

Chronic Understaffing and Lack of Funding for the California Criminalistics Institute (CCI).

Although CCI was established by legislative action in 1986 (SB 2390), no funding source beyond an initial outlay was identified. The Bureau of Forensic Services (BFS) has absorbed the ongoing and increasing cost of operating CCI since its inception. Due to the budgetary downturn at BFS, over 15 critical forensic technical courses were canceled or tabled.

Reduced Forensic Science Funding. Proposition 69 (2004) established the DNA Identification Fund with a revenue stream consisting of fines collected on criminal offenses. The fund is intended to support expanded DNA collection, analysis, and other related forensic services. Ten years later, Proposition 47, which reclassified certain non-serious, nonviolent felonies to misdemeanors, had an unintentional but almost instantaneous negative impact on the DNA Identification Fund. The decrease in felony penalties went hand-in-hand with a decrease in the amount of fines being collected from criminal offenders. Revenues to the DNA Identification Fund began to decline immediately and are now inadequate to support DOJ's laboratory system, which provides a full range of forensic services free of charge to agencies throughout California.

DOJ continues to seek replacement of decreasing revenue with other sources of funding to provide timely services while increasing the efficiency and capabilities of technical staff. BFS applied for and was awarded several grants during the biennial period:

- BFS received federal funds, administered through the New York County District Attorney's office, in the amount of \$2 million dollars to help eliminate backlogs of untested sexual assault evidence kits.
- The National Institute of Justice provides funds through the Paul Coverdell Forensic Science Improvement Grants Program (the Coverdell program). BFS received \$221,057 during this biennial period. The funds are intended to eliminate a backlog in the analysis of forensic evidence and to train and employ forensic laboratory personnel.
- The National Institute of Justice provides funds through the DNA Capacity Enhancement and Backlog Reduction Program. The BFS received \$1,680,274 during this biennial period. The funds were made available for eligible states and units of local government to process, record, screen, and analyze forensic DNA and/or DNA database samples. The grant is also intended to increase the capacity of public forensic DNA and DNA database laboratories to process more DNA samples.
- The National Highway Traffic Safety Administration provides funds through the California Office of Traffic Safety. BFS received \$1,434,000 from the Alcohol Impaired Driving program. The funds were to prevent people from driving under the influence (DUI) of alcohol or other drugs and to remove DUI drivers from the road.

Lack of Resources Prevents the Bureau of Gambling Control from Taking a Proactive Approach to Regulation of Cardrooms and Third Party Providers of Proposition Player Services. Although organized into different sections and units, staff at the Bureau of Gambling Control (BGC) work in coordination to complete their various tasks and meet the BGC’s responsibilities and mandates. The Licensing Section processes applications and conducts background investigations for initial and renewal licenses, and work permits. In doing so, the Licensing Section relies heavily on field representatives to conduct site inspections, agents to investigate potential violations of the Act and regulations, and auditors to complete financial reviews of licensees’ finances and adequate financing of cardrooms in a timely manner. In order to meet mandated timeframes, the BGC must ensure all sections are adequately staffed in order to provide assistance to the Licensing Section.

The BGC has submitted Budget Change Proposals (BCP) requesting permanent funding for licensing positions, as well as additional positions for the Compliance and Enforcement Section, Legal Services, Audit and Compact Compliance Section, Game Review Unit, and Administrative Support Group.

The BGC anticipates with the addition of those positions, it can take a proactive approach to gaming regulation. Currently, inspections and financial evaluations are completed when licensure is up for renewal every other year. If the current BCP is approved, the BGC would have sufficient staff to perform monthly inspections, as well as quarterly audits of each cardroom. The increase in position authority for the Compliance and Enforcement Section would provide sufficient resources for agents to spend an additional 24 hours per month in each cardroom conducting covert and overt surveillance and developing investigations.

Limited Term Funding. The BGC received permanent position authority, but limited term three-year funding for 32 positions in the Cardroom Licensing Section. The hiring and onboarding process, including training, took one year. Once staff were on board and working, they were assigned the least complex cases and made significant progress on the existing backlog. There has been some attrition but the majority of the 32 positions are filled with fully trained staff who are now working on more complex cases. Current funding is set to expire at the end of the current fiscal year. The employees in the limited term positions will be displaced and the BGC will suffer an increase in the backlog, as well as a reduction in the experienced workforce that we have developed over the past three years.

Funding Sources. The BGC is funded solely by Special Funds, which restrict the types of investigations conducted by agents. There is criminal activity associated with gambling that aren’t associated with Cardrooms or Tribal Casinos such as internet cafes, illegal home games, illegal internet gaming, sports wagering, etc.

Blackjack. Since approximately 1999, the BGC has approved variations on the game of blackjack. Over time, these variations have become increasingly similar to the prohibited game of 21 (Pen. Code §330). The BGC is consulting with the Indian and Gaming Law Section regarding rescinding specific BGC-approved games that have since been identified as “too-similar” to the prohibited game of 21. These variations of blackjack are very popular games in cardrooms resulting in opposition and a potential economic impact to the cardroom industry. The lack of specificity in the Penal Code section puts the BGC in the difficult position of needing to determine how many changes must be made to a game’s rules to constitute a “new” or “different” game.

Rotation of the Player-Dealer Position. After receiving tribal stakeholder complaints, the BGC reviewed and changed its policy with regard to rotation of the player-dealer position in cardrooms. The prior policy was implemented in 2007 by the BGC Chief. In 2016, the BGC determined that the prior policy was not sufficient and allowed for the possibility of banked games which are prohibited by the Penal Code. This change required that all cardrooms amend their current approved game rules to comply with the revised policy. This action was deemed an underground regulation by the Office of Administrative Law. In response, the BGC is initiating the regulatory process to further define Penal Code section 330.11. The cardroom industry argues that any requirement to rotate the player-dealer position will result in a substantial financial impact; therefore, the BGC anticipates this regulation will require an economic impact study. The requirement to complete an economic impact study will likely result in significant delays in resolving the issue.

Bureau of Investigation Sworn Personnel Vacancies and Retirements. At the end of Fiscal Year 2017-2018, the vacaWith the high number of potential retirements, the negative impact will be that the public services provided by the BI will not be fulfilled which significantly impacts public safety. An obstacle that will directly correlate to the ability to get additional personnel is the disparately low salary for the current state employees. The Division of Law Enforcement (DLE) and Bureau of Investigation are actively working on hiring new personnel.

Limited Term Funding. The DLE has been given limited term funding for numerous positions over the last several years. Funding with an expiration date necessitates hiring on a limited term rather than permanent basis. These positions generate little interest from applicants, as limited term positions are always less appealing and more difficult to fill than permanent positions. Once a selection is made, the DLE is not able to bring the candidate on board as quickly as a civilian agency, because the pre-employment background investigation process adds months for civilian employees and up to a year for peace officers. This makes limited term hiring a particular hindrance for the DLE as compared to other agencies. Finally, incumbents in limited term positions are motivated to find permanent positions, the timing of which does not necessarily line up with the expiration of the limited term position. Positions that are vacated before the funding ends have to be re-advertised, and the cycle begins again. The time spent on recruitment, background investigations and training can rival, or even exceed, the time an employee actually spends working in the position.

The DLE has actively worked to phase out limited term positions and avoid adding new ones; however, it is not always possible to do so. The Legislature continues to pass bills every year that create new duties for the DLE. When new legislation includes a sunset date or assigns the DLE a responsibility of a limited duration, the positions must be filled on a limited term basis. Three-year mandates are especially challenging because limited term positions, by law, cannot be extended beyond a maximum of 24 months. Hiring employees into permanent positions with limited term funding puts the DLE in the position of eliminating filled positions when the funding ends.

Recruitment and Retention Challenges in the Bureau of Firearms. Personnel in this Bureau work a high number of regular and mandated overtime hours. BOF's enforcement program complete only reactive Armed and Prohibited Persons System (APPS) investigations due to backlogs. Additionally, Department of Justice (DOJ) compensation is 19 percent lower than other law enforcement agencies.

BOF agents are expected to wear body cameras, and it is expensive and time consuming for BOF to provide this footage to district attorneys. Furthermore, it is challenging for BOF to recruit classifications such as program technicians, criminal identification specialists, and field representatives.

Additionally, BOF has trouble retaining existing sworn and professional staff. This is due to BOF personnel retiring, transferring to another bureau within DOJ, leaving BOF for a position with better pay, promoting outside of the DOJ, or leaving BOF for jobs requiring less overtime. With BOF retention issues, it is critical for BOF staff to transfer institutional knowledge to their fellow coworkers to ensure all functions of the bureau can be fulfilled.

Legislation: New Laws and Regulations. Every year, the new laws are passed that require regulations, staffing, funding, and IT demands without the necessary appropriations. For regulations, BOF regulatory staff go through the lengthy regulatory process identified in the Administrative Procedural Act (APA). Laws that require staffing and funding without the proper allocation of funding make it impossible for the DOJ to implement the law or regulations. IT demands without funding create unfunded liabilities, meaning the DOJ cannot create the necessary systems to enforce the law.

Sometimes new laws only authorize the DOJ to hire limited term positions; however, this is problematic for both recruitment and retention which ultimately causes greater workload because limited term positions are only temporary. The DOJ is still in the process of implementing a number of large-scale changes from already existing gun laws. However, additional new laws are passed each year, prior to implementing other programs, with unreasonable immediate effective dates without funding.

IT Issues with Existing, Antiquated Databases and Manual Processes. There is a high volume of IT modifications, which cause further delays in statute/regulations implementation. Existing IT databases also require numerous service requests for system improvements. Currently, there are manual firearms related processes that can be streamlined and more efficient with an automated system; however, the California Justice Information Services (CJIS) Division is backlogged with technology projects.

Lawsuits, Deputy Attorney Generals (DAGs), and Public Records Act (PRA) Requests. There are 30 lawsuits in litigation and eight advice matters dealing with laws and new regulations. BOF has the heaviest amount of cases out of all DLE bureaus. In total, PRAs have more than doubled from last year, so the PRA requests creates the need for additional DAGs to efficiently and effectively handle legal review and opinion. Additionally, more DAGs are necessary for fair and impartial application of firearms laws, on cases declined by local district attorneys and U.S. Attorney's Office. BOF need DAGs available that can file and prosecute cases as needed. For instance, there are approximately 2,500 cases in the APPS system that are prohibited federally only, which means BOF lacks authority and jurisdiction to pursue. This is problematic because the Bureau of Alcohol, Tobacco, Firearms and Explosives and the U.S. Attorney's Office have no interest in pursuing these cases.

LEGAL SERVICES DIVISION: PUBLIC RIGHTS

The Legal Services Division, through its 1,592 attorneys and professional staff in six legal offices, is comprised of the Public Rights Division, Civil Law Division and Criminal Division. The three legal divisions are comprised of nearly 30 practice areas of law, and represent the People in civil and criminal matters before trial courts, appellate courts and supreme courts of California and the United States, state and federal courts, and also serve as legal counsel to state officers, and with few exceptions, to state agencies, boards, and commissions. Significant cases and activities follow.

Overview

The Public Rights Division 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 Public Rights Division consists of the following sections:

- **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 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 state and federal courts, and prosecutes criminal cases.
- **The Charitable Trusts Section** has authority over charities, charitable trustees, and fundraising professionals incorporated or operating in California. The Registry of Charitable Trusts manages the registration and annual reporting requirements for charities, charitable trustees and charitable fundraisers and provides these reports publicly on the DOJ webpage.
- **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. This section houses the *Underground Economy Unit* and the *Bureau of Children's Justice*.
- The **Consumer Law Section** protects California consumers by combatting unlawful, unfair and deceptive conduct, false advertising, and other illegal trade practices. It generally does so by conducting investigations and prosecuting complex civil enforcement actions in the name of the People of the State of California to obtain restitution for victims as well as injunctions and civil penalties that reform industry behavior and deter future misconduct. The section, which includes the office's Privacy Unit, also has the capability to conduct criminal investigations and prosecutions and it has a robust appellate amicus practice that supports local prosecutors and protects the effectiveness of state and federal consumer protection laws.

- The **Corporate Fraud Section** investigates and prosecutes cases concerning securities and commodities fraud; market manipulation arising out of California’s energy crisis; and financial wrongdoing perpetrated against the state under California’s False Claims Act.
- **The Environment Section** enforces state and federal environmental laws that affect California’s natural resources and public health. The Section also challenges federal government environmental regulatory rollbacks.
- **The Indian and Gaming Law Section** provides legal representation and advice regarding Indian law and gambling to a number of state offices and agencies.
- **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 Natural Resources Law Section** represents the majority of state agencies responsible for natural resources management or pollution control. The section handles complex environmental litigation both in defense of client actions and enforcement of pollution laws and regulations.
- **The Tobacco Litigation and Enforcement Section** enforces state and federal laws that control the marketing and sale of tobacco product and protects and enforces California’s rights under the nationwide tobacco master settlement agreement (MSA), which limits the marketing of tobacco products and entitles California to settlement payments for ongoing cigarette sales.

Major Accomplishments

Antitrust Law Section

California v. Valero. In July 2017, the Attorney General filed suit to enjoin Valero’s acquisition of the Plains Martinez oil terminal, the only major Northern California terminal not under the control of a major refiner. In his complaint, the Attorney General asserted that maintaining the terminal’s independence is an important guarantee that supply disruptions at refineries will be quickly offset by imports to bring down spiking gasoline prices. In October 2017, the court entered a stipulated order barring Valero from making the acquisition.

California v. Sutter Health. In March 2018, the Attorney General filed suit against the largest healthcare provider in Northern California to challenge business practices that undercut competition in healthcare and lead to higher costs for employers without improvement in quality of care.

In re Generic Pharmaceuticals Pricing Antitrust Litigation. In February 2017, the Attorney General joined other states to file litigation against six pharmaceutical manufacturers alleging a conspiracy among them to divide markets and elevate prices of certain generic drugs. This is one of several antitrust lawsuits the Attorney General has filed concerning pharmaceutical prices.

Charitable Trusts Section

During the biennial period, the Registry of Charitable Trusts processed more than 18,890 initial charity registration forms and 113,656 annual charity reports. The Registry also issued 22,782 charity delinquency notices. The Registry also responded to 76,519 requests for information, and made 773,690 documents available to the public. Total documents available to the public now exceeds 2.1 million.

People v. National Cancer Coalition. On March 6, 2018, the Attorney General filed a civil action against The National Cancer Coalition (NCC), Inc., a Delaware corporation, alleging that the company filed false reports with the Attorney General’s Registry of Charitable Trusts and made misrepresentations in its solicitations to California donors. NCC received donations of pharmaceuticals from U.S. drug companies that were restricted to distribution and use outside the U.S. Despite this restriction, and in violation of Generally Accepted Accounting Principles (GAAP) and California law, NCC used high U.S. market prices to value the pharmaceuticals instead of much lower international prices. This resulted in vastly inflated revenue and program expense numbers in NCC’s public reports filed with the AG’s Registry. NCC also claimed in its solicitations that it provided certain assistance to cancer victims, which was untrue. The Attorney General negotiated a stipulated judgment which provides for \$500,000 in penalties, dissolution of the charity, and an admission that its use of U.S. market prices to value its drug donations violated GAAP and California law because the drugs were restricted to distribution and use outside the U.S. The Attorney General also obtained a settlement agreement with NCC’s CEO which provides for a lifetime ban against serving as a director/officer/trustee of any charity doing business in California.

Civil Rights Enforcement

California v. Sessions. In August 2017, the Attorney General filed a complaint against the federal government challenging immigration enforcement related conditions it imposed on the federal Edward Byrne Memorial Justice Assistance Grant (“JAG”) and the Community Oriented Policing Services (COPS) grant. In his complaint, the Attorney General alleges that the federal government violated the separation of powers by adding these conditions, and that the conditions violate the Spending Clause of the U.S. Constitution because they are ambiguous and unrelated to JAG’s federal purpose, and are arbitrary and capricious under the federal Administrative Procedure Act. More than \$28 million in federal funds that California uses for programs supporting law enforcement, recidivism prevention, crime victims and witnesses, and at-risk youth are at issue. The litigation is ongoing.

Multi-State Report on Local Involvement in Civil Immigration Enforcement. In May 2017, Attorney General Becerra, along with the Attorneys General of the states of New York, Oregon, Rhode Island, and Washington and the District of Columbia, published a report debunking the false narrative that so-called “sanctuary” policies violate federal law and endangered public safety. Specifically, the report explained how jurisdictions that limit local law enforcement involvement with federal civil immigration enforcement do so within the bounds of federal law, and in fact sometimes shield those jurisdictions from potential legal liability; how policies limiting local involvement in immigration enforcement can enhance public safety by allowing local jurisdictions to focus resources on crime

prevention and build trust with immigrant communities; and how the federal government provided inaccurate, incomplete, and misleading information in their declined detainer outcome reports and accompanying statements, painting a distorted picture of the impact of local policies.

Gloucester County School Board v. G.G. In March 2017, the Attorney General joined 17 fellow Attorneys General in filing an amicus brief with the U.S. Supreme Court in support of transgender rights. The case concerned a school district policy that prohibits students from using restrooms and other single-sex facilities except in accordance with their “biological gender” as opposed to the gender with which they identify. The multi-state brief argued that gender identity discrimination constitutes sex discrimination under Title IX. The brief further explains how discrimination on the basis of gender identity causes real and significant harm both to transgender people and to the amici States by denying students equal access to educational opportunities. The brief highlighted that laws that explicitly prohibit discrimination on the basis of gender identity, like those adopted in California, have enhanced public safety, not detracted from it. After the Supreme Court granted review, vacated the lower-court decision and remanded the case, the Attorney General joined a similar brief filed before the Fourth Circuit in May 2017.

Planned Parenthood of Greater Ohio v. Hodges. In April 2017, California joined 14 states and the District of Columbia in filing an amicus brief supporting Planned Parenthood’s constitutional challenge to an Ohio law that would preclude entities that, among other things, perform or promote abortions from receiving public funding for six specified health programs that are unrelated to the performance or promotion of abortions—including breast and cervical cancer prevention programs. The multi-state brief argued that the law imposes an unconstitutional condition on the free speech and due process rights of providers and their patients.

The Racial and Identity Profiling Act (RIPA) of 2015 (AB 953). In November 2017, the Attorney General issued comprehensive regulations to govern the collection and reporting of data regarding stops conducted by law enforcement in California, as required by this landmark legislation. Subsequently, the Racial and Identity Profiling Advisory Board established by the Attorney General pursuant to this legislation released its inaugural report in January 2018 on the past and current status of racial and identity profiling with initial policy recommendations for eliminating its unlawful practice. The largest law enforcement agencies began collecting the stop data on July 1, 2018, and will then be required to report that data to the California Department of Justice on or before April 1, 2019.

Responsibilities of Law Enforcement Agencies under the California Values Act, California TRUST Act, and the California TRUTH Act. On March 28, 2018, the Attorney General issued an Information Bulletin that provides guidance to California law enforcement agencies regarding their obligations and discretion under the Values Act, the TRUST Act, and the TRUTH Act. These California state laws define the parameters under which state and local law enforcement agencies may engage in immigration enforcement-related activities, as well as create mandatory notice and procedural protections for individuals in the custody of local law enforcement agencies should federal immigration officers wish to contact them.

San Francisco Police Department. In February 2018, the Attorney General signed a three-year Memorandum of Understanding with the San Francisco Police Department and the City and County of San Francisco to provide independent monitoring and review of the San Francisco Police Department's ongoing efforts to implement recommendations for reform set forth by the U.S. Department of Justice in 2016. The recommendations for reform address issues related to use of force, bias, community policing, accountability, and recruitment, hiring, and personnel. The California Department of Justice stepped into this role at the request of the police department after the U.S. Department of Justice terminated its reform work with the police department as a result of a broader reorganization of the Community Oriented Policing Services (COPS) Office.

Sacramento Police Department. In April 2018, the Attorney General announced that the California Department of Justice, at the invitation of the Sacramento Police Department, would conduct a review of the police department's use-of-force policies, training, and practices in response to community concerns following the Stephon Clark shooting. The Civil Rights Enforcement Section is partnering with the California Department of Justice Research Center to conduct an investigative study and, if warranted, deliver recommendations for reform based on evidence-based research and promising practices identified by subject matter experts from around the country.

Investigations into the practices of the Kern County Sheriff's Office and the Bakersfield Police Department. In December 2016, the Attorney General opened separate civil pattern or practice investigations into the Kern County Sheriff's Office and the Bakersfield Police Department. Under the California Constitution (Article V, Section 13) and California Civil Code section 52.3, the Attorney General has the authority to conduct civil investigations into whether any law enforcement agency has engaged in a pattern or practice of violating state or federal law. The decision to investigate was informed by complaints by individuals and community organizations, as well as by media reports, which allege use of excessive force and other serious misconduct. The investigations are ongoing.

Prohibition on State Funded and Sponsored Travel to States with Discriminatory Laws (A.B. 1887). Assembly Bill 1887 prohibits state agencies from approving travel for state business to states that have enacted any law since June 26, 2015, which discriminates on the basis of someone's sexual orientation, gender identity or gender expression. This law also requires the Attorney General to develop, maintain, and post on the office's Internet web site a current list of states that are subject to this travel restriction. As of the date of this publication, the states of Alabama, Kansas, Kentucky, Mississippi, North Carolina, Oklahoma, South Dakota, Tennessee, and Texas are on the Attorney General's AB 1887 list.

Transgender Rights in the Military. In October and November 2017, the Attorney General joined 14 other Attorneys' General in multi-state amicus briefs in the cases of *Doe v. Trump* (US Dist. Ct., D.C.), *Stone v. Trump* (U.S. Dist. Ct., MD), and *Stockman v. Trump* (U.S. Dist. Ct., Cent. Dist. CA). The briefs were filed in support of officers who challenged President Trump's ban on transgender people openly serving in the U.S. military.

West Alabama Women's Center v. Miller. In May 2017 and again in March 2018, the Attorney General led the filing of multi-state amicus briefs in this case concerning the constitutionality of an Alabama law that effectively criminalizes the safest and most common method of second-trimes-

ter abortion, standard dilation and evacuation (“D&E”), by requiring as a preliminary step that the physician induce fetal demise. The amicus briefs argue that the trial court was correct in granting a preliminary injunction of the statute and make two main points: (1) a state’s regulation of abortion procedures cannot stand if there is uncertainty about whether a standard, safe procedure continues to be available to all women; and (2) the district court properly applied U.S. Supreme Court precedent to determine, based on the evidence, that the statute imposed an undue burden on abortion access. The Eleventh Circuit has not yet decided the case.

Underground Economy Unit

The Underground Economy Unit brings civil and criminal actions against persons engaged in the underground economy in order to bring businesses into compliance with applicable labor and employment, tax, and licensing laws and deter future violations. The Unit works closely with other federal, state and local law enforcement agencies including the California Department of Industrial Relations – Division of Labor Standards Enforcement, the Employment Development Department, the Contractors State License Board and the United State Department of Labor.

Significant cases and activities include:

Epic Systems Corp. v. Lewis. In August 2017, the Attorney General joined a multi-state amicus brief in the U.S. Supreme Court in three cases being heard together: *Epic Systems Corporation v. Lewis*, *Ernst & Young, LLP v. Morris*, and *National Labor Relations Board v. Murphy Oil USA, Inc.* The brief argued that the inclusion of collective action waivers in employment arbitration agreements denied workers their right to engage in concerted action under the National Labor Relations Act. The use of collective action waivers sometimes results in the inability of workers to bring effective claims, as their individual claims may be too small to attract representation by the private bar. In May 2018, the Supreme Court upheld the use of collective action waivers.

People v. One Source Facility Solution, Inc. In November 2017, the Attorney General filed a civil unfair competition complaint against One Source Facility Solution, Inc. (“One Source”) and its principal, Dilip Joshi. One Source is a janitorial subcontractor that performed work for USM, Inc., a nationwide facilities management firm. USM, in turn, provided janitorial services to retail “big box” chains including Ross Dress-for-Less, Bed Bath & Beyond, and Toys R Us. The complaint alleges that One Source and Joshi engaged in unfair competition by, among other things, failing to pay their employees the minimum wage, keep detailed payroll records or provide itemized wage statements, withhold and/or remit payroll taxes, and provide accurate information to their workers’ compensation insurer. The case highlights the multi-level contracting schemes utilized by well-known businesses to shield themselves from liability for wage violations.

USDOL Tip Regulation Comment. In February 2018, the Attorney General, along with 16 other Attorneys General, submitted a comment to the United States Department of Labor, opposing the proposed rescission of 2011 tip regulations under the Fair Labor Standards Act. California led this effort along with Illinois and Pennsylvania. Existing regulations prohibited employers from accessing any part of an employee’s tips, regardless of whether the employer paid a cash minimum wage or relied on a “tip credit.” USDOL’s proposal to rescind regulations would have opened the door to

allowing employers to keep all or any part of employee tips so long as the employer paid employees at least the cash minimum wage. In March 2018, Congress passed a compromise measure rescinding the 2011 tip regulations, but importantly prohibiting employers or supervisors from sharing in tips.

Bureau of Children's Justice

The Bureau of Children's Justice (BCJ) was created to focus on enforcing California's civil and criminal laws that protect children and holding accountable institutions that fail to uphold children's rights under the law. During this Biennial period, it has expanded its role in investigating and engaging in policy actions that help to address gaps in regulation or oversight between different subject matter areas.

Significant cases and activities include:

Preliminary Injunction against Trump Administration's Rescission of Deferred Action for Childhood Arrivals (DACA). In January 2018, Attorney General Becerra, in conjunction with the Attorneys General for Maine, Maryland and Minnesota, as well as the University of California, individual Dreamers and other plaintiffs – obtained a preliminary injunction from the United States District Court against the Trump Administration over its decision to end DACA. Since the program was created in 2012, nearly 800,000 young immigrants who were brought to this country as children have been granted DACA after paying application fees, submitting to and passing background checks and applying for work permits. The District Court's ruling blocks the Trump Administration's rescission of DACA while the underlying case continues. The Court determined that the merits of California's case are strong, that there would be immediate harm if the Administration's plan to terminate DACA were to proceed, and that the public interest is served by prohibiting the Administration from ending DACA before the legal issues are ruled on. This litigation followed a July 2017 letter in which Attorney General Becerra led a group of 20 Attorneys General requesting that President Trump maintain and defend DACA.

Washington, et al. v. United States of America. In June 2018, Attorney General Becerra, along with the Attorneys General of 16 other states and the District of Columbia, filed a lawsuit challenging the federal government's policy of separating parents from their children for the express purpose of deterring immigration along the southwestern border. This policy is related to the federal government's refusal to permit applicants to seek asylum when presenting themselves at the border and the "zero tolerance" prosecution approach to criminally charge all individuals who enter the United States without inspection. As a result, children who came to the country with their parents are rendered unaccompanied and detained in immigration detention facilities until they can be released to an adult sponsor, or reunified with their parents. These policies and practices harm the States, including their proprietary interests and interests in protecting the health, safety and well-being of their residents. The complaint alleges violations of Substantive and Procedural Due Process, Equal Protection, the Administrative Procedures Act, and asylum laws. The case seeks a declaration that the family separation policy is unlawful and unconstitutional, an injunction to end the family separation policy and to require the federal government to accept asylum applications from those who present themselves at a valid port of entry, and other relief. The litigation is ongoing.

In re Humboldt County Mandated Reporting. In February 2018, the Attorney General obtained a stipulated judgment against Humboldt County Department of Health and Human Services and Sheriff’s Office following a civil investigation that uncovered systemic noncompliance by both agencies with California’s Child Abuse and Neglect Reporting Act, the state’s mandatory reporting law, and the Welfare and Institutions Code. The investigation concluded that the agencies had not complied with their legal duties to receive, screen, and investigate reports of child abuse and neglect, leading to reports not being investigated. The judgment requires significant reforms, including: implementing an emergency response system, wholesale revision of policies, procedures, and practices, and the development and implementation of a joint electronic tracking system. The judgement also requires the County to retain two independent experts, including a tribal consultant to ensure collaboration with tribes, provide extensive training for staff, and create a community advisory committee.

In re Del Norte County Mandated Reporting. In May 2018, the Attorney General entered into a Memorandum of Understanding with the Del Norte County Department of Health and Human Services regarding its treatment of those reporting child abuse and neglect, specifically, its practice of sending “false reporting” letters that discussed criminal penalties to community members who reported possible child abuse. The Attorney General obtained the Department’s agreement to rescind all such “false reporting” letters, implement a policy prohibiting such letters, provide training for staff, and undertake a comprehensive review by an expert consultant of its policies and procedures relating to intake of child abuse and neglect reports.

Amicus Brief at Request of California Supreme Court in In re Denis G. In July 2017, at the invitation of the California Supreme Court, the Attorney General filed an amicus brief in an ongoing probate court guardianship matter to weigh in on legal issues relating to Special Immigrant Juvenile (“SIJ”) status. The brief explained the importance of this issue for undocumented immigrant children, discussed state courts’ proper role regarding the SIJ process, and detailed the California statutes on neglect and abandonment upon which courts should rely in conducting its analysis.

Multi-State Amicus Brief in Defense of Indian Child Welfare Act (ICWA). In May 2018, Attorney General Becerra, joined by the Attorneys General for Alaska, Montana, New Mexico, Oregon, Utah, and Washington, filed an amicus brief in defense of ICWA against a lawsuit filed by Texas and two other states, as well as individual plaintiffs challenging the constitutionality of the statute. ICWA is a federal law that protects the interests of Indian children and the sovereign tribes of which they are members in child custody proceedings. The brief focused on the history of the removal of Indian children from their families and tribes that led to Congress’s passage of ICWA, and the unfortunate role of states in that history. The brief also refuted the argument that ICWA violates the Equal Protection clause of the U.S. Constitution and lays out the strong bases for congressional authority over matters relating to Indian tribes.

Joint Guidance Regarding Foster Youth Educational Data Sharing. In September 2016, the Attorney General, along with the California Department of Education and California Department of Social Services, issued a letter explaining to local child welfare and education agencies that federal and state law encourages—and in many instances state law requires—the sharing of data and records to ensure that foster youth receive appropriate supports and services to address their needs. In order to promote the productive exchange of information, the letter summarized federal and state law con-

cerning: (1) education officials' access to the foster youths' information; (2) information that education agencies may or must share with child welfare agencies, and vice versa; and (3) information that may or must be shared with caregivers, even if the caregiver is not the foster child's educational rights holder.

School Residency Discrimination Investigation. In March 2017, the Attorney General received a complaint that a number of school districts in California were engaging in discriminatory enrollment practices against immigrant youth by collecting Social Security Numbers, citizenship or immigration status information, and/or other information regarding national origin. The Bureau conducted an investigation into the named school districts as well as dozens of additional districts and sent letters to districts that were requesting Social Security Numbers and/or citizenship or immigration status information on their enrollment or registration forms. The letters informed the districts that their enrollment forms may be in violation of federal and California law and demanded that the districts update their forms within 21 days and demonstrate full compliance with relevant laws. The Attorney General received full compliance from all districts contacted regarding these issues.

Multistate AG Letter to Congress and Amicus Briefs Regarding Temporary Protected Status (TPS). In March 2018, Attorney General Becerra, along with 19 other state Attorneys General, called on congressional leaders to protect longtime residents of the United States from being forced to return to dangerous or uncertain conditions in their countries of origin. TPS is a federal immigration program that allows individuals from countries experiencing armed conflict, natural disaster, or other extraordinary conditions which foreclose safe return to live and work legally in the United States. The Trump Administration has decided to terminate a number of TPS designations (including El Salvador, Honduras, Haiti, and others) despite continuing dangers to returning nationals. Because of the length of many nations' TPS status, nationals from those countries are the parents to approximately two hundred thousand US citizen children. The letter urged Congress to pass a bill allowing recipients of TPS to receive lawful permanent resident status in light of these actions by the Administration. The Attorney General also filed amicus briefs in several lawsuits filed in district courts across the country challenging the termination of TPS, highlighting the significant harm to states and their residents that terminating TPS will cause.

Multistate AG Letter to United States Department of Justice (USDOJ) Regarding Data Relating to Violence Against LGBTQ Youth. In May 2018, Attorney General Becerra, along with nine other state Attorneys General, sent a letter to the U.S. Department of Justice opposing a proposal that would end the collection of data related to violence against lesbian, gay, bisexual, transgender, queer or questioning (LGBTQ) youth. In April 2018, the U.S. Department of Justice announced its plans to revise the National Crime Victimization Survey to eliminate the collection of information about sexual orientation and gender identity from youth under age 18. The confidential, voluntary survey is an important source of national data on violence against LGBTQ youth and a critical tool to learn whether crimes are being reported and how the criminal justice system is responding to young LGBTQ victims.

Letter to United States Office of Management (OMB) and Budget Regarding "Public Charge" Immigration Rule. In May 2018, Attorney General Becerra sent a letter to OMB opposing a proposal that would fundamentally and adversely change the criteria for determining whether immigrants who

use or are likely to use public benefits are admissible to the United States, eligible to adjust their immigration status, or subject to deportation. The letter highlights the severe impact that such a change would have on individuals in California, including the U.S. citizen children of immigrants whose use of basic life-critical benefits for food, housing, and health care could jeopardize their parents' immigration status. Representatives from the Bureau of Children's Justice and the California Department of Justice's Healthcare Strike Force met with OMB to express the Attorney General's concerns and advocate against changes to this rule.

Statewide Tribal-Led ICWA Task Force. The Indian Child Welfare Act (ICWA) seeks to ensure that children with Native American tribal affiliation are given every opportunity to grow up with their heritage and cultural affiliation preserved. The Attorney General invited tribes in California to form an independent task force and develop a report from their communities detailing struggles to achieve compliance with ICWA as well as their desired outcomes from the Attorney General's engagement in ICWA enforcement. Attorney General Becerra received the report in March of 2017 and our office is working with other appropriate state and local agencies to ensure implementation of the task force's report.

Law Enforcement Bulletin on Commercially Sexually Exploited Children. In October 2017, the Attorney General developed and released guidance to local law enforcement on implementing Senate Bill 1322 (2016) and protecting commercially sexually exploited children. The bulletin was spurred by amendments to Penal Code Sections 647 and 653.2, which eliminate the application of prostitution and loitering for prostitution charges to minors and require that minors who are loitering or might otherwise be charged with prostitution must be treated as commercially sexually exploited children under the Welfare and Institutions Code, rather than as perpetrators of crimes.

Consumer Law

United States, California, et al. v. Dish Network LLC. In 2017, after a five-week trial in U.S. District Court, the Attorney General obtained a \$53.25 million judgement against Dish Networks for extensive violations of state and federal telemarketing and do not call laws. The Court also entered a permanent injunction designed to reform Dish's telemarketing practices. This case, which the Attorney General litigated jointly with the United States and four other states, is currently on appeal to the Seventh Circuit.

Corinthian Colleges. After obtaining a \$1.1 billion default judgment against Corinthian Colleges in 2016, the Attorney General has continued in 2017 and 2018 to pursue student loan debt relief for students who attended the company's Heald, Everest and Wyotech schools, which closed permanently as a result of the Attorney General's investigation and litigation. Since that time, the Attorney General has secured more than half a billion dollars in debt relief for students as a result of administrative actions by the U.S. Department of Education that were based on the Attorney General's investigation, and as a result of an August 2017 stipulated judgment against Aequitas Capital Management and a June 2018 stipulated judgment against Turnstile Capital, both of which provide further private student loan relief to Corinthian student-borrowers.

People v. DeVos. In 2017, the Attorney General sued Secretary Betsy DeVos and the U.S. Department of Education for failing to process borrower defense applications filed by former Corinthian students who were defrauded by their schools, and who were therefore entitled to relief based on factual findings made by the California Department of Education as a result of investigative work done by the Attorney General. This action remains in active litigation, along with separate actions brought by our office against Secretary DeVos over the delay of rules what would protect California students and student-borrowers.

People v. Volkswagen (Diesel Emissions Cheating). In early 2017, the Attorney General announced the last in a series of partial consent decrees that resolved allegations that Volkswagen installed emissions defeat devices in Volkswagen, Audi and Porsche vehicles sold in California. Collectively, these settlements resulted in the recovery of more than \$1 billion in civil penalties, as well as emissions mitigation funds and zero emissions vehicle investments that fully mitigate the emissions from the affected vehicles, along with strong permanent injunctions that require the defendants to modify or buy back 85% of the affected vehicles in California, and pay substantial compensation to consumers. This action was brought in the name of the People by the California Air Resources Board, as well as in the Attorney General's independent capacity.

Net Neutrality. In January 2018, the Attorney General, joining with the Attorneys General of 21 other states, sued the Federal Communications Commission to challenge its decision to repeal the Obama-era net neutrality rule, which prohibited internet service providers from interfering with the ability of users to access online content. This action remains in active litigation.

People v. Navient. In 2018, the Attorney General sued Navient, the nation's largest servicer of federal student loans, and two of its subsidiaries. The lawsuit alleges, among other things, that the defendants steered borrowers toward more expensive repayment plans and provided incorrect information to borrowers about their accounts. This action remains in active litigation.

People v. Ashford University & Bridgepoint Education. In 2017, the Attorney General sued Bridgepoint Education, operator of for-profit college Ashford-University, alleging that the school violated California consumer protection laws by making misrepresentations to students and engaging in unfair debt collection practices.

People v. Cabrera. In February 2017, the Attorney General obtained a five-year prison sentence against Oswaldo Cabrera, an immigration consultant who operated Coalición Latinoamericana Internacional in Los Angeles and targeted Central American immigrants. Cabrera pled guilty to grand theft, attempted perjury and conspiracy to violate the Immigration Consultants Act. The Attorney General also obtained full restitution for the victims identified in the complaint.

People v. Curacao. In 2017, the Attorney General sued Curacao, a large retailer that targets low-income Spanish-speaking communities, for a range of alleged illegal practices including false advertising, failure to honor warranties, and unfair debt collection practices. This action remains in active litigation.

People v. Matheson. In 2017, the Attorney General and the San Diego District Attorney obtained indictments charging Florida residents Bradley and Margaret Matheson with numerous felony counts related to a cancelled high school band trip to Japan, including embezzlement, failing to maintain passenger funds in a trust account, and failing to provide refunds. The Mathesons plead guilty in early 2018. They were each sentenced to two years in jail and ordered to pay back \$110,309 in restitution to their victims – families of San Diego-area public high school students.

People v. Ramil Abalkhad, et al. In 2018, Defendant Ramil Abalkhad, owner of Romano’s Jewelers, pled no contest to felony conspiracy to violate credit sale and debt collection laws in connection with the sale of jewelry to young sailors and marines at Camp Pendleton and other San Diego-area Navy and Marine Corps installations. This case was brought by the Attorney General as a result of referrals from Navy and Marine Corps JAG legal assistance attorneys.

Johnson & Johnson. In May 2016, the Attorney General filed suit against Johnson & Johnson for false advertising and deceptive marketing of its surgical mesh products for women. The complaint alleges that the company failed to adequately inform both patients and doctors of possible severe complications and misrepresented the frequency and severity of risks. This case remains in active litigation in San Diego Superior Court.

Cottage Health System. The Attorney General reached a \$2 million settlement in November 2017 against Cottage Health System, following two separate data breach incidents where more than 50,000 patients’ medical information was made publicly available online. The stipulated judgment requires Cottage to upgrade its data security practices and procedures to protect patients’ medical information from unauthorized access or disclosure, maintain an information security program that meets reasonable security practices and procedures for the healthcare industry, and designate an employee to serve in the capacity of a Chief Privacy Officer.

Lenovo Corporation. In September 2017, the Attorney General, along with 31 other states and in coordination with the Federal Trade Commission, participated in a \$3.5 million settlement to resolve allegations that Lenovo had illegally preinstalled ad-injecting software that compromised the security of its computers. This case marks the first time that California has held a hardware manufacturer accountable for software preinstalled on its products. As part of the stipulated final judgment, Lenovo is required to adopt advanced measures to prevent future misconduct, including making clear and conspicuous disclosures about how pre-installed advertising software will operate, obtaining a consumer’s affirmative consent before using such software, and providing a reasonable and effective means for consumers to opt-out, disable or remove the software.

Target Corporation. In May 2017, the Attorney General, along with 46 other states and the District of Columbia, entered into a settlement with Target Corporation in response to allegations that the company’s failure to provide reasonable data security led to a data breach affecting over 40 million customers who had their payment card information compromised during the 2013 holiday season. Target agreed to pay a record \$18.5 million; California received more than \$1.4 million, the largest share of any state. As part of the stipulated final judgment, Target is required to employ an executive to oversee a comprehensive information security program and advise its CEO and Board, encrypt or otherwise protect payment card information to make it useless if stolen, and adopt other technologi-

cal measures. In addition, the settlement requires Target to integrate business practices recommended in the Attorney General's Data Breach Reports previously published by the California Department of Justice.

Corporate Fraud

People ex rel. Schroen v. B.P. In January 2018, the Attorney General obtained a \$102 million settlement of a lawsuit against BP alleging fraudulent overcharges to California under a natural gas supply contract with the Department of General Services. A significant portion of the alleged overcharges were passed on to the University of California, the California State University, and numerous local political subdivisions. Under the settlement, the State, the UC, CSU, and 56 local political subdivisions will recover the overcharged amounts.

Investigation of RBS. In December 2017, the Attorney General reached a \$125 million settlement with RBS over misrepresentations about residential mortgage-backed securities sold to California's public employee and teacher pension funds, California Public Employees' Retirement System and the California State Teachers' Retirement System. An investigation conducted by the Attorney General's Office found that the descriptions of these mortgage-backed securities to investors failed to accurately disclose the true characteristics of many of the underlying mortgages, and that due diligence to remove poor quality loans from the investments was not adequately performed.

Investigation of Deutsche Bank. In October 2017, the Attorney General negotiated a \$220 million settlement with Deutsche Bank as part of a multistate investigation into manipulation of LIBOR, a key interest rate benchmark used by banks. The settlement netted California governmental and non-profit entities \$29 million.

Investigation of Citibank. In June 2018, the Attorney General entered into a \$100 million settlement with Citibank over its liability for the manipulation of LIBOR. The settlement is expected to net California governmental and non-profit entities \$14 million.

SDG&E v. Sellers (Shell Energy). In October 2017, the Attorney General and allied parties entered into a \$143.5 million settlement with Shell Energy North America for refund claims arising from the market manipulation and resulting overpriced short term energy sold to California during the 2000-2001 energy crisis. The settlement proceeds will reduce the utility bills of California ratepayers of the investor-owned utilities and repay litigation costs.

Chamber of Commerce v. Acosta. In April 2018, the Attorney General moved to intervene and seek rehearing of a decision by the Fifth Circuit Court of Appeal vacating the Fiduciary Rule, a carefully developed set of regulations which would have greatly increased the protection of retirement investors nationwide by requiring advisors to put the interests of their clients ahead of their own financial gain. The Court denied the motion, and the Attorney General filed a further motion for reconsideration, which was also denied.

People v. Morgan Stanley. The Attorney General continues to litigate his case against Morgan Stanley for selling toxic mortgage securities to state pension funds and other investors, resulting in massive losses.

Environment Law

Lead in Jewelry Cases. Following inspections, the Attorney General and DTSC are undertaking enforcement actions against 12 jewelry wholesalers in the Los Angeles Jewelry District and Bay Area that supplied jewelry for sale that is contaminated with levels of lead or cadmium exceeding state standards. Some of this jewelry was marketed to children.

Telecom Company Hazardous Waste Disposal Investigation. The Attorney General and the Alameda District Attorney launched an investigation of major telecom companies' unlawful disposal of large volumes of electronic waste, including batteries and other devices. These companies failed to manage this regulated waste as hazardous, as required by law, and illegally disposed of it in receptacles destined for municipal landfills. Following earlier settlements with Comcast and AT&T, for \$25.9 and \$23.8 million in penalties respectively, the Attorney General entered into separate settlement agreements in 2017 and 2018 with Cox Communications and DirecTV, requiring these companies also to revise their waste handling practices and pay \$4.8 million and \$9.5 million in civil penalties and other relief, respectively.

Ensuring Legal Accountability for the Aliso Canyon Gas Leak. During 2017 and 2018, the Attorney General continued to work with the Los Angeles City Attorney to hold the Southern California Gas Company (SoCalGas) fully accountable for the massive October 2015 leak of methane gas from an injection well at the Aliso Canyon natural gas storage facility. The leak persisted for nearly four months and released more than 2 million metric tons of greenhouse gases. Residents of the nearby community of Porter Ranch were sickened by emissions and odors from the leak and more than 4,000 residents were temporarily relocated. The Attorney General filed suit, seeking civil and injunctive relief. In August of 2018, the parties reached a \$119.5 million settlement (currently pending with the court) that includes \$21 million in penalties, \$45.4 million to fund beneficial environmental projects in the community, \$19 million for government agency costs, and \$34.2 million to ensure that SoCalGas fully mitigates the greenhouse gas impacts of the massive leak.

Criminal Prosecution for the 2015 Santa Barbara Oil Spill. Following a ten-month grand jury proceeding, the Attorney General and the Santa Barbara District Attorney secured criminal indictments against Plains All-American Pipeline following the spill of more than 100,000 gallons of oil near Refugio State Beach in Santa Barbara. The Grand Jury returned an indictment consisting of felony and misdemeanor charges for failure to timely report the release, contamination of water and soil caused by the oil spill, and resulting death to birds and marine life. The criminal trial is ongoing and is expected to last through the summer of 2018.

Opposing U.S. EPA's National Power Plant Greenhouse Gas Roll-backs. Under his authority to protect the state's public interest in public health and the environment, the Attorney General has continued to lead a multi-state coalition to both defend the Clean Power Plan (CPP) – U.S. EPA's groundbreaking 2015 rule regulating greenhouse gas (GHG) emissions from power plants – as well as to oppose efforts since 2017 to repeal it and replace it with a less stringent rule. In addition, California is leading the multi-state defense of the rule applicable to new and modified power plants. In October 2017, U.S. EPA proposed to repeal the CPP, and in December 2017, the EPA began the process of developing a considerably less-stringent replacement rule. Together with the Attorneys

General of like-minded states, Attorney General Becerra has filed comments objecting to these proposals.

Defense of California’s Clean Car Standards. Following the change in administration, the U.S. EPA re-opened its decision affirming the federal automobile GHG emission standards for the 2022-2025 model years that California had deemed sufficient to comply with California’s strict emission standards. In May 2018, the Attorney General, in his independent capacity and as counsel to the California Air Resources Board, filed suit challenging the agency’s attempt to revisit the stringency of the standards. Relatedly, the Attorney General recently secured an order from the Federal Court of Appeals in New York invalidating the National Highway Traffic Safety Administration attempt to indefinitely delay an increase in the civil penalty rate for automakers who fail to meet annual fleet-wide fuel efficiency standards.

Opposing U.S. EPA’s Clean Water Act Rollback. Pursuant to an Executive Order, U.S. EPA has initiated a multi-stage strategy to significantly reduce the number of bodies of water subject to federal protection under the Clean Water Act by redefining what constitutes “waters of the United States.” As a first step, U.S. EPA has adopted a rule purporting to delay by two years the “applicability” of the prior Administration’s definition. The Attorney General is helping lead a coalition of states challenging U.S. EPA’s unlawful delay.

Opposing Department of the Interior Oil and Gas Rule Rollbacks. The Attorney General is challenging federal attempts to roll-back three significant oil and gas industry regulations: the Methane Rule, the Fracking Rule and the Valuation Rule. The U.S. Bureau of Land Management’s (BLM’s) 2016 Methane Rule reduces waste and GHG emissions by placing restrictions on venting, flaring, and leakage of natural gas on federal and Indian lands. The BLM twice illegally sought to suspend the key provisions of the rule without following the requirements of the federal Administrative Procedures Act. Attorney General Becerra, together with the New Mexico Attorney General, obtained an order invalidating BLM’s first attempt and an injunction against its second attempt. Litigation continues in several fora over this rule. BLM has already moved forward with the repeal of its Fracking Rule, which requires the use of common sense practices to reduce the risk of drinking water contamination caused by the hazardous chemicals used to fracture oil and gas bearing formations. Litigation challenging BLM’s repeal on several grounds is in its early stages. Initially delayed, the Valuation Rule – which sought to ensure taxpayers and states receive fairly valued royalties for oil, gas, and coal extracted from public and tribal lands – has now been repealed. Early in 2017, the California and New Mexico Attorneys General obtained a ruling that the suspension of the Valuation Rule was illegal, and late in 2017, the Attorneys General challenged the repeal after the agency failed to articulate a reasoned basis for reversing course as required by the Administrative Procedures Act. Briefing is underway in that action.

Challenging the Lifting of Coal Leasing Moratorium. In March of 2017, the Secretary of the Interior issued an Order to restart the process of leasing coal on federal lands, and to terminate an ongoing environmental review of the program. The earlier moratorium and review had been imposed in January 2016 following years of criticism over the Bureau of Land Management’s outdated management of the program pursuant to regulations and an environmental impact statement adopted in 1979. In May 2017, the Attorney General filed suit to challenge the decision to restart the federal

coal program, arguing that in the absence of adequate environment review, the decision violates the National Environmental Policy Act, the Mineral Leasing Act, and the Federal Land Policy and Management Act.

Bureau of Environmental Justice

In February 2018, the Attorney General created the **Bureau of Environmental Justice** to give particular focus to the Section’s enforcement work to protect low-income people and communities of color that endure a disproportionate share of environmental pollution. The Bureau will pursue a variety of enforcement cases and investigations, including ensuring full consideration of the potential for cumulative impacts to vulnerable communities under the California Environmental Quality Act (CEQA); eliminating or reducing exposures to lead and other contaminants in the environment and in consumer products; penalizing and preventing illegal discharges of pollution from facilities located in disadvantaged communities; and appearing as amicus curiae to advocate for legal principles that advance environmental justice.

Significant cases and activities include:

People v. Nutraceutical Corp., et al (Infant Formula Investigation). In June and July of 2018, the Attorney General, with a group of district attorneys, brought two suits against several manufacturers of infant and toddler formulas because testing revealed that the formulas contain levels of lead that violate Proposition 65 warning levels. Two of the formulas (the subjects of the first suit) had lead levels so high as to be considered “adulterated” under state food safety laws and, at the Attorney General’s insistence, the manufacturers are no longer offering these for sale. The second lawsuit targets a group of manufacturers with low levels in their products, but levels that still exceed warning levels. The Attorney General’s office will be working with both groups of manufacturers to identify the source of lead in the products and to ensure the removal of all avoidable lead.

City of Arvin Oil and Gas Ordinance. In June 2018, the Attorney General submitted a letter supporting the legal authority of the City of Arvin – a predominantly Hispanic, low income community overburdened with serious air quality and related public health problems – to adopt an oil and gas ordinance that prohibits new oil and gas wells in residential and other sensitive areas and imposes buffer zones to locate oil and gas wells more than 300 feet from homes, schools, hospitals and parks. The ordinance was adopted in July of 2018.

Oakland Coal Ordinance Litigation. In December 2017, the Attorney General filed an amicus brief supporting City of Oakland’s proposed ordinance banning the handling of coal within City boundaries. The brief supported the legal authority of the City to adopt local land use controls using its police power for the purposes of protecting the health and safety of the residents living in West Oakland, a disadvantaged community that endures a disproportionate share of environmental pollution and has higher than average rates of asthma and cancer.

South Side Neighbors v. City of Fresno. In June 2018, the Attorney General intervened in a lawsuit challenging the City of Fresno’s approval of a seven-building, 2.1 million square foot industrial warehouse complex in south Fresno because the City failed to conduct the environmental analysis

required under CEQA. The massive warehouse, which is expected to draw over 6,000 vehicles daily and would operate 24/7, is proposed to be built across the street from residences and less than a mile from an elementary school and heavily burdened environmental justice communities. The litigation is on-going.

Indian and Gaming Law

State of California v. Iipay Nation of Santa Ysabel. After the Tribe launched an Internet site on which patrons payed to play bingo for cash prizes, the Attorney General filed a complaint on behalf of the State of California alleging that the online offering violated the Tribe's class III gaming compact with the State and the Unlawful Internet Gambling Enforcement Act (UIGEA). The federal district court found that the activity violated the UIGEA. The Tribe appealed to the Ninth Circuit and oral argument was held in March 2018.

Chemehuevi Indian Tribe v. Governor Edmund G. Brown Jr. Two gaming tribes sued the Governor asserting that the termination date in their gaming compacts with the State of California in effect since 2000 was invalid, contending that having such a date is illegal under the federal Indian Gaming Regulatory Act (IGRA). The tribes asked the federal district court to invalidate the termination clause and to allow the remaining compacts to exist in perpetuity. In 2017, the District Court agreed with the State's position that the duration of a compact is a permissible subject for negotiation, as it qualifies under IGRA as either a standard for the operation of gaming activity or a topic directly related to the operation of gaming activities. The tribes' appeal to the Ninth Circuit Court of Appeals is pending.

State of California v. Picayune Rancheria of Chukchansi Indians. The Attorney General obtained a temporary restraining order, preliminary injunction and permanent injunction from the federal district court after an armed invasion by a tribal faction into the Chukchansi Gold Casino in Madera County. The decision granting the permanent injunction was appealed and on June 5, 2018, the Ninth Circuit affirmed the judgment and permanent injunction. This case marks one of the first times a state government has used a tribal-state gaming compact to protect public health, safety, and welfare.

United Auburn Indian Community of the Auburn Rancheria v. Edmund G. Brown, Jr. The Attorney General represents the Governor in this suit filed by the United Auburn tribe challenging the Governor's decision to concur with the Secretary of the Department of the Interior's decision to take off-reservation land of the Enterprise tribe into trust for that tribe for the purpose of its developing a casino. United Auburn asserted that the Governor was required to comply with the California Environmental Quality Act before concurring with the federal government's trust action, and that the Governor violated the State's separation of powers clause by granting the concurrence. The Attorney General prevailed on both issues before the superior court and the court of appeal. On January 25, 2017, the California Supreme Court granted a petition for review filed by United Auburn regarding the separation of powers question. This case is still pending.

Gaming Compacts. The Attorney General assists the Governor in negotiating new compacts and compact amendments with federally recognized Indian tribes in California. The compacts enhance environmental, consumer, and employee safeguards in the expansion of the Indian gaming industry

in California and ensure that California tribes without casinos and those with small casinos continue to receive a share of revenues from tribal gaming. Since the fall of 2016 through June of 2018, the Attorney General has assisted the Governor's Office in negotiating with over 50 tribes resulting in over 20 compacts and compact amendments successfully negotiated—the most compacts since the class III gaming compacts were negotiated in 1999.

People of the State of California v. Pong Game Studios Corporation, et al. In November, 2017, the Attorney General, leading a litigation task force of ten local agencies, obtained a preliminary injunction under California's unfair competition law against Prepaid Telconnect, Inc., prohibiting it from offering games with a purported skill exercise that allow participants to play gambling-themed games at computer stations in internet cafes to win cash prizes. The purported skill exercise, however, only required participants to perform a simplistic graphical color bar exercise before cashing out their gambling winnings. The purported skill-based gaming software system is distributed in California by defendant Pong Gaming Studios Corporation. These criminal enterprises have made millions of dollars in California by preying on the most disadvantaged clientele who can least afford persistent gambling losses

Card Room Disciplinary and Licensing Proceedings. The Attorney General represents the Department of Justice's Bureau of Gambling Control (Bureau) in administrative proceedings brought against card rooms. In 2017, the California Gambling Control Commission approved settlements involving card rooms located in Chula Vista and Clovis. Those two settlements resulted in revoking the owners' licenses, imposing lifetime bans from licensure, and assessing fees and costs totaling \$3.1 million. The Attorney General's representation of the Bureau has also included filing accusations that are presently pending against two large card rooms based on their violations of the federal Bank Secrecy Act.

Land Law

Outer Continental Shelf. The Attorney General, in his independent capacity and on behalf of several of the office's clients (including the Coastal Commission, State Lands Commission, and the Division of Oil, Gas and Geothermal Resources), has formally objected to the Trump Administration's plan to re-open oil exploration on the outer continental shelf (OCS), as well as the Administration's attempts to rescind and amend safety and other regulations. This engagement on OCS matters will likely continue in the years to come and will include not only further administrative proceedings, but also court action if necessary to protect California's coastal resources.

California High-Speed Rail Authority. The Attorney General advises the California High-Speed Rail Authority on environmental law compliance for constructing the high-speed rail system. This includes providing advice regarding the Authority's ten in-progress project-level environmental impact reports analyzing the system's environmental impacts under the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA). In long-running and complex litigation, the Attorney General has successfully defended the Authority's programmatic environmental impact report (EIR) that addressed the rail system between the Bay Area and Central Valley. More recently, the Attorney General has assisted the Authority in settling seven lawsuits challenging its project-level EIRs for portions of the system in the Central Valley between Merced

and Bakersfield. Several CEQA lawsuits remain pending against the Authority; however, the Attorney General's efforts have contributed to the Authority being able to start and maintain major civil infrastructure construction utilizing several billion dollars in federal grant funds awarded under the American Recovery and Reinvestment Act of 2009.

Lake Tahoe. Since 1971, the Attorney General has enforced the bi-state compact entered into between Nevada and California in 1969 to promote the environmental protection of Lake Tahoe. This participation has included challenging actions taken by the Tahoe Regional Planning Agency (TRPA) pursuant to the compact, as well as supporting and collaborating with TRPA on its efforts to adopt comprehensive amendments to its regional plan. Over the past few years, the Attorney General has engaged with TRPA on important planning initiatives such as an update to the "development rights" system in the Tahoe Basin to better advance the goals of restoring sensitive land and promoting environmentally beneficial redevelopment projects. The Attorney General has also monitored and commented on other projects in the Tahoe Basin in order to advance important issues such as public access at Lake Tahoe (TRPA's Shoreline Plan), and issues involving air quality, greenhouse gas reduction, and Vehicle Miles Traveled (VMT). Most recently, the Attorney General has commented on the Tahoe Transportation District's Highway 50 relocation plan, as well as on development projects associated with Squaw Valley and Martis Valley.

Affordable Housing. The Attorney General represents the state agency primarily responsible for expanding the supply of affordable housing, the Department of Housing and Community Development (HCD). Recently, for example, the office successfully defended HCD in a breach of contract action brought by Monterey County investors whose property had been used as a public housing complex. Similarly, HCD is now asserting a breach of contract claim against a Sacramento nonprofit that received several hundreds of thousands of dollars in state funding to operate migrant housing. HCD's complaint alleges that the nonprofit spent those funds on unauthorized purposes or without proper accounting. In 2017, the Legislature enacted a package of bills intended to address the state's housing crisis; these bills will give HCD new funding streams and enforcement powers.

Oil Regulation Litigation. The Department of Conservation's Division of Oil, Gas, and Geothermal Resources (DOGGR) is in the process of overhauling its regulation of oil production in California to adapt to modern industry practices and current public expectations. It adopted emergency regulations addressing underground injection controls, and the Attorney General is defending the lawsuit challenging those regulations. In addition, in response to the Legislature's direction in Senate Bill 4, DOGGR prepared an environmental impact report examining the impacts of hydraulic fracturing, and the Attorney General is defending the lawsuit challenging that report.

Natural Resources Law

Cal Water Fix Litigation. The Attorney General represents the Department of Water Resources (DWR) and the Department of Fish and Wildlife (DFW) in 20 coordinated cases challenging DWR's Final Environmental Impact Report and its findings on related issues regarding the California Water-Fix water supply infrastructure project under the California Environmental Quality Act (CEQA), and DFW's issuance to DWR of an incidental take permit under the California Endangered Species Act. Each of these related cases was filed by a city, county, water agency, business, or nonprofit organiza-

tion challenging DWR's and DFW's approvals relating to the project.

Climate Change Litigation. The Attorney General represents the California Air Resources Board in numerous federal lawsuits challenging actions taken by the federal government to rollback or delay air emission regulations designed to address climate change. The Attorney General also represents the Board in state court actions challenging the Board's most recent updates to the scoping plan, the blueprint for meeting the greenhouse gas emissions targets under AB 32.

Air Enforcement. The Attorney General represents the California Air Resources Board in matters brought to enforce and defend air quality and climate laws and regulations. The office continues to represent the Board as it investigates and brings litigation concerning air quality violations caused by non-compliant engines and vehicles, including investigations and litigation for emissions-testing fraud (i.e., Volkswagen and other manufacturers' diesel engine passenger cars with defeat devices).

Fire Suppression Cost Recovery Actions. The Attorney General represents the Department of Forestry and Fire Prevention (*CAL FIRE*) to recoup the cost of fire suppression for wildland fires that occur in California each year. From May 2016 to May 2018, the office litigated cases that resulted in more than \$32 million in recoveries.

Oil Spill Cleanup Cost Recovery Actions. The Attorney General represents the Department of Fish and Wildlife and Regional Water Quality Control Boards to recover civil penalties and natural resource damages from onshore and marine oil spills. Among other spills, the Attorney General is pursuing Plains All American Pipeline for its May 2015 spill of oil that reached the ocean just west of Refugio State Beach in Santa Barbara County. The spill resulted in the closing of Channel fishing grounds and public beaches as far south as Manhattan Beach, and caused significant harm to marine mammals, marine birds and intertidal resources.

Wildlife and Endangered Species Litigation. The Attorney General represents the Department of Fish & Wildlife (DFW) and Fish & Game Commission (FGC) in administrative proceedings challenging regulation and lawsuits filed by permittees impacted by regulations. The Attorney General also represents these agencies in litigation challenging federal biological opinions affecting releases of water by the state and federal water projects in the Bay Delta and the protection of endangered Salmon and Smelt species. The Attorney General defends FGC's Endangered Species Act listing decisions, including a challenge to the listing of the Gray Wolf recently rediscovered in northeastern California.

Tobacco Litigation and Enforcement

MSA Payment Issues. In 2017 and 2018, the Attorney General continued to oversee compliance by the tobacco manufacturers with respect to their payment obligations under the historic tobacco master settlement agreement. As a result, the participating manufacturers paid California nearly \$734 million in 2017 and \$876 million in 2018, bringing the total amount paid to California and both its counties and four largest cities since the MSA was signed in 1998 to \$15.7 billion.

Litigation Against Illegal Cigarette Sales. In 2017 and 2018, the Attorney General pursued litigation against entities responsible for illegal cigarette sales in California, including associated appeals. In

2017, the Attorney General initiated an enforcement action against a Canadian cigarette manufacturer for selling large quantities of cigarettes in California without complying with California's tobacco escrow and tobacco directory statutes, as well California's unfair competition law. In 2017, the Attorney General also prevailed on an appeal of a judgment against a seller of illegal, tax-evaded, non-fire-safe certified cigarettes. *People v. Darren Rose* (2017) 16 Cal.App.5th 317.

LEGAL SERVICES DIVISION: CIVIL LAW

Overview

The division represents more than 200 state agencies and our state's constitutional officers, including the Governor and the Attorney General, in litigation and other proceedings. The division is presently handling 17,768 cases.

The Division of Civil Law consists of the following sections:

- The **Business and Tax Section**'s primary mission is to protect the state's treasury by defending California's tax and fee structure. It protects 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.
- The **Cannabis Control Section** represents the state agencies that license medicinal and adult-use cannabis businesses in California.
- The **Correctional Law Section** represents the following entities in litigation and other proceedings: Governor's Office, Department of Corrections and Rehabilitation, Division of Juvenile Justice, and Board of Parole Hearings, and the Department of State Hospitals. The section defends state officials in civil suits brought by state prisoners regarding prison conditions and aspects of parole proceedings. More than 127,000 prisoners, 47,000 parolees, and 600 juvenile offenders are under the jurisdiction of the section's client agencies.
- The **Employment and Administrative Mandate Section** represents state agencies and officials in litigation and other proceedings regarding personnel matters and employment related claims including those for employment discrimination, harassment, retaliation, and interactive process and reasonable accommodation of disability claims.
- The **Government Law Section** defends state statutes against constitutional challenges; litigates matters involving the federal government and other governmental entities to preserve state interests; advises on and litigates elections matters; and carries out the Attorney General's role in preserving the integrity of the electoral process by preparing titles and summaries for proposed initiatives.
- The **Health, Education, and Welfare Section** represents more than 30 state agencies responsible for administering a multitude of health, education, and welfare programs, in litigation and other proceedings pertaining to health quality enforcement, Medi-Cal, and more.
- The **Health Quality Enforcement Section** vertically enforces medical quality investigations and prosecutes disciplinary actions against licensees of the Medical Board of California and other health care boards within the Department of Consumer Affairs.

- The **Licensing Section** protects integrity in business and professions by providing legal services to regulatory agencies created to protect consumers from harm from more than one million licensed businesses and professionals who operate in California.
- 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.

Major Accomplishments

Business and Tax Section

Harley-Davidson, Inc. v. Franchise Tax Board; and Abercrombie & Fitch v. Franchise Tax Board. These two lawsuits challenge California’s requirement that interstate unitary businesses file a combined income report so the total income can be apportioned between California and other jurisdictions, while in-state business groups have the option of reporting income on a separate entity basis. The taxpayer-plaintiffs claim an entitlement to file California franchise tax returns using a separate-entity basis. The trial court in *Harley Davidson* ruled on the parties’ cross-motions for summary judgment granting the Board’s motion and denying plaintiff’s motion. Plaintiff’s appeal is pending in the Court of Appeal, Fourth Appellate District. At the trial of the *Abercrombie* matter, the court granted the Board’s motion for judgment in its favor at the close of plaintiff’s presentation of its evidence. Plaintiff’s appeal is pending in the Court of Appeal, Fifth Appellate District.

McClain v. Sav-On Drugs, et al. (California Dept. of Tax & Fee Administration). This is a consumer class action case asserting that sales of glucose blood testing strips and lancets are exempt from sales tax and seeking refunds of sales tax reimbursements paid by consumers to retailers. The trial court dismissed the case under *Loeffler v. Target Corp.* (2014) 58 Cal.4th 108, which held that retailers, not consumers, are the taxpayers and the only parties entitled to claim refunds from the California Department of Tax and Fee Administration. The Court of Appeal affirmed. The California Supreme Court granted review to decide whether consumers were entitled to invoke any equitable remedies to recover the sales tax reimbursements and whether the statute permitting retailers to seek sales tax reimbursements from consumers violates the due process and taking clauses of the U.S. Constitution.

Howard Jarvis Taxpayers Assn. v. California Dept. of Forestry and Fire Protection et al. (California Dept. of Tax & Fee Administration). This is a class action challenging the constitutionality of a fee that generated roughly \$80 million in yearly revenue to support the state’s efforts to prevent wild-fires. On the same day that the trial court was scheduled to hear the plaintiffs’ motion for summary judgment, the court granted defendants’ motion to dismiss the entire case for the failure to bring the case to trial within five years. Plaintiffs’ appeal is currently pending.

Arkansas, et al. (California, on behalf of the State Controller) v. Delaware. This case arises under the original jurisdiction of the United States Supreme Court: twenty-nine states, including California, have sued Delaware over whether Delaware has escheated unclaimed financial instruments sold by

MoneyGram in violation of federal law. California's claim is estimated to be from \$15 to \$25 million in value, and the case will have an ongoing impact on states' escheatment practices. California has taken a leading role in directing the litigation. Cross-motions for summary judgment are due in December 2018 and a trial, if necessary, will be held in early 2019.

Cannabis Control Section

The section is in the early stages of development. On June 6, 2018, the Senior Assistant Attorney General was appointed. Since that time, the following significant activities continue to be performed: (1) statewide section staffing for two supervising deputy attorneys general, 15 deputy attorneys general, and two paralegals; (2) meetings with client agencies and the Governor's Office to discuss representation, emergency and draft regulations, workload, case processing, and future joint training; and (3) development of pleadings and case management tools.

The section will primarily handle licensing administrative proceedings and appeals from those proceedings. In addition, the section will defend lawsuits filed against client agencies relating to the implementation of licensing and enforcement programs. The section continues to review and advise on regulations and legislation related to cannabis.

Correctional Law Section

Coleman v. Brown. This class action challenges inmate mental-health care. Since 1995, a court-appointed special master has monitored and reported on CDCR's compliance with the remedial plan. The remedial stage of the litigation continues.

Plata v. Brown. This class action challenges the delivery of inmate medical care services to prisoners. In 2006, a federal receiver was appointed to manage inmate medical care after finding that California was unable to make needed changes. The state is working with the receiver to return control of the medical care system to state control; to date, sixteen prisons have been delegated back to the state's control to provide medical care.

Three-Judge Court Litigation. In 2011, the U.S. Supreme Court affirmed a three-judge court's finding that prison overcrowding was the primary cause of alleged unconstitutional medical and mental health care (*Coleman* and *Plata* cases). In February 2014, the three-judge court granted the state a two-year extension to meet the final population-reduction benchmark. Since February 2015, the prison population has been below the court-ordered population benchmark. As required by court order, the state must demonstrate it has a "durable" remedy in place before the court will consider ending oversight of the prison population. The state expects that Proposition 57, The Public Safety and Rehabilitation Act of 2016, will be the durable remedy to allow termination of this matter.

Ashker v. Brown. Plaintiffs in this class action are long-standing validated gang members and associates housed in Pelican Bay's Security Housing Unit. Plaintiffs claimed that gang validation and review procedures violate due process rights, and that the conditions of confinement constitute cruel and unusual punishment. The case settled in 2015, but Plaintiffs are seeking to extend the court's jurisdiction to oversee the settlement.

Lethal Injection Litigation. A new execution protocol went into effect on March 1, 2018. There are three pending civil challenges under the federal Constitution or California’s Administrative Procedure Act to the method by which condemned inmates will be executed by lethal injection. More than 20 condemned inmates are plaintiffs in the *Morales* matter filed in 2006, which concerns an Eighth Amendment challenge. The *Morales* court has stayed the plaintiffs’ executions. The case itself is stayed while the parties and the court determine a litigation schedule.

Employment and Administrative Mandate Section

Grundfor v. Bouffard et al. This is a First Amendment retaliation case which is currently on appeal. Plaintiff was a clinical social worker at Atascadero State Hospital who was rejected on probation. She claimed that her rejection was due to retaliation against her for providing her observations relating to a patient death, including in a clinical work note. During the trial, we presented evidence that the plaintiff’s rejection was due to poor performance. Further, that the Plaintiff’s observations about the death communicated to her supervisors was not protected speech. Plaintiff’s job as a social worker was to observe and report those clinical observations. The trial court granted our Rule 50(a) motion after the presentation of evidence finding that there was no First Amendment speech as a matter of law.

Luckey-McGee v. Employment Development Department. Plaintiff was a customer service representative who was repeatedly rude, discourteous, and insubordinate towards the Department personnel and customers, conduct which ultimately led to her termination for workplace violence. She then sued for race and age discrimination and harassment and retaliation based on a litany of workplace actions over her entire 10-year employment with the Department. These included the denial of an Individual Development Plan, her failure to obtain a promotion, and numerous letters of reprimand. We engaged in extensive discovery and motion practice resulting in the dismissal of Plaintiff’s discrimination and retaliation claims prior to trial. Over a three-week trial, we demonstrated through both documentary evidence and witness testimony from a racially diverse group of managers, that Plaintiff was not harassed. Rather, Plaintiff continued to perform poorly at work even after the Department afforded her every opportunity to succeed at her job. The jury returned a unanimous verdict for the defense.

Department of Alcoholic Beverage Control v. Alcoholic Beverage Control Appeals Board (Garfield Beach CVS, LLC). This appellate matter involved a suspension of a CVS store’s liquor license for selling an alcoholic beverage to a minor decoy. The CVS store argued that the Department had not complied with the face-to-face identification requirement because the decoy pointed out the seller when the clerk was standing approximately ten feet away. We argued that the plain language of the regulation did not require that the identification be done within a certain distance. The Court agreed and interpreted the regulation in a common sense manner to require only that the clerk and decoy be in reasonable proximity to each other sufficient to assure that the seller knows or reasonably ought to know that he or she is being identified by the decoy. The Court found that the face-to-face identification requirement was met by the decoy pointing out the clerk and the follow-up conversation with the officer that occurred thereafter. The published decision may be found at 18 Cal.App.5th 541.

Stirling v. Brown. Our office represented the Governor in this matter involving a part-time judge advocate with the National Guard who alleged whistleblower retaliation. All members of the National Guard have dual federal and state status. When Plaintiff complained, the National Guard Bureau referred the complaint to the Army’s Inspector General for investigation and the Governor deferred to that investigation. The Court of Appeal agreed with our position that the Governor’s action was proper. The Court of Appeal held that the manner in which the Governor responds to a complaint is discretionary and the Governor was not required to conduct a separate investigation. The Court also rejected Plaintiff’s equal protection argument because his complaint was accepted by the Army’s Inspector General who commenced an investigation. The published decision may be reviewed at 18 Cal.App.5th 1144.

Fisher v. California State Personnel Board. Fisher was an Administrative Law Judge with the State Personnel Board. He was terminated after the Board learned that he had taken an of-counsel job with a local law firm that was handling a high-profile case before the Board. Fisher had received inside information about the case while working at the Board including an advance copy of the draft opinion in that matter. We represented the Board at the administrative hearing before the Office of Administrative Hearings, before the superior court on a petition for writ of mandate, and in the Court of Appeal. The Court of Appeal upheld Fisher’s termination finding that he displayed “an appalling lack of judgment.”

Government Law Section

State of California v. Ross. The Attorney General is pursuing a federal civil action against the U.S. Department of Commerce, the U.S. Census Bureau, and federal officials, alleging that the decision to add a citizenship question to the 2020 Census violates the U.S. Constitution’s actual enumeration provision and is arbitrary and capricious under the Administrative Procedure Act.

United States v. California. In coordination with the AG’s Civil Rights Enforcement Section, Government Law Section attorneys are defending against the United States’ case seeking to invalidate three California statutes: 1) Assembly Bill 450 (“the Immigrant Worker Protection Act,” which generally prohibits employers from voluntarily allowing immigration agents to enter nonpublic areas of a workplace or inspect employment records); 2) Assembly Bill 103 (which requires state inspection and review of immigration detention facilities); and 3) Senate Bill 54 (“the Values Act,” which generally prohibits state and local law enforcement from sharing certain immigration information with immigration authorities, without compulsory legal process).

United States v. California. The Attorney General is defending against the United States’ action against the State of California and the State Lands Commission. The U.S. seeks to invalidate Senate Bill 50—which protects, among other things, California’s interest in preserving natural resources within its borders by making conveyances of land from the federal government to private parties void unless the State Lands Commission receives the right of first refusal or the right to transfer the federal land to another entity.

Firearms matters. The Attorney General defends against various challenges to state laws that protect public safety by regulating firearm possession and use. Some of these cases include:

- The successful defense—and affirmance from the California Supreme Court—of California’s “micro-stamping” statute, which requires new semi-automatic handgun models to stamp each fired cartridge with unique characters identifying the gun from which they were fired (*National Shooting Sports Foundation v. State of California*);
- The successful defense against a district court action challenging California’s statutes regulating the open carry of firearms in public (*Flanagan v. Becerra*);
- Defense against a challenge to the Gun-Free School Zone Act (*Gallinger v. Becerra*);
- Defense against challenges to California’s regulations implementing a new registration requirement for bullet-button assault weapons (*Villanueva. V. Becerra*; *Holt v. Becerra*);
- Defense against a challenge to new ammunition licensing and sales requirements under Proposition 63 (*Rhode v. Becerra*); and
- Defense against a challenge to firearm-registration requirements in the Assault Weapons Control Act (*Rupp v. Becerra*).

Gerawan Farming, Inc. v. Agricultural Labor Relations Board. The Attorney General secured a unanimous decision from the California Supreme Court, affirming the constitutionality of the Agricultural Labor Relations Act’s arbitration procedures for resolving collective-bargaining impasses. The Court also upheld the Agricultural Labor Relations Board’s rejection of a claim that the United Farm Workers of America had “abandoned” its certification as the exclusive bargaining agent of the employees.

San Francisco v. California. The Attorney General is defending against San Francisco’s challenge to the validity of Senate Bill 182. This law exempts drivers of Transportation Network Companies (e.g., Uber and Lyft) from having to obtain a business license from cities where they are not domiciled. It also prohibits publishing drivers’ personally identifiable information on publicly accessible internet sites. San Francisco contends that the bill infringes on its right as a charter city to regulate municipal affairs free of interference from the Legislature.

Becerra v. Superior Court of Sacramento County. After the superior court rewrote the Attorney General’s title and summary of a circulating voter initiative concerning an attempt to overturn Senate Bill 1, a landmark transportation-funding bill to repair streets and highways, the Attorney General successfully petitioned the Court of Appeal for a writ of mandate to vacate the trial court’s decision. The Court of Appeal affirmed the legitimacy of the Attorney General’s title and summary, concluding that it was not false, misleading, or argumentative.

Short v. Brown. The Ninth Circuit affirmed the denial of a preliminary injunction against the Voter’s Choice Act, under which five California counties conducted “all-mailed ballot” elections for

the 2018 primary election, in which a mail ballot is automatically sent to every registered voter, and voters may cast ballots at regional “vote centers” instead of traditional polling places. The Plaintiffs had alleged that the Act was likely to increase voter turnout in participating counties, thereby diluting the votes in counties not eligible to participate, in violation of the 14th Amendment’s Equal Protection Clause.

Stockman v. Trump. The State of California has intervened as a plaintiff in this case to challenge President Trump’s ban on transgender individuals in the military. California joins individuals serving in the United States armed forces, individuals seeking to enlist in the armed forces, and Equality California in challenging the ban under the First and Fifth Amendments to the U.S. Constitution. Together, the plaintiffs have secured a preliminary injunction against the ban.

State of Missouri ex rel. Koster v. Harris. The Ninth Circuit affirmed dismissal of the complaint challenging California’s laws establishing minimum cage size requirements for egg-laying hens in California. Missouri and five other states brought a federal constitutional challenge, alleging violations of the Commerce Clause and the Supremacy Clause. The Ninth Circuit affirmed dismissal, holding that the plaintiffs alleged no injury to the citizens of their states and that any increase in the price of eggs in other states would not be directly traceable to California’s law, but to independent decisions by retailers, wholesalers, and other third-parties.

Erotic Service Providers Legal Education and Research Project v. Gascon. The Ninth Circuit affirmed dismissal of this action by sex workers and a sex-worker advocacy group challenging the constitutionality of California’s law criminalizing prostitution. The court held that the relationship between a prostitute and client is not protected by the Due Process Clause, that the law is rationally related to important governmental interests, that it did not violate freedom of intimate or expressive association under the Fourteenth Amendment or plaintiffs’ substantive due process right to earn a living, and that solicitation of prostitution is not commercial speech protected by the First Amendment.

Pension Reform Cases. The Attorney General has represented the state in various cases to defend the constitutionality of the Governor’s public pension reform legislation passed in 2012, receiving complete or partial favorable rulings from the lower courts and courts of appeal in all of these cases.

Redevelopment Agency Dissolution Cases. Since the landmark decision in *California Redevelopment Association v. Matosantos*, which upheld the dissolution of the state’s redevelopment agencies, the Attorney General has successfully defended the Department of Finance in over 200 cases involving redevelopment agencies’ wind-down. These efforts have preserved billions of dollars in revenue used for core local governmental services such as schools, fire suppression, and water.

Health, Education and Welfare Section

Ahn, Sang-Hoon, Dr. et al. v. Hestrin, Michael et al. Individual doctors and a medical ethics association challenge the constitutionality of the End of Life Option Act. The only named defendant is the District Attorney for the County of Riverside. The State, by and through the Department of Public Health and the Attorney General, intervened to defend the End of Life Option Act. Plaintiffs assert three constitutional challenges: 1) the Act was improperly enacted during the special legislative

session called by the Governor for health care related issues; 2) the Act violates equal protection; and 3) the Act violates due process. The trial court granted Plaintiffs' motion for judgment on the pleadings holding that the End of Life Option Act was improperly enacted during the special Legislative session. The Court of Appeal issued an immediate stay of the order and judgment and set a briefing schedule on our amended petition seeking review of the trial court's decision.

Foothill Church v. Rouillard. Plaintiffs are three churches challenging action by the Department of Managed Health Care to enforce state constitutional and statutory law that requires health benefit plans to provide coverage for abortion services without restriction. Plaintiffs allege that, as "large employers" under the Affordable Care Act, they are required to provide health coverage to their employees, and that the Director's action causes them to pay for and facilitate abortion coverage to which they object on religious grounds. Our office is awaiting the court's ruling on the motion to dismiss plaintiffs' second amended complaint.

Jahi M. (a minor) v. State of California. This petition for declaratory and injunctive relief seeks to rescind the death certificate issued for Jahi M., a teenager declared brain dead two years ago after complications from surgery at Children's Hospital in Oakland. The complaint includes a variety of civil rights claims, all of which essentially seek the same relief of rescinding the death certificate and having Jahi M. declared alive. State defendants' motion to dismiss was granted in part and denied in part. The court stayed the case pending the outcome of the personal injury/wrongful death action brought by Jahi M. and her mother that is venued in the Alameda County Superior Court.

Kelley/Reed v. Kent and Dept. of Health Care Services. Plaintiffs filed both a petition for writ of traditional mandate and a class action complaint challenging the Department's failure to implement the spousal impoverishment rule for Medi-Cal home and community services. The named plaintiffs are disabled, married, individuals who have applied for Medi-Cal benefits under the In-Home Supportive Services Community First Choice Option program. The court dismissed the class action allegations pursuant to petitioners' request. Petitioners filed a second amended complaint. On June 14, the court sustained our demurrer with leave to amend on the basis that this case is moot because the Department already implemented the rule change sought by the petitioners through the issuance of an all-county letter. Petitioners were granted leave to conduct limited discovery on whether the all-county letter adequately implemented the new policy and have until November 6, 2018, to file a third amended petition.

M.S. v. County of Ventura. This case was brought by several plaintiffs as a putative class action on behalf of criminal defendants incarcerated in Ventura County while awaiting placement in state mental health treatment facilities after being adjudicated not guilty by reason of insanity. Plaintiffs claim that they and the putative class are not being timely placed in such treatment facilities and that the delays in placement violate their constitutional and statutory rights. Discovery has commenced.

Missionary Guadalupanas of the Holy Spirit, Inc., v. Rouillard. The Director of the Department of Managed Health Care issued letters to seven health care service plans reminding the health plans of their legal obligation to provide non-discriminatory treatment of all female enrollees, including providing lawful abortion. Petitioner Missionary Guadalupanas seeks an order declaring that the letters constitute an underground regulation because the Department failed to comply with the provisions of

the California Administrative Procedures Act in issuing the letters. Our office awaits the scheduling of oral argument.

Morgan Hill Concerned Parents Assoc. v. CDE. Plaintiffs challenge the oversight and operation by the California Department of Education of the federal Individuals with Disabilities Education Act (IDEA). The complaint alleges that defendant, as the designated State Education Agency, has failed to monitor, investigate, and enforce the IDEA statewide. The complaint seeks injunctive and declaratory relief, and asks the court to retain jurisdiction to monitor the operation of the IDEA by the state.

U.S. Department of Justice v. California Department of Education. The compliance review performed by the United States Department of Justice (USDOJ) of the California Department of Education, the State Board of Education, and the State Superintendent of Public Instruction's system for supervising services to English Learner students arose from the *DJ v. State of California* litigation initiated by the ACLU in April 2013. Settlement negotiations resulted in a two-year agreement between USDOJ and the State. USDOJ oversees the State's compliance with the terms of the settlement agreement and has requested follow up documentation when data indicates possible failure to serve English Learner students. The settlement agreement ends in September 2018.

Health Care Strike Force Cases

House v. Azar. This case arose from a lawsuit filed by the House of Representatives in which the district court enjoined the federal Executive Branch from disbursing funds to insurers for cost-sharing reductions provided to low-income individuals under the Affordable Care Act (ACA) absent a specific appropriation from Congress. The district court's injunction, which has been stayed pending appeal, threatens to destabilize the ACA and could jeopardize access to affordable health coverage for millions of Americans. California and numerous other states intervened on appeal in the D.C. Circuit to defend the position taken by the Obama Administration, which the Trump Administration has now abandoned. This case has been resolved and dismissed.

State of California v. Health and Human Services. The State of California, by and through the Attorney General, challenged two illegal interim final rules issued by the U.S. Health and Human Services, in conjunction with the U.S. Department of Labor and U.S. Department of the Treasury. The Interim Final Rules drastically limit access to contraceptive coverage by expanding the scope of the religious exemption to, among other things, allow nearly any employer or health insurer with religious or moral objections to opt out of the contraceptive-coverage requirement with no assurances that the federal government will provide critical oversight to ensure coverage. The district court granted our request for a nationwide injunction enjoining federal defendants from implementing the Interim Final Rules. Two organizations, Little Sisters of the Poor and March for Life, successfully intervened in the district court. Both Little Sisters of the Poor and March for Life filed an appeal to the Ninth Circuit challenging the district court's order granting a preliminary injunction. We await the scheduling of oral argument.

State of California v. Trump. California and 17 other states filed suit challenging President Trump's decision to stop making cost-sharing subsidy payments required by the Affordable Care Act. These statutorily mandated payments help offset the out-of-pocket health care costs (such as deductibles

and co-pays) for low-income Americans. The plaintiffs-states moved for a preliminary injunction requiring the federal government to continue making these payments until the court adjudicates the merits of the case, but the court denied that motion. The case is pending before the federal court of the Northern District of California.

Texas v. HHS. Texas and 19 other states filed a lawsuit in federal court in the Northern District of Texas to declare the Affordable Care Act unconstitutional. The State of California's motion to intervene as defendants to defend the Act and argue the position that the Act is not unconstitutional was granted. The State filed an opposition to the preliminary injunction on June 7, 2018. We await an oral argument date.

Health Quality Enforcement Section

Medical Board of California v. Superior Court (Adams), Court of Appeal, First District. (2018) 20 Cal.App.5th 1191. On February 21, 2018, the Court of Appeal ruled, in a published decision, that the trial court erred in concluding that, notwithstanding Government Code section 8311, the Medical Board's service of an Accusation and Default Decision by certified mail was ineffective without a signed receipt. The Medical Board sought a peremptory writ of mandate commanding the superior court to vacate an order and judgment setting aside a default decision revoking physician's license. The Court of Appeal issued a writ of mandate directing the trial court to vacate its order and judgment and to enter a new order denying Adams's petition for writ of mandate. The publication of this decision was significant to numerous state agencies with authority to use certified mail to serve notice.

Medical Board of California v. Superior Court (Erdle), Court of Appeal, First District (2018) 19 Cal.App.5th 1. On January 8, 2018, the Court of Appeal ruled, in published decision, that Business and Professions Code Section 492 creates a blanket exception for healing arts agencies from restrictions on the use of arrest records in disciplinary actions. The Medical Board sought review by extraordinary writ to vacate a superior court order and judgment setting aside the discipline of Erdle's physician's license. Criminal charges for cocaine possession against Erdle were dismissed after he completed a deferred entry of judgment program. At the administrative hearing, the Board relied on the arresting officer's testimony based on Business and Professions Code section 492, which permits disciplinary action based on an arrest record. Erdle argued that Penal Code section 1000.4 prohibited the Medical Board's use of a record of arrest "in any way" that could impact his license, and convinced the writ court that the officer's testimony was inadmissible because he used the arrest report to refresh his recollection. The published decision will assist health care oversight agencies in protecting the public.

Fettgatter v. Board of Psychology, Court of Appeal, Third District (2017) 17 Cal.App.5th 1340. On November 21, 2017, the Court of Appeal affirmed, in a published opinion, the trial court's decision, which denied Fettgatter's writ petition contesting the revocation of his license to practice psychology. Fettgatter's license was revoked based on his refusal to comply with an order that he undergo a psychiatric evaluation. The Court of Appeal held that the Board of Psychology is authorized to conduct investigations pursuant to Business and Professions Code section 820 "in order to assure practitioners are, among other things, of sound mental health." The Court also found that,

contrary to appellant's contention that "good cause" was required, an order of examination may be issued "whenever it appears" that a licensee may be impaired. Neither Federal nor State Constitutional protections were violated by the order of examination or license revocation for failure to comply. "The actual ability to investigate whether the medical professional is indeed mentally ill is paramount to that call [to protect the public]."

Walker v. Physical Therapy Board of California, Court of Appeal, Fourth District (2017) 16 Cal. App.5th 1219. On October 16, 2017, the Court of Appeal confirmed, in a published decision, that Business and Professions Code section 2339, subdivision (a), permits discipline based on a single use of alcohol in a dangerous manner. Walker argued that discipline was not permitted without a specific finding of a nexus between her conduct and her fitness to practice physical therapy. The Court of Appeal found that section 2339 logically related to a licensed individual's fitness to treat patients because the Physical Therapy Board incorporated the Medical Practice Act, which includes section 2239, into its licensing and disciplinary scheme. The Court dismissed Walker's arguments regarding the four-year delay between the conduct and the imposition of discipline.

Cross v. Superior Court, Court of Appeal, Second District (2017) 11 Cal.App.5th 305. On May 1, 2017, the Court of Appeal confirmed, in a published decision, that the psychotherapist-patient privilege, Evidence Code section 1015, does not bar the Medical Board's access and disclosure via subpoena duces tecum to patients' psychiatric records under Business and Professions Code section 2225. The Court noted that section 2225 was more specific and enacted after codification of the psychotherapist-patient privilege, which belongs to, and is primarily intended to protect, patients. Therefore, that privilege was not a bar to the Board's investigation of potential improper prescribing of controlled substances by a psychiatrist. The patient's privacy rights were overcome by compelling state interest in public protection.

Licensing Section

Davis Test Only Smog Testing et al. v. Department of Consumer Affairs, Bureau of Automotive Repair. In this case of first impression, the Third District Court of Appeal affirmed the Sacramento County Superior Court's judgment upholding administrative citations issued by the Bureau of Automotive Repair for an improper smog inspection. One of appellants' contentions was that the administrative decision was void as a violation of due process because the smog shop, a corporation, appeared at the administrative hearing through a former corporate officer, a layperson who was not an attorney. The court rejected this contention because the corporation elected to have the former officer appear on its behalf, and the decision did not violate the corporation's statutory or constitutional rights. At most, the administrative decision was voidable at the option of the opposing party, the Bureau of Automotive Repair.

Osollo v. Commission on Teacher Credentialing, et al. On June 19, 2018, the court granted our motion to dismiss the Fourth Amended Complaint in this federal civil rights case. Plaintiff, a credentialed substitute teacher, sued the California Commission on Teacher Credentialing under 42 U.S.C. section 1983 in connection with their decision to take disciplinary action against his credential. Plaintiff claimed due process violations based on his hearing before the Committee of Credentials, which resulted in the recommendation for disciplinary action against his credential, and against the

Commission on Teacher Credentialing, which ultimately imposed the discipline recommended by the committee. Plaintiff alleged that the committee failed to abide by its own rules during the hearing, and that the commission took too much time in providing him a hearing to contest the recommendations of the committee. Plaintiff's claim against the committee was rejected because a government agency's decision to make only a recommendation of discipline cannot give rise to a due process claim and his claim against the commission was dismissed primarily because he failed to attend the hearing that was ultimately provided.

IV Solutions, Inc., et al. v. California Board of Pharmacy. The California Board of Pharmacy revoked the pharmacy permit of IV Solutions, Inc., and its pharmacist-in-charge after a 23-day administrative hearing, finding that they had been deceitful in their pricing practices, leading patients to believe that they would not have to pay the exorbitant fees they charged for IV medications that were not covered by their insurance companies, then later pursuing legal action against them to collect these fees. Although the fees charged to many patients exceeded \$100,000, each, the price of prescription drugs is not regulated. However, we were able to prove deceit based on representations made to the patients and the respondents' failure to abide by their own pricing and collection protocols. The Board's decision was upheld by the superior court on petition for writ of mandate, and the case is now pending in the Second District Court of Appeal.

Alkhas v. Board of Chiropractic Examiners. Following an administrative hearing, the California Board of Chiropractic Examiners adopted the proposed decision of the administrative law judge and revoked Manfred Alkhas's chiropractor license. He was alleged to have committed sexual battery of a female patient in his office under the guise of professional treatment. The victim was unavailable to testify at the hearing, whereupon complainant moved to admit her prior sworn testimony concerning the same events from the criminal proceeding, which was granted. In his petition for writ of mandate filed in the superior court to challenge the board's administrative decision, he alleged, among other things, that his due process rights were violated by the admission of the victim's prior testimony from the criminal matter. On April 3, 2018, the court issued an order upholding the revocation of respondent's chiropractic license.

California State Athletic Commission Administrative Action Against Jon Jones. On February 27, 2018, the California State Athletic Commission revoked the Mixed Marital Arts license of superstar Jon Jones, and assessed fines of \$205,000, the largest in the agency's history. Jones had tested positive for the metabolite of Turinabol, a banned substance, based on a biological fluid sample taken on July 28, 2017, just prior to his light-heavy weight championship fight. The Commission assessed the maximum fine of 40% of Mr. Jones' \$500,000 purse, \$200,000, and additional fines of \$5,000 for use of prohibited substances and discrediting the Mixed Marital Arts profession.

David Greenberg v. California Board of Accountancy. Mr. Greenberg, a former CPA whose license had been revoked by the California Board of Accountancy, sued the Board in a petition for writ of mandate, alleging that the Board had wrongfully denied his license reinstatement application for a third time. During the litigation, the Board prevailed on the court to declare Mr. Greenberg a vexatious litigant and require that he post a \$25,000 surety bond, as Mr. Greenberg previously had sued the Board, its members, staff, and counsel seven times in the past five years. On April 5, 2018, the court ruled to deny the writ of mandate, stating that "professional licensure is not about undoing

a wrong [but,] protecting the public [and] substantial evidence supports the CBA’s decision that Greenberg has not shown rehabilitation or mental stability for the accounting profession.” On June 18, 2018, Mr. Greenberg’s surety paid the Board the full amount of the \$25,000 surety bond, which Mr. Greenberg was ordered to forfeit.

Board of Registered Nursing Accusation Against William Clawson. The Board of Registered Nursing adopted a proposed decision revoking the license of William Clawson, RN, following eight days of hearing. Mr. Clawson had acted as a “consultant” during the closure of a residential care for the elderly facility, and in that role, had performed evaluations of the residents for transferring them to other facilities. Mr. Clawson failed to thoroughly evaluate one of the residents and accurately report his condition. The resident died within days after the evaluation. Contrary to his arguments, the board found that Mr. Clawson had been practicing nursing, was grossly negligent, and lied about his conduct during two subsequent investigations. The case is currently before the superior court on a petition for writ of mandate.

Board of Behavioral Sciences Accusation Against Stephen Edward Schaefer. An accusation was filed before the Board of Behavioral Sciences against Schaefer, a Licensed Clinical Social Worker, who owned and operated two eating disorder clinics and maintained living facilities for his patients in San Diego and Fresno. He was charged with sexual abuse of patients and staff, incompetence, gross negligence, engaging in dual relationships with patients and employees, endangering patients, aiding and abetting unlicensed practice, dishonest acts, and ultimately, failing to appear for a psychological evaluation ordered by the Board. On October 20, 2017, the Board accepted a stipulated surrender of his license in resolution of the proceedings.

Commission on Teacher Credentialing Accusation Against William Baxter Pendleton IV. While teaching seventh grade science between 2010 and 2012, Pendleton was charged with striking students, slamming a student’s head into a desk, touching students inappropriately, throwing objects at students, using profanity, degrading and embarrassing students, helping students cheat on standardized tests, and introducing students to software that would allow them to misuse the internet while avoiding detection from their parents. He was also convicted of two misdemeanor charges stemming from incidents where he struck children. In 2014, he left his position at the Lemoore School District and began teaching in the Muroc Joint Unified School District, where he was observed viewing pornography on his computer in the classroom. Because of the age of the case, there were numerous evidentiary challenges at hearing; nevertheless, his teaching credential was revoked.

Commission on Teacher Credentialing Accusation Against Yong-Chan Kim. Kim was charged with sending thousands of sexually inappropriate text messages to a 16-year-old student. The teacher was unrepentant and denied wrongdoing, which made it especially important that he no longer have access to students; his teaching credential was revoked.

Tort and Condemnation Section

Property Reserve v. Superior Court. Our office represents the Department of Water Resources in eminent domain actions supporting a project designed to develop a canal or tunnels to move water from the Sacramento–San Joaquin Delta to Central and Southern California. As part of the conveyance

project, the Department sought to enter parcels of private property near where the conveyance would be constructed and conduct certain environmental and geological tests. Many property owners refused the Department's request to enter their property to conduct its studies and litigation ensued. The California Supreme Court granted review of the case in order to decide: 1) whether geological testing activities proposed by a public agency constitute a taking; 2) whether environmental testing activities (soil borings, etc.) constitute a taking; and 3) if so, do California's pre-condemnation entry statutes provide a constitutionally valid eminent domain proceeding for the taking.

Adams v. Department of Fish and Wildlife. Our office represents the Department of Fish and Wildlife in this action arising out of the 2007 Pike Eradication Project undertaken at Lake Davis in Portola. The project was to eliminate and prevent invasive pike from entering into the San Joaquin Delta watershed and threatening fragile trout and salmon populations. There are 28 plaintiffs and the matter was bifurcated, with the City of Portola's case being tried in October 2015. After a 12-day trial, the jury returned a defense verdict finding that although the Department was negligent in the manner in which it restocked the lake after the eradication project, that negligence did not cause the city any harm. The Department was awarded \$35,000 in costs and \$235,000 in expert witness fees. Two years prior to trial, the Department made an offer to settle for \$100 which the city did not accept. The city filed an appeal, dismissed it, and we collected all costs totaling over \$274,000.00, including post judgment interest. On May 22, 2018, following a five-week jury trial, the jury reached a defense verdict finding that the Department was not negligent in the manner in which it carried out the 2007 Pike Eradication Project at Lake Davis in Plumas County.

State of California v. Underwriters at Lloyds and State of California v. Continental Ins. Co. These related cases are insurance coverage actions against the state's former excess insurers seeking indemnity against the state's adjudicated liability for the cleanup of the Stringfellow Acid Pits, a Superfund site in Riverside County. The site, which opened in 1956, accepted 35 million gallons of toxic waste that eventually contaminated underlying aquifers before it was closed in 1972. Judgment against the state in a related CERCLA action was entered in 1999 holding the state 100 percent responsible for the remediation of the site, at an estimated \$700 million. The state brought suit against all 35 participants in its master excess liability insurance program by which the state managed its risk from 1963 to 1978. A jury rejected the insurers' affirmative defenses and held the defendant insurers in breach in a 2005 trial. Subsequently the case produced two landmark Supreme Court decisions (*State v. Underwriters* (2009) 45 Cal.4th 1008; *State v. Continental Ins. Co.* (2012) 55 Cal. 4th 88) which overturned precedent obstructing the funding for remediation of contaminated sites such as Stringfellow. The action has recovered over \$177 million in insurance proceeds from the defendant insurers. A final piece of the litigation was recently concluded against defendants Continental Insurance Company and Harbor Insurance Company. These defendants lost their appeal of a judgment, and a petition for review, which judgment awarded the state \$14 million in pre-judgment interest for wrongfully withholding timely payment of their policies. This was collected by the state along with another \$3 million for post-judgment interest.

State of California v. Superior Court (Alvarado). The Freeway Service Program, authorized by statute, seeks to free the roads of traffic impediments by allowing local transportation agencies to contract with towing companies to assist stranded motorists. CHP oversees the program, performing background checks, training drivers, inspecting vehicles, dispatching drivers, and investigating com-

plaintiffs. Plaintiff was severely injured when her vehicle was rear-ended by a tow truck contracted for the Freeway Service Patrol program. The California Supreme Court held that the statutes creating the program did not intend for the CHP to be the “special employer” of the tow truck drivers in the program for purposes of vicarious liability. The Supreme Court recognized, however, that the statutes authorized CHP to directly contract with towing companies, and, therefore, remanded the case to the trial court to determine any other factual basis for the claim against CHP. The case was remanded to the district court and CHP’s third motion for summary judgment was granted. The case is on appeal in the Fourth District.

Nine Cases Arising from Failure of Oroville Dam v. Department of Water Resources. There are nine separate cases brought against the Department of Water Resources arising out of the February 2017 failure of the Oroville Dam spillway. The cases include a class action brought on behalf of 188,000 individual and business evacuees, a suit brought by the City of Oroville for road damage and personnel expenditures, a suit brought by a power plant alleging damaged equipment, a suit for damage to farm land in Butte and Sutter counties, and an action for civil penalties by the Butte County District Attorney under a provision of the Fish and Game Code. The causes of action include public nuisance, dangerous condition of public property, and inverse condemnation.

Department of Mental Health v. Superior Court (Novoa). Plaintiff’s sister was raped and murdered by a convicted rapist shortly after his release from prison. Plaintiff alleged that the Department of Mental Health violated its mandatory duty under Jessica’s Law to have two mental health professionals to evaluate this sexual violent predator and refer the matter to the district attorney. In 2015, the California Supreme Court held that while the Department had a mandatory duty to assign two mental health professionals to evaluate the rapist, the failure to do so was not the proximate cause of the crime. Even if independent evaluations found the perpetrator to be a sexually violent predator, the district attorney has independent discretion on whether to seek commitment and would have to prevail at a commitment hearing before an individual could be confined.

LEGAL SERVICES DIVISION: CRIMINAL LAW

Overview

The Criminal Law Division represents the People of the State of California in criminal cases, as mandated by both the constitution and statute. The majority of the division's work involves criminal appeals and writs. The division also investigates and prosecutes investment fraud, business and technology crimes, privacy issues, Medi-Cal fraud, and elder abuse. In addition, the division has a unit dedicated to serving the victims of crime.

The Criminal Law Division consists of the following sections:

- **The Appeals, Writs and Trials Section** represents the People in all appeals and writs arising from criminal cases.
- **The Correctional Writs and Appeals Section (CWA)** ensures that convicted felons properly serve their sentences under the conditions prescribed by law. It defending legal challenges brought by inmates, juvenile offenders, and parolees about conditions of confinement in prisons and state juvenile facilities, parole suitability, and conditions of parole.
- **The eCrime Unit**, created in 2011, investigates and prosecutes multi-jurisdictional criminal organizations, networks, and groups that perpetrate identity theft crimes, use electronic devices or networks to facilitate crimes, or commit crimes targeting electronic devices, networks or intellectual properties. During the biennial period, the Unit accepted 78 matters that included investigations, investigative referrals, and case referrals. The Unit filed 29 criminal cases and referred two cases for prosecution by a local district attorney's office, and secured restitution for victims in excess of \$5.7 million.
- **The Fraud and Special Prosecutions Section** has statewide responsibility to investigate and prosecute complex, inter-jurisdictional criminal cases occurring in California, primarily related to financial, securities, mortgage and environmental fraud; public corruption, including violations of the California Political Reform Act; "underground economy" offenses investigated by the Tax Recovery and Criminal Enforcement Task Forces, including tax fraud, counterfeiting, and fraud perpetrated against workers; and human trafficking.
- As the State of California's Medicaid Fraud Control Unit, the **Bureau of Medi-Cal Fraud and Elder Abuse (BMFEA)** executes its twin mission of investigating and prosecuting provider fraud committed against California's Medicaid program (Medi-Cal) and of investigating and prosecuting physical or financial abuse or neglect of elders and dependents in care facilities statewide.
- The **Victims Services Unit (VSU)** provides assistance, information and support to families in capital cases and cases in which the Attorney General is the lead prosecutor. The unit is also the statewide contact for inquiries on Marsy's Law, which created additional constitutional and statutory rights for victims.

Major Accomplishments

Appeals, Writs and Trials Section

AWT handled more than 9,000 criminal appeals and more than 2,000 writs during the biennial period.

Sexton v. Beaudreaux The United States Supreme Court reinstated a Contra Costa County murder conviction at the Attorney General’s request. The Court held that the Ninth Circuit failed to follow the requirements of the Antiterrorism and Effective Death Penalty Act when it overturned the murder conviction on habeas corpus even though the state courts that had reviewed the case had found no prejudicial legal error in pretrial lineup procedures. A divided Ninth Circuit panel had conducted essentially a de novo review and held that the lineup procedures used before trial were impermissibly suggestive and that counsel was therefore ineffective for not moving to suppress the identification. With that predetermination, the panel concluded the state court decision rejecting the ineffective assistance claim was unreasonable. The Supreme Court reversed, holding that the Ninth Circuit panel “committed fundamental errors that this Court has repeatedly admonished courts to avoid” by failing to give the state court decisions the appropriate amount of deference. The Supreme Court explained that the state court could have reasonably concluded that the identification was not unreliable under the totality of the circumstances and that a suppression motion would therefore have failed. This was one of two merits cases handled by the Appeals, Writs and Trials Section in the United States Supreme Court during the reporting period.

Cuero v. Cate. The United States Supreme Court granted California’s petition and summarily reversed a Ninth Circuit decision that had overturned a state criminal conviction. This was the second merits case handled by the Appeals, Writs and Trials Section in the Supreme Court during the reporting period. Cuero pleaded guilty to various charges, including weapons charges, and entered into a plea agreement for a maximum sentence of 14 years, 4 months. Before sentencing, the prosecution discovered that one of Cuero’s prior convictions was a “strike,” which exposed him to a minimum sentence of 25 years to life. The trial court granted the prosecution’s motion to amend the charges to accurately reflect Cuero’s criminal history, and allowed Cuero to withdraw his guilty plea. Cuero then entered into a new plea deal and was sentenced to 25 years to life. On federal habeas review, the Ninth Circuit held that this procedure violated Cuero’s due process rights and ordered him to be re-sentenced according to the terms of his original plea. The Supreme Court reversed. It held that the Ninth Circuit’s decision went beyond the proper limits of federal habeas review of state court decisions, because no clearly established federal law entitled Cuero to specific performance of his original plea. The decision had the important effect of vindicating California Penal Code section 969.5, which allows a prior conviction to be alleged at any time before sentencing, and furthers the equal treatment of criminal defendants with respect to prior convictions.

People v. Spaccia. Between 2003 and 2010, Pier’ Angela Spaccia and Robert Rizzo were municipal executives at the City of Bell. Without city council approval, Spaccia repeatedly increased her and Rizzo’s salaries, granted herself and Rizzo lavish vacation and pension benefits, and hired a favored police chief. Spaccia was convicted of conspiracy, misappropriation of public funds, conflict of interest, and secretion of an official record. She appealed, challenging her conflict of interest and

misappropriation convictions. The Attorney General’s Office filed a respondent’s brief defending the judgment. In June 2017, the Court of Appeal affirmed Spaccia’s convictions for conflict of interest, though it reversed her misappropriation convictions due to faulty jury instructions. The court concluded, contrary to Spaccia’s claims, that her conflict of interest pertaining to the special pension benefits was a separate crime from her conflict of interest as to the employment/salary contracts.

Ellis v. Harrison. In 1991, Ezzard Ellis and a codefendant were convicted in San Bernardino County for the murder and robbery of Joel Martinez while he was waiting in the drive-through line of a McDonald’s restaurant. About 10 years later, Ellis—who is African American—learned through newspaper reports and other public documents that the attorney who represented him at trial was an avowed racist. Ellis began a long and unsuccessful process of seeking to set aside his conviction on the ground that he had not received effective assistance by his attorney. The case eventually reached the Ninth Circuit Court of Appeals on habeas corpus, where, in 2018, a panel affirmed his conviction based on its understanding of current case law, concluding that Ellis had failed to show that his attorney’s racial views had resulted in actual prejudice in the conduct of the trial. However, in an unusual concurring opinion signed by all members of the three-judge panel, the court questioned the advisability of adhering to existing circuit law. The Attorney General advised the court that if the court granted en banc review the Attorney General would waive procedural defenses and support the petitioner’s position that existing law should be changed to provide that demonstrated extreme racism on the part of a defendant’s trial lawyer should give rise to a presumption of prejudice. The court granted en banc review, and the matter remains pending.

People v. Campbell. In 2013, Nathan Louis Campbell became angry about a failed drug deal and drove his car onto a crowded Venice Beach Boardwalk. While driving down the Boardwalk, Campbell struck and killed a young Italian woman visiting Los Angeles for her honeymoon. He also struck and injured 17 other people. He appealed his conviction raising a variety of claims. In February 2017, the Attorney General’s Office filed a respondent’s brief defending the judgment. In June 2017, in a published opinion, the Court of Appeal affirmed Campbell’s convictions for murder, 17 counts of assault with a deadly weapon, and 10 counts of leaving the scene of an accident. The court rejected a claim of prosecutorial misconduct and found that multiple convictions for leaving the scene of an accident were allowed despite the fact that the scene of each “accident” was relatively close in proximity to the others.

In re Humphrey. The Court of Appeal held in *Humphrey* that trial courts are required to consider a defendant’s ability to pay and the availability of nonmonetary conditions when making bail decisions, and may not impose unaffordable bail as a means of pretrial detention—holdings that paralleled the position of the Attorney General’s Office at argument. The defendant was charged with burglary, robbery, and elder abuse after he followed his 79-year-old neighbor into the neighbor’s apartment, demanded money, threatened to put a pillowcase over the neighbor’s head, and stole \$2 and a bottle of cologne. The trial court set bail at \$350,000 without considering defendant’s ability to pay or less restrictive alternatives for ensuring safety and his appearance for trial. Our office explained at argument that we would not defend the imposition of bail without consideration of ability to pay or the use of unaffordable bail as a means of de facto detention, and we argued that pretrial detention must be obtained through a detention hearing under Article I, Section 12 or Article I, Section 28 of the California Constitution.

Correctional Writs and Appeals Section

The section handled more than 900 matters filed by prison inmates during the biennial period.

In re Roy Butler. The Attorney General’s Office, on behalf of the Board of Parole Hearings, successfully petitioned the California Supreme Court for relief from a settlement agreement the Board entered into in 2014, in which the Board agreed to set all life term inmates’ minimum period of incarceration, known as a base term, at each inmate’s initial parole hearing regardless of suitability. After the Board entered the agreement, the Legislature amended the parole scheme to no longer require the Board to set base terms as a condition of the inmate’s release. We moved to modify the settlement agreement based on a change in the law, but the Court of Appeal denied our motion. The California Supreme Court granted our petition for review and reversed the Court of Appeal. It held that the change in the law warranted modifying the agreement and that constitutional principles regarding disproportionate sentences did not require the Board to continue setting base terms. The effect of the decision was to relieve the Board from hundreds of duplicative decisions that could not have affected an inmate’s parole date in light of the new legislation.

In re Gilbert Trejo. In a case of first impression, the Court of Appeal held that when a life term inmate is found suitable for parole at a youth offender parole hearing (now defined as a hearing for an inmate who committed his life offense under the age of 26), the inmate is not required to serve a separate prison term imposed for a later in-prison crime the inmate had committed also as a youth offender. The Court held the youth offender parole scheme, which requires immediate release when found suitable for parole, trumps Penal Code section 1170.1(c), which requires an inmate to begin serving a separate prison term for an in-prison offense on the day after the inmate would have been released from the original prison term.

In re Ronald Jenson & In re Antuan Williams. Although *Trejo*’s holding was limited to an inmate who committed both his in-prison and life offenses as a youth offender, the Court of Appeal in *Jenson* and *Williams* extended *Trejo*’s holding to a parole suitable youth offender who had committed his in-prison offense as a non-youth offender (26 or older).

Alliance for Constitutional Sex Offense Laws v. CDCR. The Sacramento County Superior Court sustained an inmate’s challenge to regulations enacted under Proposition 57, which amended the Constitution to provide “any person convicted of a nonviolent felony offense and sentenced to a state prison shall be eligible for parole consideration after completing the full term for his or her primary offense.” (Cal. Const., art. I, § 32, subd. (a)(1).) The California Department of Corrections and Rehabilitation promulgated regulations setting forth a parole consideration process for nonviolent offenders. These regulations exclude from parole consideration inmates required to register as sex offenders. Petitioners argued that the sex-offender exclusion was contrary to Proposition 57’s language. On March 5, 2018, the court granted the petition finding that CDCR’s sex-offender exclusion conflicted with the Proposition’s language. The court ordered CDCR to redraft its regulations consistent with the Proposition’s language and intent as interpreted by the court. The Attorney General’s Office appeal on CDCR’s behalf is pending.

In re Elbert Lee Vaught. As in the *Alliance* case, this habeas petition involves an inmate's challenge to the California Department of Corrections and Rehabilitation's regulations implementing Proposition 57. These regulations exclude from the nonviolent parole process offenders sentenced to life terms, including non-violent offenders sentenced under the Three Strikes law. Petitioner argues the Proposition allows for parole consideration for all nonviolent offenders, regardless of whether the inmate is a serving a life term. The case has been briefed and argued, and a decision is anticipated from the Court of Appeal in Fall 2018.

eCrime Unit

Technology Crime and Privacy Training. The Unit has provided more than 43 training programs on technology crime and privacy issues. The Unit also collaborated with the California District Attorney's Association to create a web-based eCommunity to share legal and privacy updates to both law enforcement and prosecutors.

People v. Bhavnanie et. al. Owners and operators of Mughshot.com were charged with extortion, money laundering, and identity theft. The website mines data from police and sheriffs' department websites to collect individuals' names, booking photos and charges, then republishes the information online without the individuals' knowledge or consent. Once subjects request that their booking photos be removed, they are routed to a secondary website called Unpublisharrest.com and charged a "de-publishing" fee to have the content removed. Mugshots.com does not remove criminal record information until a subject pays the fee. This is the case even if the subject had charges dismissed or had been arrested due to mistaken identity or law enforcement error. Those subjects who cannot pay the fee may subsequently be denied housing, employment, or other opportunities because their booking photo is readily available on the internet.

People v. Daleiden et al. Daleiden created a false driver's license and fraudulently filed documents with the Secretary of State to be able to pose as a representative of BioMax, a fake company that collects fetal tissue. He used this identity to gain access to and secretly record his conversations with various representatives of stem cell research companies.

People v. Raymond Chung. California Pacific Medical Center learned that between October 2013 and October 2014, Chung, a staff pharmacist, inappropriately accessed and viewed personal health information and non-personal health information of more than 800 employees. Chung pled no contest to identity theft charges and was placed on three years' probation and ordered to attend 24 counseling sessions.

People v. Sanchez. Sanchez booked multiple night stays at victims' homes with a popular web program using other victims' credit information. While staying at the location, he burglarized the homes. Sanchez was placed on five years' formal probation and ordered to serve 360 days in the county jail and to pay \$89,941.90 in restitution to the victims.

People v. Sheppard. "Steve the Cable Guy," as he called himself, opened multiple fraudulent Comcast accounts using stolen personal identifying information. He then used those accounts to obtain Comcast equipment and set up illegal Comcast service at multiple addresses. Sheppard admitted

nine counts of felony identity theft and admitted to an excessive taking enhancement for his scheme to sell cable to unsuspecting customers. He was sentenced to two years in jail and ordered to pay \$118,410 in restitution.

BotNet Remediation Initiative. The Unit, working with the California Office of Emergency Services (Cal OES), uncovered more than two thousand computers and other electronic devices infected by malicious software (malware). The Unit sent letters to communication service providers encouraging companies to inform customers with identified Internet Protocol (IP) addresses that their devices may contain the malware. The finding stems from a cyberattack that occurred in March 2018. Malware attacks involve the installation of unwelcome software without the user's consent. The impacted devices receive and obey commands from an outside common source. Identified victims included residential, business, utility, and government entities.

Fraud and Special Prosecutions Section

Significant cases and achievements include:

People v. Carl Ferrer (Backpage.com). Carl Ferrer, CEO of the world's largest online sex advertising website, Backpage.com, pleaded guilty in Sacramento County Superior Court to one charge of conspiracy and three counts of money laundering. The website facilitates human trafficking internationally and has been described as the world's largest online brothel. Ferrer also promised to cooperate in the prosecution of two controlling shareholders of Backpage.

People v. Trayvon Brown. Trayvon Brown, a Baby Insane Crip gang member, made thousands of dollars trafficking vulnerable teenagers throughout Los Angeles and Orange County. He lured the victims with romance and promises of a better life, but then forced them to commit commercial sex acts by advertising them on Backpage.com and selling them to strangers. He was arrested and charged with multiple felonies, including human trafficking. While the case was pending, he brazenly continued to contact and manipulate victims. Brown eventually pled guilty to human trafficking and domestic violence and was sentenced to 18 years in prison.

People v. Feltus-Curry and Perez. Luther Feltus-Curry peddled fraudulent promissory notes to fellow church members at the Revival Center Ministries in Vallejo, where he held a position of trust as an elder and taught tithing classes. The notes promised that investors' money would not be at risk and would generate substantial returns. In reality, victims' funds were wired to accounts controlled by an associate, Alma Perez, from which both defendants spent the money on personal expenses and get-rich-quick schemes that lost money. The defendants were convicted by a jury for securities fraud and grand theft, and received substantial sentences: 23 years 8 months for Feltus-Curry, and 10 years for Perez.

People v. Mary Brooks. Former attorney Mary Brooks defrauded immigrant clients seeking citizenship. Brooks met with clients for a consultation, demanded payment for legal fees, and repeatedly assured them she was working on their cases. The investigation revealed Brooks had not assisted the victims, which in some cases, had dire immigration consequences. She repeatedly misled victims about the status of their cases and lied about paperwork she had submitted, while continuing to col-

lect their money. Brooks also falsified documents and used scare tactics, including reporting clients to immigration authorities, to discourage victims from terminating her services. Brooks pled guilty to 15 counts of grand theft and was ordered to serve a five-year local sentence and pay full restitution.

People v. Jacob Orona, et. al. Jacob Orona and his wife ran a mortgage relief scam, where they told distressed homeowners that their homes would be legitimately saved from foreclosure by suing the government and banks for fraud. In reality, defendants merely received advanced fees from the victims and filed false documents, including bankruptcies, grant deeds, and superior court pleadings to temporarily delay foreclosure and unlawful detainer actions. The case stemmed from a 2016 state-wide grand jury investigation and the resulting indictment of six individuals with ties to the sovereign citizen movement. To date, five defendants have pled guilty in the case and received state prison sentences, including Jacob Orona who received a sentence of 7 years and 4 months.

People v. Mark Peterson. From 2011 to 2015, the District Attorney of Contra Costa County, Mark Peterson, made 600 withdrawals, totaling \$66,000, from his campaign account for his personal use, including cash, restaurants, movie tickets, and travel. He omitted the expenditures in campaign statements and conflict of interest forms filed under penalty of perjury. On the same day a 13-count felony complaint was filed against Peterson, an agreement was reached securing Peterson's immediate removal from office. The superior court found Peterson guilty of felony perjury following his plea. The court placed him on probation, ordered him to resign, forbade him from elective office during probation, and ordered 250 hours of community service.

People v. Quinton Brown and Gerald Turner. Brown lured eight victims from the Central Valley and trafficked them throughout the Central Valley, Bay Area, and Los Angeles County, assisted by co-defendant Turner. Arrests in the case followed a six-month investigation by the Tulare County Sheriff's Department, Los Angeles County Sheriff's Department, Los Angeles Regional Human Trafficking Task Force, and DOJ's Division of Law Enforcement. After entering guilty pleas in Tulare County Superior Court, Quinton Brown received a sentence of 28 years in prison, and Gerald Turner received an 11-year sentence.

Bureau of Medi-Cal Fraud and Elder Abuse (BMFEA)

United States, California, et al., ex rel. Sanofi-Aventis US LLC v. Mylan Inc., et al.; United States, California, et al., ex rel. Ven-A-Care of the Florida Keys, Inc. v. Mylan Inc., et al. This September 2017 civil settlement resulted from a whistleblower lawsuit filed under the federal and California False Claims Acts alleging that Mylan, Inc. knowingly underpaid rebates owed to the Medicaid program for its drug, EpiPen, which was dispensed to Medicaid beneficiaries from 2010 to 2017. A predecessor company acquired by Mylan misclassified EpiPen for drug rebate purposes as a "generic drug," as opposed to representing the drug in the accurate, single-source branded drug "innovator" classification. The misclassification was knowingly maintained to deprive the government of the enhanced rebate payments owed to MediCal, had the EpiPen been properly classified for rebate purposes as a branded drug. Under the terms of the settlement, California received over \$15 million.

United States et al., ex rel. Schmuckley v. Walgreen Co.; United States et al., ex rel. Dabek v. Wal-Mart Stores, Inc., United States et al., ex rel. Schmuckley v. Kmart Corporation. During 2017, BMFEA recovered over \$10 million in settlements from national chain pharmacies that allegedly failed to adhere to requirements imposed by California law for the dispensing of certain prescription drugs under Medi-Cal. The settlements result from lawsuits filed by whistleblowers and investigated and resolved by federal and state prosecutors, alleging that for several years Walgreens, Wal-Mart, and Kmart falsely certified that they had complied with diagnosis-related requirements in order to be paid for prescription drugs provided to Medi-Cal patients, when they otherwise should not and would not have been paid.

People v. Natalie Brindos-Watters. Defendant Brindos-Watters engaged in fraudulent billing to the Medi-Cal program while operating as a Registered Dental Hygienist for residents in care facilities located throughout Northern California. Defendant targeted elderly residents suffering from dementia who were incapable of reporting any malfeasance. This resulted in direct harm to the residents who did not receive important dental hygiene care. After agents placed a GPS tracking device on defendant's vehicle and determined that defendant was staying home while billing as though she provided services, she was arrested and tried, and the jury returned guilty verdicts on all five felony counts of Medi-Cal fraud. Defendant was sentenced to five years in prison.

People v. Taylor, Carpenter, and Johnson. Just 4 Kidz, Inc. (J4K) was a Drug Medi-Cal Program provider in Fresno County authorized to provide drug and alcohol counseling services to juvenile Medi-Cal beneficiaries, but falsely billed Medi-Cal for nonexistent drug counseling sessions over a 10-month period. J4K was operated by CEO Eugene Taylor, Director of Operations Michael Carpenter, and Program Director Charda Johnson. Several former J4K employees testified that they were forced to create false progress notes to support fraudulent claims. Former employees also testified that "ghostwriters" were used by J4K to produce fictitious student progress notes. Ten of the supposed juvenile J4K clients testified that they never attended any J4K counseling sessions. The jury found CEO Eugene Taylor guilty of Medi-Cal fraud, identity theft, and grand theft by false pretenses; Director of Operations Michael Carpenter guilty of fraud and grand theft by false pretenses; and Program Director Charda Johnson guilty of grand theft by false pretenses. Taylor was sentenced to two years and eight months in state prison; Carpenter to two years in state prison; and Johnson to four months in jail and 12 months of Mandatory Supervised Release. In total, \$447,366 in restitution was ordered.

People v. Noriega. Leonida Noriega was the owner of Marion's Love and Care Home, a licensed residential care facility for the elderly in Cathedral City, CA, where she took advantage of three residents who suffered from dementia and were unable to manage their finances. She persuaded victim Junior L. to quitclaim three residential properties to her for no compensation. Noriega then charged Junior L. rent while she refinanced the real estate and squandered the equity, while allowing two properties to fall into foreclosure, and the third to become delinquent. The two other victims, Tefta S. and Kelly L., were swindled as well. On April 16, 2018, Noriega pled guilty to felony financial elder abuse. On June 4, Noriega was sentenced to four years in state prison, and restitution was ordered to Junior's disabled daughter in the sum of \$214,000, to Tefta's estate in the sum of \$12,000, and to Kelly in the sum of \$6,000.

People v. Cannon, et al. In July 2017, West Coast Counseling Services, Inc.’s CEO Lou Cannon, Medical Director Howard Oliver, Program Director Juanita Antiporda and Cannon’s brother, Perry Bailey, were charged with stealing more than \$2 million from Medi-Cal through fraudulent addiction treatment services. West Coast operated in Long Beach, CA, using illegal kickbacks to lure in patients, and submitting claims to Medi-Cal for treatment that patients did not need as well as for patients who never showed up for treatment. Cannon and Bailey have pled guilty. Cannon is awaiting sentencing, and Bailey was sentenced to two years in custody. Oliver and Antiporda are awaiting preliminary hearing.

Challenges Ahead for Legal Services Division

The Legal Divisions will likely face **significant additional work** as a result of changes in state law and state or federal enforcement policies. For example, the Office has added twenty positions for the newly-created Cannabis Control Section to handle anticipated work from the Bureau of Cannabis Control, the Department of Food and Agriculture, and the Department of Public Health resulting from the legalization of cannabis in the state. The Office has also created a Health Care Strike Force, which will have eight positions to handle the Attorney General’s pro-active health care litigation priorities, including taking the lead in many nationwide cases.

In addition, deregulation in telecom and other markets, along with national healthcare legislation, make antitrust enforcement even more critical to protect consumers from corporate abuse. At the same time, federal court decisions have **limited the ability of the private class action bar to recover damages for consumer harm**, putting a greater responsibility on government enforcers to fill the void. States such as California are increasingly recognized as an important counterpoint to exclusive reliance on federal enforcement agencies. All of this suggests strongly that our Antitrust Law Section will be under continuing pressure to expand our enforcement efforts in a number of areas.

CALIFORNIA JUSTICE INFORMATION SERVICES DIVISION

Overview

The California Justice Information Services (CJIS) Division, through its 1,169 authorized positions, provides accurate, timely, and comprehensive criminal history data and analysis to law enforcement, district attorneys, and local and state regulatory agencies. In addition, the division supports the critical Department of Justice (DOJ) information technology (IT) infrastructure.

The CJIS Division consists of the following bureaus:

- The **Research, Analysis and Data Center** provides a wide variety of research and data services such as empirical social science studies and literature reviews, program evaluations and process improvement auditing, rigorous qualitative reviews, advanced statistical modeling, recidivism reporting and also handles research and internal/external data requests.
- The **Bureau of Criminal Identification and Investigative Services (BCIIS)** offers investigative and field service functions to criminal justice and public safety partners, regulatory agencies and the people of California. BCIIS is responsible for several services and systems, including Missing and Unidentified Persons, Megan's Law, and the Criminal Justice Statistics Center.
- The **Bureau of Criminal Information and Analysis (BCIA)** is comprised of three branches which are: Record Management, Record and Biometric Identification, and the Applicant and Record Quality Services Branch. Together they function to maintain and update California's CORI repository, maintain and update the Child Abuse Central Index, process state and federal level applicant background checks, issue department certifications, and provide oversight of the state's Automated Fingerprint Identification System (AFIS).
- The **Application Development Bureau (ADB)** is responsible for designing, implementing and maintaining the DOJ's statewide criminal justice information systems, supporting the Division of Law Enforcement's applications, providing analytical reporting, and information services.
- **Departmental Technology Services**
- **Technology Support**

Major Accomplishments

Research, Analysis, and Data Center

Expanded the Research Center. Since April 2017, the CJIS executive staff has worked to create the organizational infrastructure needed to develop the DOJ Research Center. As part of this growth, the labs below have been restructured from previous programs/projects. In 2018, the Visiting Scholar's Lab was established, as was the Peer-Review Advisory Circle. Each of these two areas were created to further bolster the resourcing of the Research Center while also increasing the visibility of the department's research capabilities.

- ***Empirical Research Lab.*** These researchers focus on the design and implementation of original research projects to support various department priorities. This group not only designs the studies, but also collects and analyzes the data, and prepares the research findings for final reporting. In 2018, the team assisted in providing workload estimates for the Controlled Substance Utilization Review and Evaluation System (CURES) database certification, designed various studies to support legislative concepts (Vertical Enforcement, and Officer Involved Shooting), as well as collaborated with legal teams to review law enforcement policies and trainings, and immigration detention facility reviews. This team also assisted in the review of various legislative reports for CalGang, Licensing legal section, Health Quality Enforcement section, and the Armed and Prohibited Persons' reports.
- ***Data Science Lab.*** This lab focuses on using large administrative datasets to understand trends, inform public data portal (OpenJustice), and other business intelligence analytics to support department initiatives. Over the last year, the team has worked to clean and structure data that has been used to conduct program evaluations, examination of criminal history trends, as well as data that will be made available to the public on OpenJustice.
- ***Assembly Bill (AB) 953 Research Lab.*** A team of researchers from the Research Center work together to assist the Racial and Identity Profiling Advisory (RIPA) Board with analysis to support the RIPA Board's annual report. In January 2018, this team worked with the Civil Rights Enforcement Section and the RIPA Board to complete the first RIPA Board report, as mandated in AB 953. The Research Center continues to provide support to the RIPA Board's annual report efforts using evidence-based practices and by analyzing the Citizen Complaint and Use of Force (URSUS) datasets.
- ***Research and Data Request Lab.*** This section supports the work of internal and external data requestors by fielding requests and assessing the merit of the request, the security concerns (including background clearances), the research nature of the request as well as whether the request is supported by statute. This team thoughtfully releases data to support the department's mission to provide access to those who need access while also best mitigating any departmental liability. Over the last year, this section fielded more than 100 requests (includes requests from external researchers, internal requests, and legislative requests) and worked to reduce department liability by ensuring proper closeout procedures, which included destruction of data for 34 projects. The Research and Data Request Lab has also expanded the datasets available for requests by researchers and other authorized users.

- ***Visiting Scholar’s Lab.*** The Visiting Scholar’s Lab provides external researchers with the opportunity to work with the team already embedded at the DOJ on a limited-time basis. Since the inception of the Visiting Scholar’s Lab, the scholars conducted empirical research on gang membership, duration of membership, and overall desistance. This work has been in support of the AB 90 CalGang legislation. Visiting Scholars have also been working on further developing metrics to better evaluate a subsection of how legal cases are worked, and their overall life cycle.
- ***Peer-Review Advisory Circle (PRAC).*** The PRAC is a group of skilled social science researchers working in a wide variety of disciplines that may provide support to the DOJ research staff on an advisory capacity. To date, five advisors have accepted an invitation to participate and have passed fingerprint background checks. The CJIS is continuing to add advisors, and may have a rolling application process for interested, qualified individuals in the future.

Bureau of Criminal Identification and Investigative Services

Missing and Unidentified Persons Section (MUPS). The MUPS assists the public and criminal justice community with missing and unidentified person investigations utilizing various methods including Internet resources, governmental databases, and forensic dental and medical comparisons. In a recent case, dental x-rays identified the remains of a murdered Merced high school student who had been missing for almost a year. Between January 2017 and June 30, 2018, the MUPS assisted in locating 3,554 missing persons, identified 30 previously unidentified individuals, and assisted with 51 living doe cases.

Violent Crime Investigative Support Section (VCISS). The VCISS analyzes investigative data providing an analytical case report detailing findings and investigative leads. The VCISS also provides expert testimony often using presentations, maps, charts, and timelines to illustrate facts and conclusions related to the crime. Between January 2017 and June 30, 2018, the VCISS assisted in over 85 violent crime cases, two wiretap investigations, and answered requests from law enforcement related to cold case investigations.

California Sex and Arson Registry (CSAR) System Support Section. This section provides support, development, and training of CSAR, the state’s repository for sex and arson registration information, working with both business and technical teams to enhance, improve and update the application. The CSAR remediation effort to ensure system stability, scalability, and extensibility was completed in January 2018 and included enhanced features such as: the ability to add contact messages and/or compliance checks directly through the CSAR application, a Facts of Offense/Modus Operandi section, and the Centralized Investigative Component (CIC) investigative tool. The CIC replaced the Law Enforcement Agency (LEA) Megan’s Law Website and allows authorized LEAs the ability to conduct investigative searches within the entire CSAR database, provides Google geographical mapping features, and various reporting features to assist with open/unsolved cases and/or compliance checks.

California Sex Offender Registry (CSOR). The CSOR provides a wide range of services to support and assist the law enforcement community with registration and notification of over 140,000 California sex offenders. Services include maintaining and providing information to the general public

on the Megan's Law Website. During 2017 and 2018, the CSOR conducted training sessions for all correctional institutions in the State, as well as nearly every county LEA that registers and monitors registered sex offenders.

Administering California Sex Offender Registry Grants. The CSOR was approved under the 2017 Sex Offender Registration and Notification Act (SORNA) Reallocation grant to receive \$812,000. The CSOR will provide funding to the California Department of Corrections and Rehabilitation for livescan devices and training to support the intake processing of inmates, including pre-registration and intake processing for sex offenders in custodial facilities. Funding would also be available for the Violent Crime Information Center and supporting DOJ programs to conduct training and on-site visits with criminal justice and law enforcement business partners related to sex offender registration and notification. Remaining funds from the 2016 SORNA Reallocation grant were used in 2017 to host a Sex Offender Registry Conference for over 500 law enforcement registering agencies, to purchase computer hardware for programs that support the CSOR, and to reimburse randomly selected LEAs (30) through a pilot project for qualified purchases related to specified equipment and training that furthers sex offender registration and notification in the individual jurisdictions. Remaining funds under the 2016 Adam Walsh Act Implementation grant were used in 2017 and 2018 for the development of an audit extraction tool and audit case management system for the CSAR and other DOJ systems.

Operationalizing the Controlled Substance Utilization Review and Evaluation System (CURES) Program. California's Prescription Drug Monitoring Program, also referred to as CURES, stores and reports prescription dispensation data for Schedule II-IV controlled substances dispensed in California. The CURES database receives an average of one (1) million prescription records each week. Pursuant to the California Health and Safety Code section 11165(a), CURES information may be made available to health care practitioners to assist in their efforts to ensure safe prescribing, ordering, administering, furnishing, and dispensing of controlled substances; to law enforcement and regulatory agencies in their efforts to control diversion and resultant abuse of Schedule II-IV controlled substances; and for statistical analysis, education, and research. As of May 2018, there were over 183,000 registered CURES users. Of these users, approximately 132,000 are prescribers and 41,000 are dispensers. On April 2, 2018, the DOJ certified that the CURES database is ready for statewide use, thus making CURES consultation mandatory for prescribers effective October 2, 2018.

Improving the CalGang® Database: Following passage of AB 90 in January 2018, the CalGang unit was established to administer and oversee the CalGang database. CalGang is a shared database that houses criminal intelligence data on members of criminal street gangs and their associates. Authorized LEAs utilize CalGang to solve crimes, enhance officer safety, and identify and track gang members. Pursuant to AB 90, the Attorney General established the Gang Database Technical Advisory Committee (GDTAC) to advise the department in promulgating regulations governing the use, operation, and oversight of shared gang databases. The CalGang unit coordinates and leads all GDTAC meetings and recently drafted the initial regulation packages for consideration of the Committee. Additionally, the unit has successfully coordinated and presented at two California Gang Node Advisory Committee meetings. On March 30, 2018, the first annual AG's report on CalGang was published. The report captured previously unreleased data on records housed in CalGang, providing transparency and a medium to help the GDTAC make informed decisions. The unit continues to enhance the system to meet the needs of participating LEAs across the nation.

Using the California Pawn and Secondhand Dealer System (CAPSS) to Solve Burglaries. In July 2015, the DOJ deployed the CAPSS system for electronic reporting of pawn and secondhand property transactions, following passage of AB 391. Pawn stores and secondhand dealers use the system to enter transactions via a Web front end, or bulk upload process. LEAs can search for items submitted and receive notices for matches to stolen or lost items in the Automated Property System. A licensing component allows LEAs to electronically process new store license requests and manage licenses. The DOJ continues to enhance the system to meet the needs of law enforcement and store users. In 2017, the DOJ enhanced CAPSS functionalities to further assist law enforcement with property crime investigations.

In February 2018, the Culver City Police Department (PD) reported that CAPSS was instrumental in solving a series of high-end residential burglaries. Detectives were able to identify multiple subjects involved in the burglaries and located several pieces of property that had been pawned at various Los Angeles (LA) County pawn shops.

In April 2018 the LAPD reported that in year 2017, they recovered 89 items of property with a collection value of \$435,701, and by June 2018, they recovered 103 items with a collection value of \$661,511. The LAPD credits CAPSS as being a critical tool in the successful recovery of stolen property that were eventually returned to the victims.

Database Audits. The unit audits records in multiple law enforcement databases to verify the timeliness of entry, accuracy, completeness, and that agencies complete second party checks, required validations, and hit confirmations. The unit audits the following databases: Automated Boat, Automated Firearms, CARPOS, CSAR, Missing Persons, Stolen Vehicles, and Wanted Persons. In 2017 and 2018, staff completed 219 audits and provided training to a statewide CLETS User Group.

Stop Data Collection System (SDCS). To support the implementation of AB 953, the California Racial and Identity Profiling Act of 2015, the new SDCS is being developed. The Act requires LEAs to collect and report detailed data regarding all stops to the DOJ. Over 500 LEAs will be subject to the reporting requirements, including: city and county LEAs, the California Highway Patrol, and peace officers of California state and university educational institutions. Probation officers and officers in a custodial setting are excluded from this collection requirement.

The data to be collected includes, among other things: the perceived race or ethnicity, gender, and approximate age of the person stopped, as well as other data such as the reason for the stop, whether a search was conducted, and the results of any such search. LEAs subject to this reporting requirement must report this data to the DOJ every year, with specific reporting deadlines set forth in the statute.

The CJIS project team worked closely with the eight Wave 1 agencies to start collecting stop data on July 1, 2018. This involved a wide range of outreach activities, including on-site meetings, regional meetings, webinars, and weekly conference calls to support agencies. The team developed the business rules, completed user acceptance testing, conducted “Train the Trainer” sessions, and onboarded users into the DOJ-hosted web application. Wave 2 agencies are required to start collecting stop data in January 2019.

Expanding OpenJustice. In September 2015, OpenJustice brought California, and the world a first-of-its-kind criminal justice open data initiative that released unprecedented data. OpenJustice embodies a “smart on crime” approach by putting forward a common set of facts, data and goals to strengthen accountability and improve public safety.

Two key features of the platform are the dashboard and the open data portal. The dashboard presents visualizations depicting many of the statistical data sets the department collects such as: crimes, arrests, homicide, hate crimes, juvenile justice, and use of force. The open data portal is an online repository of downloadable criminal justice data in raw form. This tool empowers researchers, civic coders and journalists to help tackle seemingly intractable problems in the criminal justice system.

Throughout 2017 and 2018, many new, never-before-available, raw data sets were added to the data portal. Additionally, new data stories and visualizations were added and updated ensuring the information presented is intriguing, accurate, and timely. Continued improvements to the functionality of the platform, user experience, and new data are ongoing.

Use of Force Data (URSUS). AB 71, effective January 1, 2016, mandated the collection and reporting of officer and civilian-involved use of force incidents that result in serious bodily injury, and all incidents where there was a discharge of a firearm. LEAs are required to annually report instances involving specified data elements involving the use of force incidents.

In August 2017, the first year of data was published in its own, new publication, and the raw data files were provided to the public via the OpenJustice data portal. Throughout 2017, significant improvements were made to the repository application enhancing functionality and user experience. The second year data is on track for release in summer of 2018.

Criminal Justice Statistics Center Publications. The DOJ collects statistics on crimes, arrests, homicides, arsons, domestic violence-related calls for assistance, hate crimes, adult probation, citizens’ complaints against peace officers, violent crimes committed against senior citizens, death in custody, law enforcement personnel, juvenile court and probation, law enforcement officers killed or assaulted, adult felony arrest dispositions, and anti-reproductive-rights crimes. Throughout the summer of 2017, the data was published in four mandated publications: *Crime in California*, *Juvenile Justice in California*, *Hate Crime in California*, and *Homicide in California*.

Bureau of State Audits (BSA) Report on Hate Crime. On May 31, 2018, the BSA released its findings after nearly a year-long audit on various aspects of hate crime training, outreach, identification, and reporting. The BSA proposed suggestions to improve DOJ’s current practices such as updating training materials, hate crime reporting data verification, and auditing while also recognizing that in the absence of a mandate and proper funding, many of these duties may not be accomplished.

The DOJ has embarked on several efforts to update various training materials and LEA outreach, and has already provided a successful training session to many LEAs. Continued efforts to improve data quality and verification are also underway. The DOJ anticipates releasing an Information Bulletin in the upcoming months to its reporting LEAs providing additional guidance and new data verification processes. The BCIS anticipates that these efforts will be ongoing.

California Law Enforcement Telecommunication System (CLETS). Between January 2017 and June 2018, the CLETS Administration Section (CAS) reviewed and approved 35 upgrade applications for CLETS subscribing agencies' system upgrades to their networks that access CLETS. There were seven new client agencies approved to access CLETS.

Improving CLETS Reporting. In 2017, approximately 53 percent of the 1,400 subscribing agencies submitted their annual CLETS misuse reports for the previous year. This low submission was unacceptable, so the CAS made several changes in order to increase the reporting, which included: making personalized phone calls and sending emails and letters to agencies not submitting the required form; distributing an information bulletin advising agencies of the requirement and possible sanctions; tracking pending cases; updating the *CLETS Policies, Practices and Procedures* to include stronger language surrounding the reporting requirements; enhancing training modules; modifying the existing audit questionnaire to include additional questions regarding the reporting requirements and much more. As a result of these efforts, 99.9 percent have reported in 2018.

Bureau of Criminal Information and Analysis

Disposition Processing Improvements. In 2017 and 2018, the DOJ has continued to make significant improvements to the procedures, processes, and business rules related to how dispositions are received and processed. The DOJ has made enhancements to the electronic disposition reporting alternative which was developed and implemented based on the National Information Exchange Model developed by the United States Department of Justice, Department of Homeland Security, and the Department of Health and Human Services. These process improvements have opened up opportunities to improve related services provided to criminal justice agencies through improved training, awareness, and the collaboration of ideas. The BCIA dramatically increased the amount of outreach and training related to disposition reporting services through surveys, conference calls, attending and performing training at regional training events, in-person site visits to criminal justice agencies, documenting services, participating in working groups and subcommittees of criminal justice associations, and meetings with criminal justice agency executive leaders with the purpose and objective of better understanding challenges and opportunities that criminal justice agencies face related to arrest, disposition, and custody reporting.

Record of Arrest and Prosecution (RAP) Sheet Training. The CJIS provides RAP sheet training to criminal justice agencies throughout the state. The training includes the latest information on laws and mandates as well as how to read criminal offender record information (CORI) from the state-wide criminal history repository as displayed on a RAP sheet. In 2017 and 2018, more than 4,500 officers and other personnel attended 130 training sessions.

Criminal Record Background Check Requests. California law authorizes certain governmental and private organizations to conduct criminal record background checks to help determine the suitability of a person applying for a license, employment, or a volunteer position working with children, the elderly, or the disabled. Public and private schools, non-profit organizations, in-home supportive care agencies, and law enforcement are some of the organizations authorized to conduct these fingerprint-based background checks. In fiscal years 2016-2017 and 2017-2018, the DOJ processed 2.2 million and 2.3 million applicant fingerprint transactions, respectively.

Automated Fingerprint Identification System (AFIS). The AFIS is the second-largest fingerprint identification system in the nation, containing more than 25.9 million criminal and applicant fingerprint records. In 2017 and 2018, AFIS received 1.6 million criminal and 3.4 million applicant transactions during the biennial period. These transactions are submitted to the DOJ and consist of arrests and bookings at California LEAs. Additionally, the fingerprints are submitted to conduct criminal history background checks for licensing, certification and investigatory purposes.

Palm Print Images to the FBI. The DOJ forwards palm print images submitted by California LEAs to the National Palm Print System (NPPS) maintained by the FBI. In 2017 and 2018, a total of 1.6 million palm print images were submitted to the FBI's NPPS during the reporting period.

Automated Latent Print Section (ALPS). The ALPS performs automated searches of finger and palm prints and conducts comparisons of latent prints developed based on evidence from crime scenes received from LEAs. The ALPS has received accreditation from ANSI-ASQ National Accreditation Board/FQS. From July 2017 to May 2018, ALPS received 2,355 cases from LEAs that contain latent print images in which identifications are being sought. 1,815 cases contained evidence that were suitable for identification; ALPS was able to make identifications in 366 of those cases, equaling a hit rate of 20.2 percent.

Latent Gateway. The Latent Gateway offers an efficient and streamlined process for local LEAs to search latent fingerprints against the FBI and DOJ repositories. The Latent Gateway allows for disparate AFIS to communicate via web services, and search and/or register latent fingerprints in both the FBI and the DOJ ALPS databases. As of May 2018, ten counties and one police agency are using the Latent Gateway and more counties have either requested implementation, are in testing, or are in the enrollment process.

Live Scan Support Section. The Live Scan Support Section is responsible for approximately 1,652 law enforcement-owned and operated live scan devices, and 2,640 privately-owned and DOJ-approved applicant live scan devices that are in production for law enforcement arrest and custody reporting, as well as applicant background check purposes. The section is also responsible for approving all new device connections, facilitating the connectivity of devices, and troubleshooting submission errors. Field staff conduct training of law enforcement upon request, focus on private service providers with high error rates, and conduct audit and training sessions with the goal to reduce manual verification work which result in decreased response times. Between January 2017 and June 2018, projects included; updating terms and conditions for approved store and forward vendors for applicant submissions, updating live scan guidelines for submitting applicant transactions, and conducting training for approximately 35 LEAs, 58 applicant agencies, and 78 private service providers.

Application Development Bureau (ADB)

Criminal History System Accomplishments.

- Changes were made to Automated Criminal History System (ACHS) software in order to allow for the automatic redaction of Personally Identifying Information in criminal history data provided to DOJ-approved researchers. The extraction program's performance was also improved by orders of magnitude allowing for the timely processing of the increasing number of subject records requested by the research community.

- An Open Arrest Report was developed and implemented to provide counties with information regarding arrests from their county that do not yet have a disposition in the ACHS. These reports are posted to the California Law Enforcement Website quarterly and may be used by the counties to identify and then provide the missing disposition information to the DOJ for update.

Departmental Technology Services Bureau (DTSB). The DTSB provides enterprise support for the Department's computing, applications and shared services environments. The Bureau also partners with DOJ programs and LEA partners to ensure technical solutions meet state and federal information security requirements. The DTSB was instrumental in the prosecution of Carl Ferrer, CEO of Backpage, and the Botnet investigation.

Challenges Ahead

Recruitment and Retention. Recruitment and retention continues to be a major factor as CJIS continues to experience significant loss of program and institutional knowledge due to high turnover and retirements. As extensive program and technical expertise are needed to support both our programs and law enforcement community, CJIS must look forward to increase our ability to attract and retain qualified program and IT professionals by reviewing issues of competitive compensation, the selection process, and the use of appropriate classifications.

CJIS actively engages in aggressive recruitment efforts, yet despite our best efforts, CJIS experiences difficulty in recruiting qualified personnel due to competing efforts across Divisions as well as with other state agencies, which often result in multiple recruitment efforts to yield one hire. The pay rates for the IT classifications further complicates recruitment efforts as salary rates are not competitive with private industry.

Information Technology Security. As we move into an electronic age, the need for greater system security increases. Historically, the security of the Department's data was ensured by its limited access to others. However, automation is increasing our risks with the move toward use of the Internet and providing the public easier access to information. The Division has taken many steps on this priority; however, there are still challenges the Division must realign along with recruiting and hiring qualified staff.

Legislation and Legislative Mandates. Each legislative session yields numerous changes in laws, statutes, and regulations. The Division has experienced a steady and unprecedented increase in the volume of legislative artifacts to monitor and respond as they have fiscal, regulatory, process or information technology impact. Each year brings a different degree of challenge and the Division anticipates the coming legislative years will be equally, if not more diverse and complex.

Budget and Position Cuts. The Division has experienced substantial budget and position cuts throughout the years, reducing the Division to bare minimum or understaffing in some areas, while continuing to comply with stringent mandated deadlines. As an example, since 2004, the Division experienced the loss of approximately 44 positions as a result of redirections to other Divisions and programs within the Department.

Space Issues. The Division experienced substantial overcrowding of the 4949 Broadway facility and parking lots with the addition of the Division of Law Enforcement bureaus in 2013 as a result of field office closures and a reorganization. Even with the 2017 departure of the Bureau of Gambling Control from the facility, as new legislative mandates are implemented, the Division continues to be overcrowded; therefore, CJIS sought alternative facility options to alleviate overcrowding of both employees and necessary consultant personnel as a result of the new mandates.

Legacy Systems. The Department as well as the Division have a number of legacy systems that have reached or are at the end of their lifecycles. Strategic efforts to refresh and replace the affected systems are underway; however, these efforts require substantial collaboration to align with the California Department of Technology for oversight and approval and the Department of Finance for funding in order to effectuate the new or enhanced systems.

Existing Firearms System Not Scalable. The Division is having difficulty in keeping up and meeting the mandates required by firearms-related legislation in that the existing systems were developed years ago to address chaptered legislation to ensure public safety. As new legislation is passed requiring complex system changes to a legacy system that was designed for a specific purpose and not intended to be scalable, new solutions are needed in order to comply with the new volume of mandates.

Compliance with Senate Bill (SB) 384. On October 6, 2017, the Governor signed into law SB 384 which requires California to transition from a lifetime registration schema that has been in place since 1947, to a significantly more complex tier-based registration schema by January 1, 2021. Tier-based registration establishes three tiers of registration for adult sex offender registrants for periods of 10 years, 20 years, and lifetime. Juvenile registrants would be subject to registration periods of 5 years and 10 years. This new law requires the registrant to petition the superior court for termination from the Registry at the expiration of his or her mandated, minimum registration period. Based on specified criteria, the court will either grant or deny the petition.

In order to comply with these new requirements, existing DOJ systems must undergo extensive enhancements and modifications to support new business processes that must commence by July 1, 2020. These systems include the CSAR and many of its interfaces that support registration at both the State and National levels. The Automated Criminal History System (ACHS), the Disposition Processor, and the Batch Processor will also undergo significant enhancements and modifications. The DOJ must also develop new policies, procedures, and training modules to support the new tier-based registration schema. The DOJ will be required to educate and train courts, district attorney, probation, parole, and law enforcement entities on these new policies, data exchange methods, and enhanced systems. The DOJ will require additional new positions and consulting resources to implement these significant systems enhancements and modifications in order to develop mid-level requirements to determine tier placements, community notification statuses, and to process granted petitions for terminations within a two-year ambitious timeline.

The SB 384's overall project timeline extends from July 1, 2018, through January 1, 2023, which includes developing and implementing the technology enhancements, performing the tier assessments and community notification posting statuses, and processing the initial surge of petitions for terminations.

EXECUTIVE PROGRAMS

Overview

Executive Programs consists of the following units:

- The **Office of the Solicitor General**'s core mandate is to provide or promote excellent representation in appellate matters handled by the Department. The Office serves as a resource for Department leadership, attorneys, and staff, providing appellate advice and collaborating with the divisions and sections to foster consistent excellence in appellate practice.
- The **Office of Legislative Affairs** represents the Attorney General in the State Legislature. It is responsible for developing and advocating for the Attorney General's legislative priorities. It also coordinates the Attorney General's communications with the State Legislature and the Governor's Office on legislative matters.
- The Attorney General appoints the **Special Assistants to the Attorney General** to focus on the priorities of his administration, such as health care, the environment, immigration, consumer issues, and criminal justice and law enforcement. Special Assistants also serve as the Attorney General's key advisors in his priority areas and work throughout the Department to lead teams and manage projects for the Attorney General.
- The **Office of Communications** oversees external communications for the Department. The office organizes speaking opportunities, press conversations, and events to highlight the initiatives the Department engages in on behalf of all Californians. In addition, the Office is responsible for the Department's digital presence including content on the public website, social media, and graphics.
- The **Office of External Affairs** develops and maintains relationships with key stakeholders such as community and non-profit groups, elected officials, and business organizations to foster a greater understanding of the initiatives taken by the Attorney General's Office.
- The **Public Inquiry Unit** provides information and assistance to the hundreds of thousands of Californians who contact the Department of Justice each year. A key priority of the Unit is resolving consumer complaints.
- The **Equal Employment Rights and Resolution Office** ensures equal employment opportunities (EEO) within the DOJ are consistent with state and federal laws. The office administers the employee discrimination complaint process, monitors departmental employment processes, and provides training to ensure a workplace free of discrimination and harassment
- The **Office of Program Oversight and Accountability** is the DOJ's primary internal audit organization, and ensures that the department meets Government Code reporting requirements for accounting and internal control.

Major Accomplishments

Solicitor General Cross-Sectional Matters

When the Trump Administration acted to terminate the Deferred Action for Childhood Arrivals (DACA) program, which granted nearly 700,000 young immigrants protection from removal, work authorization, and other benefits, California led a coalition of States in challenging the termination. OSG worked with a large team of Department lawyers on that suit and related appeals, including unusual mandamus and other proceedings in the Ninth Circuit and the U.S. Supreme Court. The district court granted a preliminary injunction barring the termination of DACA in January, 2018. A Deputy Solicitor General argued twice for the coalition States before the Ninth Circuit, first opposing the federal government's mandamus petition and then defending the preliminary injunction on appeal.

As the Trump Administration acted repeatedly to undermine the health insurance system established by the federal Patient Protection and Affordable Care Act (ACA), California again took the lead in a number of legal actions to protect the Act. OSG worked with the Department's new Healthcare Strike Force and the Health, Education, and Welfare Section in, for example, persuading the D.C. Circuit to grant an unusual motion to intervene on appeal in *House v. Price*, to ensure continued defense of the legal authority of federal officials to pay cost-reduction subsidies required by the Act. OSG lawyers likewise worked with Department teams on a related district court action, *California v. Trump*; on intervening in district court proceedings in *Texas v. United States* to defend a suit, abandoned by the Trump Administration, challenging the entire ACA; and on the appellate brief in *California v. Azar II*, defending a preliminary injunction barring implementation of new federal regulations that would create religious and moral exemptions to the ACA's requirement that health insurance cover contraceptive care.

OSG worked with the Government Law Section and the Civil Rights Enforcement Section, among others, to coordinate the State's response to a series of nationality-based travel bans issued by the Trump Administration in 2017, including contributing to numerous multistate amicus briefs. All three versions of the travel ban were enjoined by lower courts, although in *Trump v. Hawaii*, the Supreme Court ultimately ruled 5-4 that the third could take effect. OSG has also assisted in challenging federal policies that seek to commandeer state and local government officials into enforcing federal immigration laws, and in defending related state laws. These efforts have included multistate amicus briefs in the district court and the Ninth Circuit in *City and County of San Francisco v. Trump* and *County of Santa Clara v. Trump*, challenging federal efforts to deny federal grant funds to "sanctuary" jurisdictions.

OSG worked with the Government Law Section and the Civil Rights Enforcement Section in defending against First Amendment challenges to California's Reproductive Freedom, Accountability, Comprehensive Care and Transparency (FACT) Act, which required certain pregnancy counseling centers to disclose that they were not licensed medical facilities, and required certain licensed clinics to inform patients of the existence of free or low-cost state programs providing comprehensive pregnancy-related care. After the lower federal courts refused to enjoin the Act, the U.S. Supreme Court granted review in *National Institute of Family & Life Advocates v. Becerra*. OSG led the briefing

in the Supreme Court, and a Deputy Solicitor General argued the case. The Court ruled 5-4 that the statute likely violated the First Amendment.

In *Jennings v. Rodriguez*, OSG drafted a multistate amicus brief in the U.S. Supreme Court in consultation with the Civil Rights Enforcement, Government Law, Appeals, Writs and Trials, and Health, Education, and Welfare Sections. The brief supported a challenge to the constitutionality of the federal government’s policy of detaining non-citizens for prolonged periods pending completion of federal “removal” proceedings, without any individualized determination of the need for detention. The Supreme Court ultimately addressed statutory questions and remanded the case to the court of appeals for consideration of the constitutional arguments addressed in our brief.

OSG worked with the Appeals, Writs and Trials Section and the Employment and Administrative Mandate Section in preparing an amicus brief in the California Supreme Court in *Association of Los Angeles Deputy Sheriffs v. Superior Court*, a case addressing the interplay between prosecutors’ disclosure duties under *Brady v. Maryland* and the privacy protections for peace officer personnel files codified in state statutes. Our brief argues that, in light of prosecutors’ constitutional obligation to disclose to the defense material information concerning peace officer witnesses, the Court should not construe the statutes to forbid law enforcement agencies from informing prosecutors that a peace officer’s personnel records contain information potentially subject to disclosure under *Brady*. The Court has not yet scheduled argument.

OSG works with the Criminal Division, the Government Law Section, and others on a variety of legal issues relating to California’s bail system. For example, OSG has consulted on the Department’s filings in response to habeas cases in the state courts of appeal, answers to petitions for review at the California Supreme Court, briefs in civil and habeas cases in federal court, and a merits brief in a federal habeas appeal in the Ninth Circuit.

Civil Law Division

OSG worked with the Health Quality Enforcement Section on *Lewis v. Superior Court*, a California Supreme Court case considering whether the Medical Board of California could access prescription records in a Department of Justice database for purposes of investigating potential misconduct by physicians. A Deputy Solicitor General argued the case. The Court agreed with our position that accessing these records for proper investigative purposes did not violate the privacy rights of patients under the California Constitution.

OSG worked with the Employment and Administrative Mandate Section on en banc proceedings in the Ninth Circuit in *Retail Digital Networks v. Prieto*. After a panel decision cast doubt on California’s restrictions on certain advertising-related payments to alcohol retailers, with reasoning that could affect regulation of commercial speech more generally, we successfully petitioned for en banc review. A Deputy Solicitor General argued the case before the en banc court. The full court issued a new opinion, upheld the restrictions, and clarified the standards for reviewing laws that affect commercial speech.

In *Missouri v. California*, OSG is working with the Government Law Section in responding to a proposed action in which a group of States seeks to invoke the U.S. Supreme Court’s original jurisdiction to advance Commerce Clause and preemption challenges to California’s rules banning the sale in California of eggs laid by hens housed in overly-restrictive cages. We have opposed review. The Supreme Court has asked for the views of the United States, and lawyers from OSG and the Section have met with the U.S. Solicitor General’s Office to discuss the case. In another Supreme Court original action, *Arkansas v. Delaware*, OSG is working with the Business and Tax Section as part of the steering group for the plaintiff States in an action over the proper application of a federal statute governing the escheatment of unclaimed amounts paid for certain “official checks” (similar to money orders).

OSG worked with the Business and Tax Section on briefing and argument in the California Court of Appeal in *Harley-Davidson v. Franchise Tax Board*, involving a claim that California violates the dormant Commerce Clause by requiring certain interstate businesses to report their income on a combined basis, while permitting certain in-state business to choose between two reporting methods. A Deputy Solicitor General argued the case in the Court of Appeal.

OSG is working with the Government Law Section on continuing proceedings in *Association des Éleveurs de Canards et d’Oies du Québec v. Becerra*. After earlier proceedings rejected a Commerce Clause challenge, a district court held that a California statute prohibiting the in-state sale of products resulting from force-feeding a bird—the traditional way of producing foie gras—was preempted by the federal Poultry Products Inspection Act. A Deputy Solicitor General argued the most recent appeal, in which the Ninth Circuit agreed with our position and reversed the district court. The plaintiffs have sought review by the U.S. Supreme Court. We have opposed review, and the Court has asked for the views of the United States.

OSG worked with the Government Law Section on an amicus brief in the U.S. Supreme Court in *Janus v. American Federation of State, County, and Municipal Employees, Council 31*, a case considering whether States could require public employees to pay “agency fees” to defray the cost to unions of providing representation to all employees. California long relied on agency fees as part of its system for managing labor relations in the public sector. Our brief explained that the State developed its system of collective bargaining in response to widespread labor unrest and that agency fees served important interests of public employers. In a 5-4 decision, the Court overruled its longstanding precedent that had permitted mandatory agency fees. Justice Kagan’s dissent cited California’s amicus brief.

OSG worked with the Government Law Section on California Supreme Court proceedings in *National Shooting Sport Foundation v. California*. Industry plaintiffs challenged a requirement that, to be eligible for sale in this State, every new model of handgun must come equipped with technology that imprints identifying marks on each cartridge fired. A state appellate court held the plaintiffs could rely on a statutory maxim to argue that compliance was “impossible.” The Supreme Court granted our petition for review and reversed, holding that the plaintiffs could not rely on the maxim to invalidate, rather than interpret, a later statute. The Principal Deputy Solicitor General argued the case in the Supreme Court.

OSG works with the Government Law Section in defending a wide array of California gun laws against Second Amendment challenges. In this period, for example, the U.S. Supreme Court denied review in *Peruta v. California*, involving the State’s system for issuing concealed-carry permits; *Bauer v. Becerra*, involving laws that authorize using part of a \$19 fee on the purchase of firearms to fund firearms-related regulatory and enforcement activities; and *Silvester v. Becerra*, involving a 10-day waiting period for taking delivery of newly-purchased guns.

Criminal Law Division

OSG worked with the Appeals, Writs and Trials Section on two petitions for certiorari in federal habeas cases that led to summary reversals by the U.S. Supreme Court. In *Kernan v. Cuero*, the Court agreed with us that the Ninth Circuit should not have set aside a state judgment allowing prosecutors to amend criminal charges, in a way that would increase the required sentence, after the defendant had pled guilty, so long as the defendant was allowed to withdraw his plea. Similarly, in *Sexton v. Beaudreaux*, the Court agreed with us that the court of appeals should not have disturbed a state murder conviction where the federal court failed to consider reasonable grounds for the state judgment and otherwise analyzed the case “without any meaningful deference to the state court.”

OSG worked with the Criminal Division on many briefs responding to petitions for U.S. Supreme Court review filed by criminal defendants in cases in which the Department prevailed in the state or lower federal courts. The Supreme Court did not grant review in any criminal case over the Department’s opposition during the biennial period.

OSG worked with the Appeals, Writs and Trials Section on the California Supreme Court proceedings in *People v. Buza*, involving whether the collection of DNA identification information from all adults arrested for felony offenses, as mandated by the voters in Proposition 69, violates the state or federal constitutions. A Deputy Solicitor General argued the case. Reversing the court of appeal, the Supreme Court agreed with us and rejected the constitutional challenges.

OSG worked with the Correctional Writs and Appeals Section on *In re Butler*, a case involving whether a settlement agreement from 2013 required the Board of Parole Hearings to continue calculating “base terms” for prisoners with indefinite life sentences, despite later statutory changes that deprived such terms of any meaning. The California Supreme Court granted our petition for review and ordered the settlement modified. A Deputy Solicitor General argued the case in the Supreme Court.

OSG worked with the Appeals, Writs and Trials Section on briefing in the California Supreme Court in *People v. Arredondo*, involving whether police violated the Fourth Amendment by taking a warrantless blood sample from an unconscious driver who was arrested for suspected drunk driving. Our brief contends that, under the circumstances, the driver legally consented to the search based on California’s “implied consent” statute and the express consent he gave when he applied for his California driver’s license. The case has not yet been argued.

OSG worked with the Appeals, Writs and Trials Section and the Bureau of Children’s Justice on *In re Albert C.*, a California Supreme Court case regarding the due process rights of minors in juvenile

delinquency proceedings who have been found incompetent. Our brief contended that a violation of a local juvenile court’s protocol regarding competency procedures, by itself, does not necessarily establish a presumptive violation of the Due Process Clause. A Deputy Solicitor General argued the case in the Supreme Court, and the Court accepted the position advanced in our briefing.

Public Rights Division

OSG worked with the Natural Resources Law Section on *Rinehart v. California*, involving California’s moratorium on environmentally destructive suction-dredge mining. After the California Supreme Court rejected a miner’s argument that federal mining law preempted California’s permit requirement, the miner filed a petition for review by the U.S. Supreme Court. We filed a brief in opposition, and the Court asked for the views of the United States. OSG and Section lawyers discussed the case with the U.S. Solicitor General’s Office. The United States ultimately filed a briefing agreeing with our position, and the Supreme Court denied review.

OSG is working with the Indian & Gaming Law Section to represent Governor Brown before the California Supreme Court in *United Auburn Indian Community of Auburn Rancheria v. Brown*. The case concerns whether the Governor violated the separation of powers doctrine of the state constitution when he concurred in the U.S. Secretary of the Interior’s determination that a certain parcel of land is suitable for gaming activity. The Supreme Court has not yet scheduled argument.

OSG worked with the Natural Resources Law Section in successfully opposing a petition for review in the U.S. Supreme Court in *Marilley v. Bonham*, involving a challenge under the federal Privileges and Immunities Clause to California’s system of charging non-residents somewhat higher fees than residents for some commercial fishing licenses and permits.

OSG worked with the Consumer Law Section on an amicus brief before the California Court of Appeal in *Abbott Laboratories v. Superior Court*, involving whether a local district attorney may seek monetary relief under the Unfair Competition Law for injuries to California residents occurring outside the county the district attorney represents. The court agreed with our position that the California Constitution bars a district attorney from seeking relief for violations occurring outside his or her own county.

OSG worked with the Corporate Fraud Section on an unusual multistate effort to intervene on appeal after the initial panel decision in *Chamber of Commerce v. U.S. Department of Labor*, a challenge to the federal Department of Labor’s “Fiduciary Rule.” That rule was designed to protect individual investors from conflicts of interest on the part of their financial advisers. The Trump Administration indicated it would not seek further review of the panel decision, and the Fifth Circuit refused to allow California and other States to intervene.

OSG worked with the Bureau of Children’s Justice and the Civil Rights Enforcement Section on an amicus brief in *Bianka M. v. Superior Court*, a California Supreme Court case regarding immigrant children who have been abandoned, abused, or neglected by one of their parents and who are seeking to obtain “Special Immigrant Juvenile Status,” which can provide a path to lawful permanent residency. A Deputy Solicitor General argued the case in the Supreme Court.

Office of Legislative Affairs

The Attorney General's Office sponsored several bills during the biennial period. Sponsored bills included:

- **AB 284 (McCarty)**
AB 284 would authorize a first-of-its-kind state-wide evaluation of officer-involved shootings. AB 284 is a proactive effort to better understand police shootings across California with the ultimate goal of reducing such incidents and identifying ways to achieve safer outcomes for community members and officers. Conducting a comprehensive statewide study of officer-involved shootings resulting in death or serious injury from all across California will allow the Department of Justice to identify where and what types of specific improvements and best practices will help reduce future incidents. The goal will be to identify common challenges or patterns as well as practices that, if modified, may lead to fewer shootings.
- **AB 3212 (Irwin)**
AB 3212 seeks to ease the legal and financial burdens placed on military personnel and their families from the demands of active duty service. The bill would achieve this by expanding and strengthening several consumer protections that are provided to California service members through the California Military & Veterans Code.
- **SB 1272 (Galgiani)**
SB 1272 would strengthen California's efforts to combat the underground economy by permanently establishing and authorizing multi-agency Tax Recovery and Criminal Enforcement teams in Sacramento, Los Angeles, San Diego, Fresno, and the Bay Area. The teams would investigate and prosecute the most egregious felony-level multijurisdictional underground economic crimes in the state.
- **SB 1408 (Pan)**
SB 1408 would allow law enforcement authorities to seize cigarettes that are not fire-safe. This bill strengthens the Attorney General's ability to reduce the number of fires caused by cigarettes throughout the state.

Public Inquiry Unit

New Consumer Portal. In 2017, the Unit partnered with the Consumer Law Section and the Hawkins Data Center to develop a new consumer portal on the Department's website, which provides information on consumer topics and help for victims of unfair business practices and fraud. The Unit also runs an alternate dispute resolution program, which successfully mediates tens of thousands of complaints each year. In addition, the Unit plays a key role in gathering evidence for the Department's consumer protection lawsuits, and providing updates about these cases to affected consumers.

Equal Employment Rights and Resolution Office

Establishment of a Diversity and Inclusion Officer. During the biennial period, the office created a position for a diversity and inclusion officer, who provides assistance, advice and guidance to committees. The office conducted a membership drive, set up a SharePoint site for tracking employee time dedicated to committee activities, and added a committee for veterans. The office helped the committees host events to raise awareness and encourage participation. The office convened a meeting with executive staff, division directors and chiefs, and the chairs of the eight advisory committees, to discuss topics related to recruitment, hiring, and diversity.

Expanding Opportunity for People with Disabilities. The Limited Examination and Appointment Program (LEAP) provides an alternate examination and appointment process to facilitate recruitment and hiring of persons with disabilities into California civil service. The DOJ hired 20 qualified LEAP candidates during the biennial period.