

December 23, 2019

Keely Martin Bosler, Director
California Department of Finance
915 L Street
Sacramento, CA 95814

Dear Ms. Keely Martin Bosler,

In accordance with the State Leadership Accountability Act (Leadership Accountability), the Department of Justice submits this report on the review of our internal control and monitoring systems for the biennial period ending December 31, 2019.

Should you have any questions please contact Chris Prasad, Director, at (916) 210-6271, chris.prasad@doj.ca.gov.

GOVERNANCE

Mission and Strategic Plan

The Office of the Attorney General was created in 1850 to provide structure and foresight to legal affairs and law enforcement in California. The California Constitution and state government codes, legislative decree altering the duties of the Attorney General in response to specific state needs, and the personalities and ambitions of those who have served as Attorney General have shaped its mission. Fundamentally, the Attorney General is responsible for safeguarding the public from violent criminals, preserving California's spectacular natural resources, enforcing civil rights laws, and helping victims of identity theft, mortgage-related fraud, illegal business practices, and other consumer crimes. The Attorney General also conducts state-level investigations such as the one recently requested by the Governor to explore whether major oil and gas companies are engaged in unlawful activity related to pricing, and provides direct support and guidance to local law enforcement under certain circumstances.

On January 24, 2017, Xavier Becerra was sworn in as the 33rd Attorney General of the State of California as a successor to the previous Attorney General, who vacated the post early to ascend to higher federal office. AG Becerra was elected by the people of California in November 2018, and continues to serve the people of California. The Attorney General manages and directs the Department of Justice (Department/DOJ) and its law enforcement work, serves as legal counsel to state agencies, represents the state before the California, U.S. appellate, and Supreme Court, and issues formal opinions on the meaning of state law. Increasingly, the Attorney General leads or participates in multi-state actions as the federal government shifts away from previously shared policy and legal frameworks advanced by California.

The department consists of five divisions. The Chief Deputy to the Attorney General (CDAG), under the direction of the Attorney General, leads an Executive Team of five Chiefs that oversee each distinct Division: Law Enforcement (DLE), Legal Services, Criminal Justice Information Services (CJIS), Operations, and Executive Programs. Over 4,700 employees – lawyers, peace officers, computer

programmers, accounting and administrative professionals, and security personnel - engage in a variety of law enforcement, legal, and criminal justice information services. In addition to field offices Statewide, the Department's main offices are in Sacramento, Los Angeles, San Francisco, San Diego, Oakland and Fresno.

The Attorney General must manage and uphold day-to-day processes concerning state law and law enforcement while also monitoring and responding to emerging issues, delivering timely, high-quality service regardless of the domain. In order to ensure public safety in a dynamic political and legal landscape, DOJ's current initiatives focus on certain emerging and long-standing matters, including:

- Rigorous and comprehensive efforts to prevent abuses of power resulting from sexual violence in all sectors.
- Improving the relationship between communities and law enforcement through collaboration, training, and legislative action.
- Ensuring Californians' economic security through consumer protection.
- Protecting the health and well-being of Californians through actions on health equity, access to affordable care, and enforcing prescription drug abuse oversight.
- Preserving environmental quality for all of California's diverse communities.
- Protecting the needs and potential of California's children by creating a bureau to focus specifically on legal doctrine that affects children across the state.
- Fostering timely and transparent access to criminal justice data.
- Guiding local law enforcement agencies in preventing sale of illegal tobacco products and sale of any tobacco products to minors.
- Allowing asylum seekers to access work permits.
- Combatting illegal marijuana cultivation.
- Bringing awareness to domestic violence victims of their rights.
- Leading a multistate coalition in support of a lawsuit protecting access to critical information on pay discrimination
- Protecting fire-affected communities against price gouging.

Control Environment

Under the Direction of the CDAG, the Executive team maintains high ethical standards and attentive oversight of the Department. Agency oversight also occurs as a function of legislative review, with which DOJ regularly cooperates. Financial records are audited as part of the federal single audit as facilitated by the Department of Finance (DOF) and DOJ undergoes several audits, including those initiated by Legislature, the California State Auditor, the State Controller's Office, the Department of General Services and the US Treasury. The CDAG and Division Chiefs review the results of these audits, develop corrective action plans, and correspond with the auditors and the Legislature regarding implementation of corrective actions and improved internal controls.

As California's primary litigation and law enforcement body, DOJ is committed to upholding the highest standards of ethics and integrity. DOJ maintains the Department of Justice Administrative Manual (DOJAM) and the Division of Law Enforcement Policy and Procedures Manual on the Department's intranet. These manuals are dynamic documents that articulate DOJ policies, procedures, and organizational structure for the entire agency, with particular emphasis on employee conduct in the office and in the field.

DOJ maintains an organization chart and departmental directive system that ensures that policies and procedures are developed and disseminated throughout the Department, to the right individuals. The centralized design delegates decision-making authority to the most qualified staff at various management levels. DOJ's hierarchical organizational structure groups employees by division and function to ensure appropriate segregation of duties and levels of review for staff work. This structure allows for an effective execution of duties and ensures accountability within the chain of command.

To help identify potential conflicts of interest, DOJ requires staff holding a position that is described in government Code Section 87200 or designated in a local conflict of interest code pursuant to Government Code Section 83700 to file the Form 700 - Statement of Economic Interests, annually. The Department requires all designated employees to participate in an interactive online State Officials Ethics Training Course. Legal staff receive additional training on conflicts of interest, recusals, disqualifications, and removals. DOJ also requires staff to sign a Statement of Incompatible Activities that explicitly prohibits employees from using the skills, tools and influence associated with their position for private gain or outside of their prescribed duties for the Department when they are hired.

To strengthen staff's understanding of fraud and adhere to their responsibility for assessing and reporting fraud, DOJ is developing a fraud committee comprised of executive and management staff that will meet quarterly to review and evaluate potential fraud or the opportunity for fraud within the Department based on audit findings, observations, and potential control weaknesses.

As part of its work in creating a positive, safe work environment, DOJ provides staff several avenues for reporting misconduct by employees. The California State Auditor's (CSA) Whistleblower Hotline is noticed in employee break areas throughout the agency. DOJ monitors staff work and responds to whistleblower inquiries forwarded from the CSA and other avenues. It investigates these internally or cooperates with other state entities to ensure accountability for all employees. Additionally, DOJ works to prevent interpersonal misconduct in the workplace through outreach and education by regularly training employees in the prevention of discrimination, harassment, and retaliation. It also provides access to reporting of these types of complaints internally via its Office of Equal Employment Rights and Resolution and provides other avenues for resolution at the agency, state, and federal level, depending on the nature of the complaint and the employee needs and preferences.

Everyday business at DOJ puts many employees in contact with sensitive information. To safeguard public and personal information, DOJ employees undergo privacy and information awareness training during orientation and periodically as DOJ identifies new resources and training needs related to information security. Additionally, employees accessing highly sensitive information undergo an extensive background investigation prior to being granted access.

DOJ complies with CalHR's workforce and succession plan requirements through its Office of Human Resources (OHR). As of June 2018, DOJ developed a working strategy to recruit, develop and retain a diverse, well-qualified workforce. Furthermore, DOJ's divisions coordinate with the OHR to develop specific recruiting methodologies and pools to help address staffing shortages, key person dependencies, and to ensure that hiring is fair and unbiased; with the aim of creating Department hiring programs that attract a diverse field of promising potential employees. Consistent with state law, DOJ ensures that all supervisory staff receive 80 hours of leadership and supervision training, every two years, and the maintains an in-house training staff to coordinate and deliver training across the Department.

Information and Communication

In and across divisions, DOJ's internal communication structure supports a precise and effective flow of information. Departmental policies originate from the OHR, the CJIS Information Security Officer, the CDAG, or the Attorney General, depending on the subject matter. DOJ uses email and a robust interoffice mail routing system that ensures that individuals and units receive relevant information in a timely manner.

The Department's Public Inquiries Unit manages all questions and comments from the public. This unit is responsible for routing calls received on the Public Inquiry Hotline to the appropriate individual or team within DOJ. This hotline allows DOJ to obtain information from the general public to better understand where and how to direct its resources proactively.

MONITORING

The information included here discusses the entity-wide, continuous process to ensure internal control systems are working as intended. The role of the executive monitoring sponsor includes facilitating and verifying that the Department of Justice monitoring practices are implemented and functioning. The responsibilities as the executive monitoring sponsor(s) have been given to: Chris Prasad, Director; Sean McCluskie, Chief Deputy to the Attorney General; Joe Dominic, Chief, Division of California Justice Information Services; and Chris Ryan, Chief.

DOJ relies on regular meetings, event-driven programming and budget changes, and ongoing insight and consultation with its Office of Program Oversight and Accountability (OPOA) to track risks, ensure the effectiveness of internal controls, and identify and monitor potential vulnerabilities.

The current process for ongoing monitoring is described below. As new information surfaces, the Executive team revises these processes accordingly.

On a regular basis (daily, weekly, or monthly):

- DOJ executive management meet to discuss existing and potential risks.
- Management staff throughout DOJ meet to discuss how to address potential and existing risks.
- Each Division chief meets with the CDAG to discuss policies and procedures to address outstanding risks.

Semi-Annually (six months to one year):

Under the CDAG's direction:

- Division Leaders' update the SLAA Implementation Plan regarding status on controls implementation as required by the DOF.
- OPOA assists each Division Chief with measuring and tracking progress on internal controls development, implementation, and evaluation.
- OPOA collects data from Divisions to assess the extent of the risk.

Biennially (every two years):

Under the CDAG's direction:

- Division Leaders conduct risk assessments and additional organizational surveys to assist with identifying risks and internal controls at the division and enterprise level.
- Division Leaders maintain list of risks to include in the next SLAA report.
- OPOA reviews strategic initiatives, organizational and environmental challenges, reviews risk assessment results, and other factors to identify enterprise risks and develop controls.
- Division Leaders continuously evaluate risks and threats to DOJ's operations.

RISK ASSESSMENT PROCESS

The following personnel were involved in the Department of Justice risk assessment process: executive management, middle management, and front line management.

The following methods were used to identify risks: brainstorming meetings, employee engagement surveys, ongoing monitoring activities, audit/review results, other/prior risk assessments, external stakeholders, questionnaires, and consideration of potential fraud.

The following criteria were used to rank risks: likelihood of occurrence, potential impact to mission/goals/objectives, timing of potential event, potential impact of remediation efforts, tolerance level for the type of risk, and other.

In addition to these risk factors, we asked Divisions' to assess their level of risk and categorize it according to its strategic, financial, compliance, reporting or reputational risk.

RISKS AND CONTROLS

Risk: Insufficient Resources

The Attorney General's broad mandate - safeguarding public safety, preserving natural resources, enforcing civil rights laws and protecting consumers - often manifests in the agency being subject to new mandates resulting from emerging societal issues and public outcry. The Department performs its mandated duties based on current budgeted resources; often the DOJ is unable to meet new legislative mandates with existing staff and resources without compromising current mandated workload. The Department has difficulty recruiting, training and retaining highly qualified staff or quickly developing necessary technology systems to support the implementation of new laws.

The DLE's Bureau of Forensic Services (BFS) provides forensic laboratory services to local law enforcement agencies, however, these services have been impacted due to a lack of permanent and continuous resources. BFS's primary funding source continues to decline and provides inconsistent funding for state and county programs, as noted in [CSA Audit Report 2017-126](#). Temporary relief approved in the Governor's Budget provided just enough resources to maintain statewide forensic laboratory activities. Without increased General Fund authority of approximately \$45 million annually, critical and necessary forensic laboratory services to local law enforcement agencies will be adversely impacted. Some statewide services may require either a complete shutdown or limited service availability, including crime scene investigations, DNA casework, controlled substance analysis, DUI toxicology, and firearms analysis.

Approximately \$160 million in additional resources are required in 2020-21, including but not limited to:

- Healthcare Rights and Access Staffing

- DNA Identification Fund Revenue Backfill
- Consolidated DNA Laboratory Campus
- Gun Show Enforcement Teams
- Firearms IT Systems Modernization
- Regulation of Cardroom and Third-Party Providers of Proposition Player Services
- Licensing Section Management and Clerical Staff
- Replacement of the License 2000 System
- RIPA PRA Redaction
- Civil Rights Enforcement Professional Support

Given the urgency of several new legislative mandates, the appropriation of adequate resources is critical to protecting public safety and the state's resources to address these new laws. Furthermore, several recent CSA audit recommendations require DOJ efforts with limited or often no available resources. Moreover, recent laws signed by the Governor impose additional mandates on DOJ.

Control: A

Internally, DOJ's Legal, DLE, CJIS, and Operations Divisions continue to communicate with one another regarding implementation of new statutes in order to monitor and identify mandates that remain unfulfilled due to budget and statutory constraints. This helps ensure that DOJ is focused on the highest priority programs and activities.

Control: B

As the Department determines workload and identifies necessary resources, DOJ will work with the Governor's Office, the DOF and the Legislature to obtain needed resources.

Risk: Cybercrime

The rise of cybercrime is unprecedented due to the progressive increase of online business and social interaction. Moreover, serious financial crimes, human trafficking rings, and drug sales originate from a segment of the web known as the "dark web." As these types of crimes have proliferated, Californians lack means for reporting and prosecuting these crimes at the local and state level. Because DOJ lacks sufficient resources to address these crimes, the majority of law enforcement agencies direct cybercrime complaints to the FBI. California cannot count on federal regulatory enforcement to investigate and prosecute cybercrime because of their focus on national and international based crimes. The gap in protection continues to exist for cybercrime as it relates to regional and statewide activity because California lacks resources and expertise.

As cybercrime rapidly evolves, DOJ requires adequate resources and expertise to enhance current safeguards. DOJ must be able to communicate with subject matter experts in California to identify training, skills, tools and technology in order to effectively assist local law enforcement with cyber-crime prevention, detection, and prosecution. Without the necessary resources, DOJ will not be able to adequately monitor cybercrime.

Specifically, DOJ must:

- Facilitate communications with cybercrime experts within DOJ as well as from other state

agencies; identify training to strengthen expertise and skills; and pursue opportunities for staff augmentations organically when it is determined that an expansion in any area of the department is critical and needed.

- Host webinars to bring together digital forensics practitioners from across state service to share information and ideas with the goal of increasing communication and knowledge-sharing among cybercrime experts throughout California state government.

Control: A

Advocate for increased budgetary resources to facilitate the development of internet crime expertise.

Risk: Cyber and Data Security

DOJ collects and maintains data that includes public, confidential, and sensitive personal information that are important departmental assets. As part of protecting its information assets, DOJ strives to manage data security and privacy by implementing appropriate security technologies, as well as developing and implementing information security policies, standards, guidelines, and procedures. These technologies and policies can be continuously modernized to accommodate the changing demands of a modern environment in public safety and justice. Despite having appropriate safeguards in place, DOJ experiences improper attempts to access its systems and data from outside entities via online networks.

Multiple external entities and internal DOJ processes rely on timely access to DOJ databases for tasks including background checks, criminal history searches, case management, email services, etc. In order to meet customer needs, DOJ must take steps to modernize its systems and databases to ensure that they are robust and reliable. Furthermore, modernizing these systems will ensure accessibility and scalability to enable DOJ to more quickly respond to outside requests and keep pace with customer demands.

DOJ received about \$2 million in additional funding beginning in 2018-19, to enhance cybersecurity and safeguard the integrity and security of the California Law Enforcement Telecommunications Systems (CLETS) and other DOJ information systems and assets. However, as the ways in which cybercrime manifests rapidly evolve, DOJ needs to have adequate resources and expertise to enhance current safeguards. Specifically, DOJ must continue to:

- Recruit cybersecurity positions approved by the DOF and the Legislature, as well as continue to support and advocate for additional resources to facilitate the development of cybercrime expertise. DOJ will consolidate technical resources in cybercrime support into one central team to improve efficacy and minimize duplication of technical equipment while ensuring adequate redundancy for disaster recovery.
- Update cyber policies and IT standards to ensure compliance with SAM/FBI requirements and address any changes to technology that DOJ has implemented or will implement in the near future.
- Research and review security products that can either replace legacy products or enhance existing security products owned by DOJ. This will ensure the Department has the capability to

respond to current and future security threats.

Control: A

DOJ must continue its vigilance to maintain data security across all of its databases, otherwise it risks a serious breach of critical, often confidential data in its purview.

Control: B

Develop a training curriculum to train new and current employees on current security threats, the ability to discover threat actions (threat hunting), and the ability to stop threats and remediate actions against DOJ. DOJ is actively sourcing training companies to meet the needs of the curriculum.

Control: C

To mitigate the risk associated with unauthorized use, access, modification, loss, destruction, or disclosure of information assets, DOJ Information Security Office will work closely, on an ongoing basis, with DOJ's Network Information Security Unit to maintain and update security policies, standards, guidelines, processes, procedures and best practices to further strengthen DOJ's security program to protect information assets.

Control: D

As resources permit, DOJ will consider alternatives to modernize its information assets, an important consideration and upgrade will depend on and consider the confidentiality and security concerns.

Risk: Insufficient Flexible Resources

At present, existing resources make it possible for DOJ to meet previously mentioned emerging issues. However, if the rate of unanticipated activity continues to increase, the current spending authority will not be sufficient for DOJ to fulfill its statutory obligations in the near future.

In past years, California and the federal Department of Justice have acted in alignment on a number of issues critical to the safety and well-being of California residents. However, since the current Administration took office in January 2017, the Attorney General has filed several suits to block or modify new or modified federal rules. California has also been the subject of several federal lawsuits. Many of these rule changes and lawsuits directly impact California's policy goals, including protecting the environment, addressing climate change (e.g. challenges to the state's cap-and-trade system and air pollution waiver), mitigating property loss from natural disasters, and protecting and supporting the economic well-being of California residents (e.g. public charge, immigration issues). As these issues make their way through the appellate court system, DOJ must manage its resources to ensure it can address these challenges to state law and practice, as they arise.

To date, DOJ has spent over \$37 million to address unanticipated federal matters; aside from these federal challenges, DOJ must also help address statewide challenges. For instance, in response to a recent finding by the California Energy Commission's that Californians pay an extra 30 cents per gallon

of gas, the Governor asked the Attorney General to investigate possible causes for this unexplained gap, including investigating the potential for price fixing or false advertising. While the Governor has not yet requested DOJ support for investigating the power shutoffs initiated by major investor-owned utilities, DOJ anticipates that it may have to monitor and assess corporate actions in response to major ongoing natural disasters.

Control: A

As is customary, DOJ will continue to monitor federal actions. When necessary, DOJ will initiate and participate in legal actions.

Control: B

DOJ will monitor its current expenditures relative to current spending authority to ensure that sufficient resources are available for unanticipated litigation as well as planned work. DOJ will keep the legislature apprised of its needs to meet all aspects of its mission.

Risk: Staffing

Several classifications within DOJ are understaffed. Due to specialized training needs and skill sets for these classifications, it is challenging to realign staff and assign new duties as new mandated workload and responsibilities are received. Because DOJ salaries are not competitive with the private sector or other public-sector agencies for similar work, recruitment for these classifications is difficult. Without enough adequately trained staff, DOJ risks being unable to effectively implement its programs and carry out its mission, which can affect access to Californian's rights and protections as set forth in state and federal laws. The Law Enforcement and Legal Divisions experience the most significant impacts due to staffing issues.

DLE

Special Agents – While DOJ has been successful in receiving authorization for positions, it still faces challenges in hiring and retaining staff. DLE Special Agents experience pay disparities of up to \$2,200 per month relative to other state agencies, and interested candidates undergo lengthy hiring processes and extensive background checks. Also to consider are the ongoing waves of retirement; between 30-40% of staff are eligible for retirement over the next several years. These factors, as well as the current social climate contribute to decreased interest in law enforcement as a profession. As a result, the Special Agent classification is understaffed by approximately 56%.

Associate Auditors – The Bureau of Gambling Control (BGC) has not been able to recruit and retain associate level auditors to audit the gaming industry, jeopardizing its ability to ensure industry compliance. Auditors have specialized technical knowledge of the industry including cash, related party transactions, and often family- and friend-based employment. Despite this specialized need, similarly experienced auditors from other state agencies receive 17% higher compensation. The salary gap has contributed to BGC's 19% vacancy rate, resulting in audit workload delays and the inability to do self-directed work.

Legal Services Division

Deputy Attorneys General – The Legal Division experiences recruitment and retention challenges for

Deputy Attorneys General due in part to a 25 – 33% pay differential for public sector attorneys. Overall, the Division experiences an average 10% vacancy rate. However, the Division cannot change salaries. Ongoing vacancies pressure current employees to work beyond their capacity, affecting morale and retention.

Control: A

To alleviate recruitment, retention and key dependency issues, DOJ has implemented workforce planning processes to identify staffing and succession planning needs. To further enhance recruitment and retain adequate staffing levels, DOJ collects industry and internal data – knowledge, skills, ability, compensation, etc. – to align classifications and tasks, and take steps to modernize the agency's hiring and recruitment processes.

Control: B

DOJ has identified affinity groups that serve individuals with expertise within its impacted classifications as avenues for specialized recruitment efforts, including personal contacts with local law school deans, speaking at student bar events, speaking with legal affinity groups such as La Raza, and participating in numerous State Bar events.

Control: C

DOJ has resumed a program, which allows individuals with less experience to onboard as trainees and eventually develop into Special Agents. It has increased the frequency of its recruiting efforts, and is considering changing the minimum qualifications for Special Agents in an effort to expand the candidate pool.

Control: D

DOJ will revisit and adjust its recruiting tools, including duty statements and job posting language to more accurately reflect job duties and highlight some of the responsibilities associated with various positions. It will also leverage social media platforms and employment fairs to recruit applicants, and consider hiring incentives such as hiring above minimum and/or salary increases where possible.

CONCLUSION

The Department of Justice strives to reduce the risks inherent in our work and accepts the responsibility to continuously improve by addressing newly recognized risks and revising risk mitigation strategies as appropriate. I certify our internal control and monitoring systems are adequate to identify and address current and potential risks facing the organization.

DOJ will continue to provide indispensable public service and openly communicate about our ability to protect and defend the people and laws of the State. We look forward to ongoing dialogue delivering the best service possible for all people of California.

Xavier Becerra, Attorney General

CC: California Legislature [Senate (2), Assembly (1)]
California State Auditor
California State Library
California State Controller
Director of California Department of Finance
Secretary of California Government Operations Agency