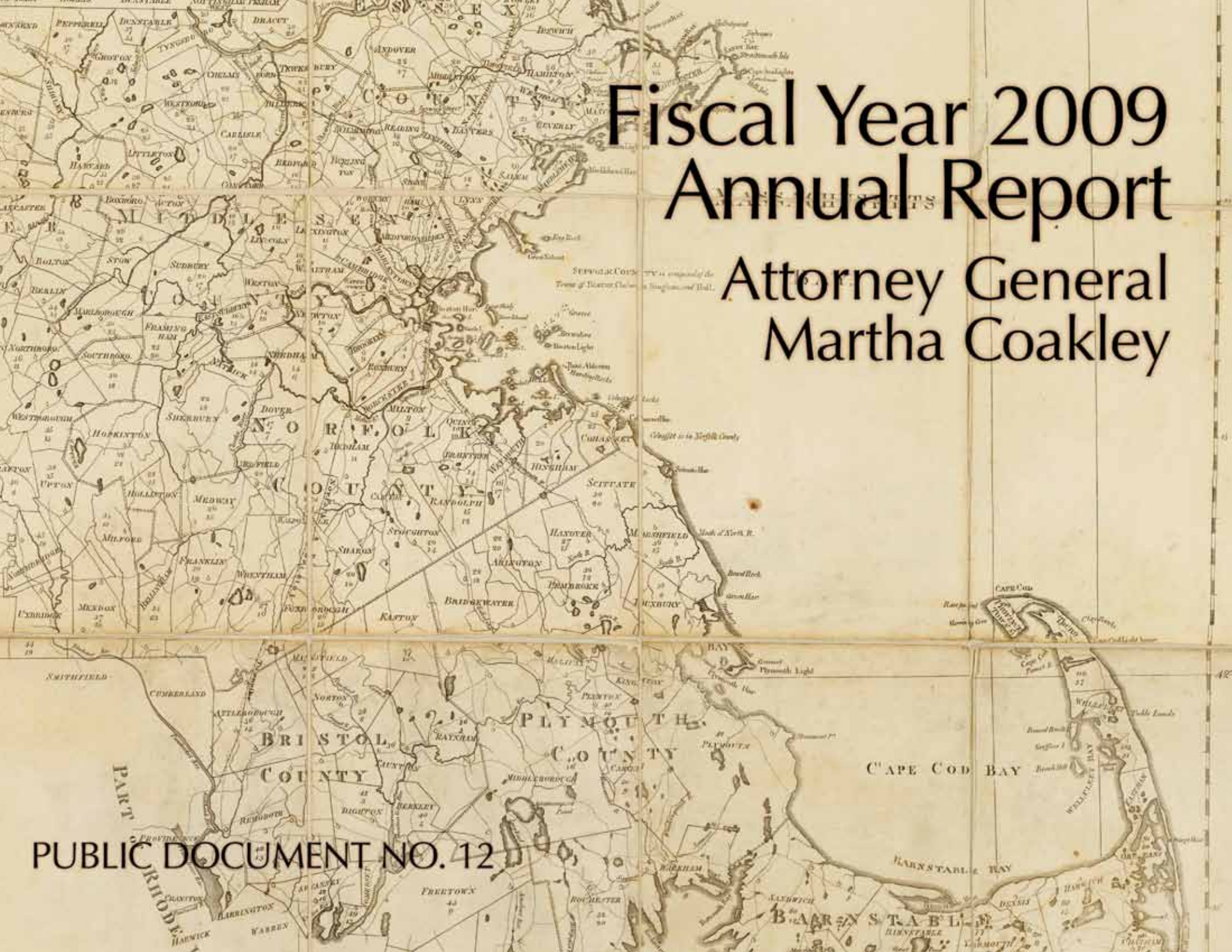
Fiscal Year 2009 Annual Report

Attorney General Martha Coakley



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Consumer Hotline
Phone: (617) 727-8400

Hours of operation for the Consumer Hotline are 10:00 a.m. to 4:00 p.m.

Elder Hotline
Phone: (888) AG-ELDER (243-5337)

Fair Labor Helpline
Phone: (617) 727-3465

Insurance Fraud Tipline
Phone: (617) 573-5330

The Insurance Fraud Tipline (accepting calls 24 hours) is intended for calls pertaining to fraud in any of the following: workers' compensation, motor vehicle insurance, disability, health care billing, and unemployment insurance.

Insurance and Health Care Consumer Helpline
Phone: (888) 830-6277

The Office of Attorney General Martha Coakley consists of the Executive Bureau which includes management and communications functions, and four bureaus that perform substantive legal work: Government; Criminal; Business and Labor; and Public Protection and Advocacy. Most staff members work in the Boston office locations, and the Attorney General also maintains regional offices in Central (Worcester), Southeastern (New Bedford), and Western (Springfield) Massachusetts. In FY09, the Attorney General's Office returned over $697 million to the Commonwealth and its residents.

$376 million in revenue saved or recovered through civil litigation on behalf of state agencies (including $337 million in partnership with the MA Department of Revenue)

$140 million in savings to utility customers

$87 million in judgments entered against financial services companies

$55 million in civil recoveries for Medicaid fraud

$16.3 million in consumer protection judgments including those arising from widespread mortgage fraud

$4.8 million in penalties, costs, restitution and other funds from judgments against health insurance companies and pharmaceutical companies for unfair and deceptive practices

$5.8 million in restitution and civil and criminal penalties for violation of fair wage laws

$3.6 million in civil and criminal judgments arising from damage to the environment

$3.4 million returned to consumers through informal mediation

$3.1 million in compensation to victims of violent crime

$2.4 million in restitution ordered for victims of worker compensation and unemployment insurance fraud

$0.5 million in relief to victims of civil rights violations

A Message from Attorney General Martha Coakley

As I look back on the past year, I am honored and gratified by the opportunity to lead an office filled with gifted, hardworking and committed people who come to work each day dedicated to public service.

In FY 2009, our office continued to respond to the foreclosure crisis and the effects of the economic collapse on many fronts. Our talented team of mediators has handled an increased number of consumer complaints, while our legal staff continued to pursue litigation, obtaining a first in the nation settlement with a financial services company for its role in the securitization of sub-prime loans. The AGO worked on important legislation on both the state and federal level, and stepped up its work to address the rampant abandoned housing problem that has affected so many Massachusetts communities.

The office continued its work toward the successful implementation of health reform in Massachusetts, launching a comprehensive review of factors driving up the cost of health care, obtaining record recoveries for the state Medicaid program and significant consumer recoveries against pharmaceutical companies.

Investigators and attorneys obtained relief for workers, secured the passage of a landmark bill to keep children safe, saved millions of dollars for the Commonwealth through vigorous defense of state agencies, and worked closely with the Patrick Administration to strengthen the state's ethics, lobbying and campaign finance laws.

As you review this report and reflect upon the past year, you will see that the balance between response and planning has enabled this office to continue to play a vital role in the economic strength of the Commonwealth as well as the safety of its residents.

The economic crisis will be with us for some time and the AGO will continue to work with Massachusetts residents, legislators and agencies on the local, state and federal level and with the business community to build a stronger Commonwealth.

Cordially,

Martha Coakley

Martha Coakley
Massachusetts Attorney General

Executive Bureau

The Executive Bureau provides administrative and policy-making support for the substantive divisions of the office, as well as the operational, information technology, human resources, and fiscal management services for the office.

The **Communications Division** serves as the liaison between the Attorney General's Office and the news media. In addition to responding to all media inquiries and providing comment on behalf of the Attorney General's Office, staff write and distribute press releases and hold press conferences in order to inform and educate the public about the office's work on behalf of residents of the Commonwealth. The Communications Division also works closely with other divisions throughout the office on a variety of projects aimed at providing information, consumer education, and resources to the public.

Attorney General Coakley listens as Senate President Therese Murray speaks at the Plymouth Energy Roundtable.

October 2008

The **Community Information & Education Division** (CIED) promotes and facilitates internal and external communication, public awareness, consumer protection, education, and direct constituent services. CIED is responsible for: the development and management of all grants related to consumer protection, public health, and safety; oversight of Local Consumer Programs/Face-to-Face Mediation Programs; facilitation of public awareness and education through website management and the development of collateral materials; and AGO sponsorship of public events, conferences, and trainings.

During FY09, the **Information Technology Division** (ITD) continued work on it's multi-year initiative to modernize the computer systems, network and applications utilized by AGO staff. The division began the implementation of a new event management application intended to standardize the way in which all divisions record, track and report their operations. This effort will improve both the information available to management for decision making as well as the productivity of staff. Staff worked throughout the year to build secure, electronic communications which enable residents to more effectively communicate information to and to obtain information from the AGO. The ITD works to develop strategic information management plans in support of AGO business goals: planning and implementing computer hardware and software architecture in support of multiyear technology initiatives; delivering training programs for all employees to ensure full use of technology and to increase employee productivity; supporting

technology use by AGO employees with contemporary help desk technology, methods and tools; and providing business systems analysis in support of the business needs of each of the AGO bureaus and divisions.

Within the AGO, the **Office of the General Counsel** (GCO) provides legal advice on ethics, conflicts of interest, contracts, employment, and administrative and managerial issues. The GCO participates in AGO diversity efforts and provides office-wide, in-house training programs for all staff through the AG Institute. To ensure that staff has access to the latest information and training available and in furtherance of their professional development, in FY09, the AG Institute offered 28 programs of continuing education to legal and non-legal staff on a variety of topics, and also sponsored presentations by two distinguished lecturers. The GCO handled over 400 Public Records requests office wide, monitored the appointments of Special Assistant Attorneys General and served as the point of contact to the National Association of Attorneys General on the review of Amicus Briefs and other sign-on requests.

The **Policy & Government Division** works at the state level with the Legislature and state agencies, and also with members of the Commonwealth's federal delegation and with municipal leaders throughout Massachusetts. In FY09, Policy and Government Division staff worked with members of the Legislature on the development of several major pieces of legislation. Staff from the division are available to provide legal analysis to legislative and administration staff on a broad range of policy matters. The AGO worked with the federal delegation on a number of proposals such as funding for low-income heating assistance, preemption concerns with the new mortgage foreclosure law, and assistance with expanding our Abandoned Housing Initiative.

The AGO's Municipal Liaison works within the Policy and Government Division and is responsible for responding to questions regarding general policy concerns, pending state and federal legislation, and referrals of constituent matters from municipal officials. Policy & Government staff meet regularly with community stakeholders on broad policy matters such as energy and environmental concerns, criminal law proposals and consumer protection matters.

The **Victim Services Division** provides comprehensive services to victims and witnesses involved in AGO cases, helping them to understand the court process and their role in it, and providing them with referrals to other state and local agencies. Victim Witness Advocates (VWA's) worked on over 230 open cases throughout the year, serving victims and witnesses involved with Criminal, Civil, and post-disposition matters throughout the office. VWA's expanded their casework by formalizing a process to allow for regularly scheduled and assigned cases from the three regional offices of the AGO, providing enhanced and localized service delivery to the victims and witnesses throughout the state. In addition to casework, staff were active in numerous committees, outreach, and training activities including the Victim and Witness Assistance Board, the SANE Advisory Board, and served as faculty and on the steering committee for the Massachusetts Victim Assistance Academy.

Through its stewardship of the Victim Compensation and Assistance Program, the division provides financial compensation, referrals, and other assistance to victims of violent crimes. Eligible victims and their families can receive assistance in paying for out-of-pocket medical expenses, lost wages, funeral and burial costs, mental health counseling, and other crime-related expenses.

Victim Assistance

In FY 09 the AGO filed House Bill 1587/Senate Bill 1598, *An Act Relative to Victims of Violent Crimes*. This is a revenue-neutral measure that updates Chapter 258C of the General Laws to increase the ability of the AGO to provide eligible victims of violent crimes with assistance regarding certain expenses that arise as the direct result of a crime, such as: an increase in allowable funeral expenses, mental health counseling for non-offending parents of abused children, crime scene cleanup, and security measures.

Government Bureau

The Government Bureau represents the Commonwealth, its agencies and officials in many types of civil litigation, as well as defending Commonwealth employees from civil claims made against them resulting from the performance of their duties. The bureau develops and maintains close working relationships with agency counsel and provides them with information and advice on matters of broad common interest, particularly where advance consultation may prevent unnecessary litigation. The Government Bureau also initiates affirmative litigation on behalf of the Commonwealth when such litigation is in the public interest and has significant monetary value or raises legal or policy issues of concern to the public and the Commonwealth. The bureau has two divisions: Administrative Law and Trial, and a Municipal Law Unit. In FY09, the attorneys in the Government Bureau handled 2,083 matters and closed 1,280. These matters resulted in almost $3 million in recovery for the Commonwealth and in savings, from the zealous defense of litigation against Commonwealth agencies of over $15.5 million. In addition, work by the Government Bureau saved the Commonwealth over $373 million in tax revenues.

The **Administrative Law Division** defends suits concerning the validity of statutes and regulations and the legality of government operations, particularly those seeking injunctive or declaratory relief; defends suits challenging adjudicatory decisions of state administrative agencies; prepares legal opinions for constitutional officers, heads of agencies, and certain other officials concerning issues arising from the performance of their formal duties; and reviews proposed statewide initiative and referendum questions under Amendment Article 48 of the Massachusetts Constitution to determine whether such questions are of the type that may lawfully appear on the ballot. In these matters, the division addresses diverse subject matters, including land use and housing, environmental protection, education, health and human services, employment and retirement, professional licensing, taxation, and insurance.

The **Trial Division** defends suits against state agencies or employees who are sued in the context of their agency duties. These suits generally seek damages or other relief for alleged wrongful acts of government officials or employees, particularly torts, real estate matters, contract-related disputes, employment disputes, civil rights violations, and environmental damage claims. The division also reviews certain contracts, leases, bonds, and various conveyance documents submitted by state agencies for approval as to form. As required by statute, the division must review and approve all pre-litigation settlements of tort claims against the Commonwealth or its agencies for $2,500 or more.

The **Municipal Law Unit** reviews and approves municipal by laws and by-law amendments from the 351 cities and towns in the Commonwealth using its limited power to disapprove local legislative action if the proposed amendment is found to be inconsistent with Massachusetts law or the Constitution. Home Rule Charter amendments must be reviewed by the Attorney General.

By-Law Review

During FY09, the Municipal Law Unit reviewed 1,225 by-laws and charter amendments. In addition, the AGO offers voluntary, informal review of proposed town by-law amendments and, though not subject to review by the Attorney General, proposed city ordinances. During FY09, the number of calls from local public officials and members of the general public continued to increase.

Criminal Bureau

The Criminal Bureau investigates and prosecutes a wide spectrum of criminal cases and also focuses on prevention and educational efforts to support public safety and quality of life for all Massachusetts residents. The office focuses on cases that reflect the statewide jurisdiction and areas of investigative and prosecutorial expertise not addressed by other law enforcement offices, particularly in the protection of taxpayer funds and the integrity of governmental agencies. In FY09, the Criminal Bureau included the

following divisions: Appeals, Cyber Crime; Financial Investigations, Insurance and Unemployment Fraud, Environmental Crimes Strike Force, Enterprise and Major Crimes, Corruption and Fraud, and the State Police Detective Unit.

The **Appeals Division** represents the Commonwealth on direct appeal in all criminal cases prosecuted by the Criminal Bureau; defends the Commonwealth in all state and federal habeas corpus proceedings filed by persons held in custody; represents state officials and agencies, including judges, clerks, probation officers, and prosecutors, sued or issued subpoenas in state or federal court proceedings arising from actions related to the criminal justice system; and defends the constitutionality and legality of state criminal statutes, rules, practices, and procedures in state and federal trial and appellate courts.

The **Corruption and Fraud Division** investigates and prosecutes criminal misconduct involving individuals and entities, whether public or private, and a broad array of financial crimes, including fiduciary embezzlement, complex financial frauds, and tax crimes. The division focuses on cases that have an impact beyond the facts of the individual case, that involve particularly vulnerable victims, or that through their prosecution can help to restore trust and confidence in institutions responsible to the public. In FY09, the Corruption and Fraud Division resolved 48 cases, 26 of which involved public sector fraud and 22 of which were in the private sector.

The **Cyber Crime Division** investigates and prosecutes crimes with a cyber component, including both crimes committed on a computer network and crimes involving electronic evidence. The division handles investigations and cases in the areas of identity theft, child exploitation, and large-scale financial fraud, which utilize modern technology and threaten all segments of society. In addition to investigation and prosecution, the division continued its work on the five priority areas outlined in the 2007 Strategic Plan. The division delivered training to over 6,800 law enforcement personnel at 18 separate events, increased the number of users of the Cyber Crime Web-Portal (www.maagocybercrime.org) four-fold, continued its focus on Statewide Digital Forensic Evidence Processing Requirements by attending significant meetings and training and participating in the development of draft standard operating procedures, and secured passage of administrative subpoena and search warrant amendments which will facilitate more effective investigation while continuing to safeguard individual rights.

The **Enterprise and Major Crimes Division** targets criminal enterprises and organizations using sophisticated investigative techniques and strategies in order to develop high-impact prosecutions. The division includes prosecutors and State Police assigned to the Attorney General's Office who work closely with various federal, state and local law enforcement authorities and agencies to target, investigate, prosecute, and disrupt criminal organizations in order to promote and ensure public safety in communities throughout the Commonwealth.

The mission of the **Environmental Crimes Strike Force** (ECSF) is to investigate and prosecute the most serious environmental violations in Massachusetts, and to establish precedents for environmental misconduct that will not be tolerated. Through the cooperation of the Attorney General, the Department of Environmental Protection, and the Massachusetts Environmental Police, the ECSF brings together prosecutorial, technical and investigative expertise to identify environmental violations, evaluate their impact on public safety and the environment, and develop the evidence necessary to prosecute environmental crimes. The types of cases recently prosecuted by ECSF involved the illegal treatment and disposal of hazardous waste, the improper handling and removal of asbestos, the failure to report releases of hazardous materials, and the illegal filling of wetlands. ESCF handled 26 cases in FY09 and recovered $551,618 in fines and restitution.

The **Financial Investigations Division** is a team of investigative professionals who work with State Police and Criminal Bureau prosecutors to provide analysis and examine evidence for a variety of cases involving "white-collar crime," such as allegations of larceny, identity theft, public corruption, and securities fraud. Investigators also work on cases with investigative or audit personnel from the State Inspector General's Office, Board of Bar Overseers, Department of Revenue, Department of Education, Office of the State Auditor, and Securities Division of the Secretary of the Commonwealth's Office.

The **Insurance and Unemployment Fraud Division** (IUFD) investigates and prosecutes those who commit fraud against all types of insurers (automobile, health care, workers' compensation), and against the Commonwealth's unemployment insurance and workers' compensation system. IUFD prosecutes these crimes to protect both Massachusetts' consumers and the integrity of the insurance system in order to

Enterprise & Major Crimes

In FY09, Enterprise and Major Crimes Division disposed of 17 and opened 22 cases for a wide variety of offenses, including Narcotics Trafficking (heroin, cocaine, Oxycodone and marijuana), Extortion, Assault and Battery to Collect a Loan, Assault and Battery with a Dangerous Weapon, Breaking and Entering with Intent to Commit a Felony, Gaming, Usury, Unlawful Firearm Possession, and Larceny. Eight of those cases were resolved following jury trials in Suffolk and Hampden Counties.

In addition, AAGs in the division initiated by way of complaint or indictment 18 cases. There were 16 arrests and nine firearms were seized. In addition, the Massachusetts State Police assigned to the division opened 12 criminal investigations, and obtained via subpoena hundreds of financial records from banks, mortgage companies, and other agencies in furtherance of criminal investigations throughout the bureau.

protect taxpayers from the higher premiums and taxes that result from fraud and also to assure that those in need receive appropriate services. In FY09, IUFD obtained over $2.6 million in restitution orders in 103 matters.

The **State Police Detective Unit** functions as an investigative branch of the Criminal Bureau and is involved in investigations throughout all of the bureau's divisions. In FY09, the State Police assigned to the AGO opened 132 criminal investigations; obtained 500 subpoenas for financial records from banks, corporations, mortgage companies, and others; and drafted and executed over 70 search warrants, 12 blood warrants for wiretaps, and dozens of GPS warrants.

Business and Labor Bureau

Through the Business and Labor Bureau, the AGO works to develop clear rules and parameters for the business community and all stakeholders to follow. The AGO takes the long view of promoting a healthy economy by balancing regulatory enforcement and review with advocacy for ratepayers, consumers and workers. The bureau also plays an important role by focusing on fraudulent acts and practices that occur in the context of commercial relationships. The bureau works to prevent rising government costs caused by fraud involving business or medical services provided or regulated by the government and to level the playing field so that no company can gain an unfair advantage by breaking the rules. The Business and Labor Bureau includes the following divisions: Business, Technology and Economic Development; Energy and Telecommunications; Fair Labor; Medicaid Fraud; and Non-Profit Organizations/Public Charities.

The primary role of the **Business, Technology and Economic Development Division** (BTED) is to further the Attorney General's efforts to promote economic and technological development in Massachusetts. BTED is the liaison between the business community and the AGO, promoting better communication, providing information and facilitating a better understanding of issues facing the business community. In addition, BTED staff advise the Attorney General from the perspective of the business community as the Attorney General develops policy on matters that may affect the economic climate of the Commonwealth.

Through the **Energy and Telecommunications Division**, the Attorney General serves as the Ratepayer Advocate in administrative and/or judicial proceedings on behalf of consumers in connection with matters involving the rates, charges, prices, or tariffs of an electric, gas or telephone company doing business in the Commonwealth and subject to the jurisdiction of state regulations.

The division works to ensure that businesses and residents have access to reliable, safe and affordable energy. The division litigates its cases before state and federal courts, as well as administrative regulatory bodies such as the Massachusetts Department of Public Utilities, the Federal Energy Regulatory Commission, and the Federal Communications Commission. In many of these matters, particularly public utility rate cases, the Attorney General is the only active participant advocating on behalf of Massachusetts consumers.

The division is funded through an assessment on the gas, electric and telecommunications companies doing business in the Commonwealth. In FY09, there were approximately 109 cases pending before state and federal bodies. Matters that were finalized in FY09 yielded approximately $100 million in savings, some of which is based upon the lifetime of a particular project.

Attorney General Coakley gathered Ratepayer Advocates from throughout New England.

September 2008

The **Fair Labor Division** enforces various laws that protect workers, including the prevailing wage, minimum wage, payment of wages, overtime, tip pooling, child labor, Sunday and holiday premium pay laws, and the arbitration of related public construction bid disputes. The division has broad powers to investigate and enforce violations of these laws through criminal and civil enforcement actions. The division uses this authority to protect employees from exploitation by an employer, prosecute employers who are failing to follow the Commonwealth's wage and hour laws, and set a level playing field with clear rules that the Commonwealth's employers can follow, ensuring that strong economic growth and fairness for workers go hand-in-hand.

The **Medicaid Fraud Division** (MFD) works to prevent and if necessary, prosecute provider fraud and violations of state law pertaining to fraud in the administration of the Medicaid program. The division executes search warrants and administrative document requests, negotiates settlements, obtains judgments and convictions, and recovers criminal and civil restitution, fines, penalties, and costs. In

addition, the division reviews complaints of resident abuse or neglect in nursing homes and other health care facilities. The division serves as the Medicaid Fraud Control Unit for the Commonwealth of Massachusetts and is certified annually by the Secretary of the U.S. Department of Health and Human Services. In FY09, the MFD had 237 cases pending. Closed cases yielded almost $55 million in civil recovery and almost $304,000 in criminal penalties.

The **Non-Profit Organizations/Public Charities Division** supervises non-profit organizations that are public charities to safeguard the public's interest in these organizations and to ensure the proper solicitation and use of charitable funds raised. The division reviews annual public charity filings, works with organizations to address and cure potential violations, and, when necessary, conducts civil investigations and litigation to enforce the law.

Public Protection & Advocacy Bureau

The Public Protection and Advocacy Bureau uses investigation, analysis, affirmative litigation, and other advocacy to advance the Attorney General's statutory and constitutional responsibility to enforce laws protecting the public. The bureau focuses on a wide range of issues, including equality and civil liberties for all, clean air, land and water, fair and competitive business practices in the areas of consumer protection, antitrust, and financial services and insurance, and access for all to affordable, high quality health care.

The Public Protection and Advocacy Bureau includes the following divisions: Antitrust, Civil Rights, Consumer Protection, Environmental Protection, Health Care, Insurance and Financial Services, and Investigations. A total of $111.1 million in judgments were secured by divisions within the PPAB in FY09.

The **Antitrust Division** protects the people, state agencies, and businesses of Massachusetts from anticompetitive practices and helps maintain and encourage a competitive and vibrant economy through fair and effective enforcement of antitrust laws. The division investigates and challenges anticompetitive mergers, price-fixing agreements, and other illegal practices by companies, both local and national, that harm both Massachusetts consumers and important state interests. The division also

advocates for effective competition policy at state and national levels by filing legal briefs in important antitrust cases, engaging in policy initiatives, and promoting pro-competitive legislation.

The **Civil Rights Division** enforces laws protecting and securing for all Massachusetts residents an equal opportunity to participate in civic society in areas such as education, health care, housing, financial services, public accommodation, employment, civil marriage, and voting, and the enjoyment of individual rights, autonomy, and privacy, under state and federal law. The division brings enforcement actions, advocates in support of proposed legislation to better address civil rights issues, and works with community and advocacy groups to promote needed civil rights for all. The division litigates housing discrimination cases under the Massachusetts Anti-Discrimination statute (M.G.L. c. 151B), investigates and litigates hate crime cases under the Massachusetts Civil Rights Act (M.G.L. c. 12, s. 11H), and performs education, outreach and enforcement work in the area of disability rights through the efforts of the division's Disability Rights Project. The AGO currently has 43 open cases, proceeding in the Massachusetts courts.

The **Consumer Protection Division** protects Massachusetts residents and businesses from unfair, deceptive, and otherwise unlawful conduct that causes consumer harm. The division investigates unfair and deceptive business conduct and brings enforcement actions under the Consumer Protection Act (M.G.L. c. 93A) to enjoin unlawful practices and to recover consumer restitution, civil penalties, and attorneys' fees.

City of Boston's Womens Commission Executive Director Marie Turley listens as Attorney General Coakley speaks on the importance of financial literacy.

May 2009

The **Environmental Protection Division** pursues three main types of work: (1) prosecuting civil enforcement and cost recovery cases, seeking to produce the greatest results in terms of compliance and deterrence, environmental and public health benefits, and financial recovery; (2) handling defensive cases, seeking to provide effective representation to support the policy choices made by state agencies and officials in implementing our environmental protection laws; and (3) undertaking affirmative, non-enforcement work to develop and pursue innovative ways to further environmental protection exercising the Attorney General's role as the Commonwealth's chief law officer. This last area includes bringing "impact litigation" (typically against the federal government); participating as an *amicus* to help develop

the law in a way that will further the Commonwealth's interests; developing or supporting legislative or other policy proposals; intervening, where appropriate, in siting disputes; and entering into Brownfields liability agreements to further the clean-up and redevelopment of contaminated sites.

The **Health Care Division** advocates and brings enforcement actions to increase access to health insurance, control health care quality and costs, promote public health, reduce disparities, and protect consumers. The division investigates and litigates consumer protection cases involving health insurers, health providers, and pharmaceutical companies; addresses consumer complaints relating to health insurance and health care; and assists state entities, including the Commonwealth Health Insurance Connector and the Health Care Quality and Cost Council, in developing sound policies and practices.

The **Insurance & Financial Services Division** represents the interests of consumers and the public in matters involving the insurance, securities and commercial banking industries. The division investigates and litigates consumer protection and False Claims Act cases and participates in insurance rate proceedings before the Massachusetts Division of Insurance. The division also assists consumers by mediating insurance, banking and investment disputes that do not rise to the level of unfair practices, and by advocating for statutory and regulatory reforms.

The **Investigations Division** conducts civil investigations for all divisions across the AGO. Investigators in the division locate and interview victims, witnesses and subjects; obtain and review documentary evidence from numerous sources including individuals, corporations, and federal, state, county, and municipal agencies; conduct surveillance, background checks, and asset checks; analyze financial records and perform other forensic accounting functions; and testify before Grand Juries and at trial.

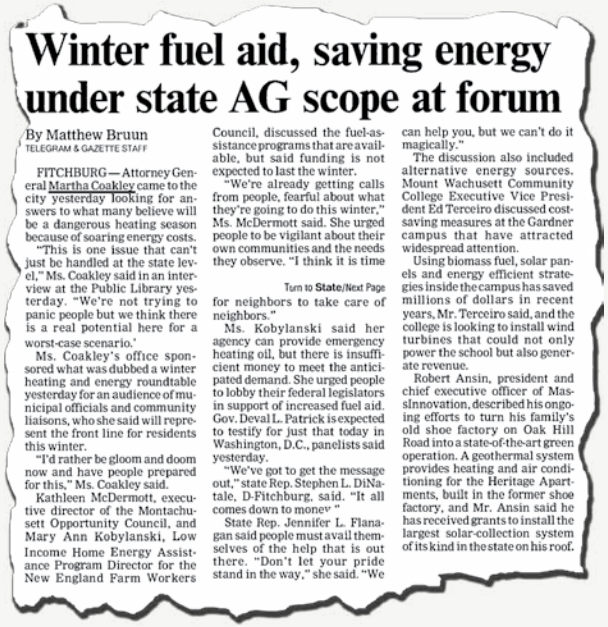
Regional Offices

The work of the three regional offices reflects the commitment of the Attorney General to providing effective services and assistance to residents of the entire Commonwealth. The **Central** (Worcester), **Southeastern** (New Bedford), and **Western** (Springfield) Massachusetts regional offices provide residents with closer access to the Attorney General's staff without traveling to Boston, and a chance to discuss their concerns and questions with staff who are familiar with their region. In each of these regional offices, AGO staff work together to promote the education, outreach and enforcement priorities of the Attorney General and respond to the specific needs of the residents throughout the Commonwealth.

Within each regional office, Public Protection & Advocacy Bureau staff respond to both consumer protection and civil rights matters, provide mediation services, and offer educational outreach to area residents and organizations. Fair Labor Division attorneys and investigators work in each region to enforce the state's wage and hour laws. And the Trial Division represents the state and its constituent agencies and employees in civil litigation. Each regional office handles cases defending the Commonwealth's agencies from spurious litigation, resulting in significant savings for the taxpayer.

In addition to handling cases, each regional office responds to telephone calls and in-person visits from residents and businesses seeking information on consumer and civil rights, mediation services, and assistance with wage and hour complaints.

Regional office staff members also serve on local housing task forces, working with communities to support fair and equitable treatment for tenants, supporting landlords in their efforts to be an active part of neighborhood revitalization, and helping residents to understand state and local compliance regulations. Regional offices work with schools and municipal officers and community groups in support of active efforts to support enforcement of civil rights laws. The regional offices work closely with local community organizations to provide outreach and education programs on topics such as youth health and safety, workplace rights, and consumer scams.



Winter fuel aid, saving energy under state AG scope at forum

By Matthew Bruun
TELEGRAM & GAZETTE STAFF

FITCHBURG — Attorney General Martha Coakley came to the city yesterday looking for answers to what many believe will be a dangerous heating season because of soaring energy costs.

"This is one issue that can't just be handled at the state level," Ms. Coakley said in an interview at the Public Library yesterday. "We're not trying to panic people but we think there is a real potential here for a worst-case scenario.'

Ms. Coakley's office sponsored what was dubbed a winter heating and energy roundtable yesterday for an audience of municipal officials and community liaisons, who she said will represent the front line for residents this winter.

"I'd rather be gloom and doom now and have people prepared for this," Ms. Coakley said.

Kathleen McDermott, executive director of the Montachusett Opportunity Council, and Mary Ann Kobylanski, Low Income Home Energy Assistance Program Director for the New England Farm Workers Council, discussed the fuel-assistance programs that are available, but said funding is not expected to last the winter.

"We're already getting calls from people, fearful about what they're going to do this winter," Ms. McDermott said. She urged people to be vigilant about their own communities and the needs they observe. "I think it is time

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for neighbors to take care of neighbors."

Ms. Kobylanski said her agency can provide emergency heating oil, but there is insufficient money to meet the anticipated demand. She urged people to lobby their federal legislators in support of increased fuel aid. Gov. Deval L. Patrick is expected to testify for just that today in Washington, D.C., panelists said yesterday.

"We've got to get the message out," state Rep. Stephen L. DiNatale, D-Fitchburg, said. "It all comes down to money."

State Rep. Jennifer L. Flanagan said people must avail themselves of the help that is out there. "Don't let your pride stand in the way," she said. "We can help you, but we can't do it magically."

The discussion also included alternative energy sources. Mount Wachusett Community College Executive Vice President Ed Terceiro discussed cost-saving measures at the Gardner campus that have attracted widespread attention.

Using biomass fuel, solar panels and energy efficient strategies inside the campus has saved millions of dollars in recent years, Mr. Terceiro said, and the college is looking to install wind turbines that could not only power the school but also generate revenue.

Robert Ansin, president and chief executive officer of MassInnovation, described his ongoing efforts to turn his family's old shoe factory on Oak Hill Road into a state-of-the-art green operation. A geothermal system provides heating and air conditioning for the Heritage Apartments, built in the former shoe factory, and Mr. Ansin said he has received grants to install the largest solar-collection system of its kind in the state on his roof.

Telegram & Gazette
Septemeber 25, 2008

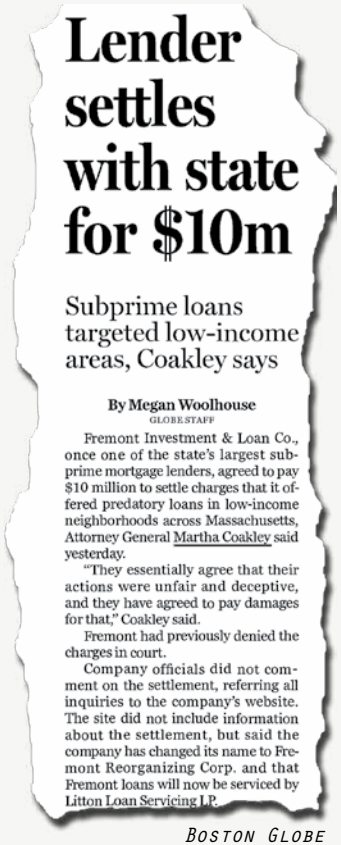
The Mortgage Lending Crisis

In FY09, the Attorney General's Office continued to focus on the mortgage lending crisis, which played a large role in causing the global financial crisis and severe recession. The AGO continued its comprehensive attack on the problem and its causes, ranging from successful litigation to promulgation of new regulations to development of new and important state and federal legislation. In the two fiscal years leading up to FY09, AGO efforts resulted in protection and relief to more than 12,000 Massachusetts homeowners through litigation and settlements alone.

Impact Litigation

Fremont In early 2008, the AGO obtained a first in the nation injunction prohibiting Fremont Investment & Loan, a California-based high-volume subprime lender in Massachusetts, from foreclosing on any presumptively unfair mortgage without first offering the borrower a reasonable loan modification. In December 2008, the Supreme Judicial Court upheld the ruling that certain Fremont loans were "presumptively unfair" because they were likely to lead to default and foreclosure by their very terms – namely 100% financing and "teaser" interest rates followed by predictable payment shock. In April, 2009, the parties agreed to a consent judgment under which Fremont would pay $10 million to the Commonwealth and comply with a permanent injunction barring foreclosure without first offering a reasonable loan modification.

Option One In the AGO's other major case against a large subprime lender, the AGO won a preliminary injunction against H&R Block and its subprime subsidiary, Option One Mortgage Corporation, restricting foreclosures on certain loans considered doomed for foreclosure. This action resulted in scores of homeowners being able to stay in their homes. In addition to its allegations of unfair and deceptive consumer practices, the Commonwealth's suit was the first to allege civil rights violations against mortgage lenders in connection with the subprime crisis. The lawsuit against H&R Block and Option One remains ongoing.



Lender settles with state for $10m

Subprime loans targeted low-income areas, Coakley says

By Megan Woolhouse
GLOBE STAFF

Fremont Investment & Loan Co., once one of the state's largest subprime mortgage lenders, agreed to pay $10 million to settle charges that it offered predatory loans in low-income neighborhoods across Massachusetts, Attorney General Martha Coakley said yesterday.

"They essentially agree that their actions were unfair and deceptive, and they have agreed to pay damages for that," Coakley said.

Fremont had previously denied the charges in court.

Company officials did not comment on the settlement, referring all inquiries to the company's website. The site did not include information about the settlement, but said the company has changed its name to Fremont Reorganizing Corp. and that Fremont loans will now be serviced by Litton Loan Servicing LP.

Boston Globe
June 10, 2009

Enforcement Against Fraud. In addition to litigation against large scale subprime lenders, the AGO filed suit against mortgage brokers, loan originators, attorneys, and others involved in various forms of mortgage fraud and purported foreclosure rescue and loan modification schemes.

In two separate but related lawsuits in FY09, the AGO brought enforcement actions against various persons and entities involved in wide-scale mortgage fraud. The first suit alleged that 19 defendants participated in a foreclosure rescue scheme targeted at distressed homeowners facing foreclosure. Each of the defendants allegedly conspired through their respective roles as mortgage brokers, real estate brokers, closing attorneys and straw buyers to deceive homeowners into selling their homes under the false promise of avoiding foreclosure and maintaining their homes and their homes' equity. The defendants not only obtained title to the homeowners' residences but also stripped most of the homes' equity by distributing sale proceeds to pay for unearned fees.

In the second suit, the AGO alleged that defendants altered a deed from the Federal Home Loan Mortgage Corporation by changing the purchase price of the property and changing the name of the buyer to a "straw buyer" who had no intention of occupying the property or paying the mortgage obligations. Through this forgery, the defendants were able to obtain a mortgage loan for the straw buyer in a sum greater than the property value. After trial, the AGO entered into settlements with the closing attorney and the mortgage loan originator – each paid over $100,000, the attorney is barred for seven years from participating in closings as an attorney or title agent, and the loan originator agreed not to engage in any business relating to the financing, purchase or sale of real estate. The case against the mortgage broker remains pending.

Foreclosure Prevention and Loan Modification Fraud. The AGO has brought several enforcement actions against companies and individuals who preyed upon homeowners facing foreclosure. In December 2008, the AGO obtained a preliminary injunction prohibiting a foreclosure rescue operator from continuing his scheme in which he offered to help homeowners save their homes by assisting them in filing for bankruptcy in exchange for a $1,000 cash upfront fee. The AGO found that in many instances, the bankruptcy petitions were deficient and dismissed because they were incomplete or lacked the proper information.

In early 2009, the AGO filed several cases against companies that were soliciting Massachusetts homeowners with misleading promises to save homes from foreclosure, and were soliciting and accepting illegal advance fees. One such case against Express Modifications, Inc., involved a company running full page advertisements in Boston newspapers offering the services of a company they called "Loan Mods By Lawyers" to save homes from foreclosure. The company demanded up-front fees of $1,500 to assist homeowners in obtaining loan modifications but had no attorneys on staff. The company entered into a consent judgment that permanently prohibited it from future operations in Massachusetts, and required it to pay $7,300 in restitution to Massachusetts homeowners and $25,000 in civil penalties.

The AGO also obtained temporary restraining orders and preliminary injunctions in other cases against individuals and companies for fraud relating to foreclosure rescue and loan modification operations. The AGO also engaged in successful litigation against persons improperly acting or seeking to act as mortgage loan originators or real estate agents. In one case, the court upheld the revocation of a real estate broker's license for engaging in fraudulent activities in real estate transactions.

Holding Wall Street Accountable. The AGO's response to the subprime lending crisis followed deceptive and unfair conduct up the chain, from the brokers and loan originators to the role investment banks played in the origination and securitization of sub-prime loans. As part of a large scale, industry-wide investigation, in May 2009, the AGO reached a first in the nation agreement with Goldman Sachs in which the company agreed to provide loan restructuring valued at approximately $50 million to Massachusetts subprime borrowers and pay an additional $10 million to the Commonwealth. Under the settlement, Goldman agreed to major principal write-downs to allow homeowners to refinance or sell their homes. For homeowners with loans held by Goldman entities, Goldman agreed to reduce the principal of first mortgages by up to 35% and second mortgages by 50% or more. Additionally, for loans not currently held by Goldman, but which are serviced by Goldman's affiliated servicing company, Litton Loan Servicing LP, Goldman agreed to assist qualified borrowers in the process of finding refinancing options and other alternatives to foreclosure.

Criminal Prosecution of Fraud. In FY09, the AGO also continued to pursue mortgage fraud as a crime. The office obtained a guilty plea and two year jail sentence in connection with multiple fraudulent mortgage applications. The AGO also initiated other investigations regarding mortgage fraud that remain pending.

Federal Advocacy. The AGO continued to advocate before Congress and the federal government for action to require commercially reasonable loan modifications to protect homeowners. In September 2008, Attorney General Coakley testified before the House Financial Services Committee on the lack of loan modifications. On October 20, 2008, she testified in Boston at a House Judiciary Committee Briefing on the mortgage crisis and its impact on the economy, chaired by Representative William Delahunt regarding a bankruptcy bill that would permit bankruptcy judges to reduce homeowners' mortgage payments to help borrowers stay in their homes. In January 2009, the Attorney General joined 21 Attorneys General urging Congress to support this bankruptcy bill. The AGO also worked with the State Foreclosure Prevention Working Group to collect objective data on loan modifications and sought to generate a real commitment from lenders to work with borrowers to modify their loans and avoid foreclosure whenever possible.

State Legislation. The Attorney General sponsored state legislation entitled "An Act to Require Commercially Reasonable Efforts to Avoid Foreclosure" that would require creditors take commercially reasonable efforts to avoid foreclosure upon mortgage loans securing homes that are owner-occupied. Creditors would be required to analyze, according to a "net present value test," whether offering the borrower a loan modification at the affordable monthly mortgage payment is more valuable to the creditor than the losses it will incur upon foreclosure. Creditors would be deemed to be in compliance with this legislation if they offer an affordable loan modification whenever it is shown that under the net present value test, a loan modification is more profitable than foreclosure.

Abandoned Housing. A natural, foreseeable and devastating effect of the foreclosure crisis is a spike in the number of abandoned properties. These buildings can become a blight and hasten the decline of neighborhoods and communities. Since the 1990s, the AGO has supported municipalities in using the power of the State Sanitary Code and the receivership statute to take control of these properties, return

Attorney General Coakley appeared before the House Financial Services Committee.

September 2008

them to habitability and restore their value to the community. In March 2009, the AGO was awarded a federal grant administered through the Department of Housing and Community Development (DHCD) to expand its existing Abandoned Housing Initiative. Under the grant, the AGO dedicated attorneys and program staff who work with city officials and community leaders to identify appropriate foreclosed properties and to bring receiverships and code enforcement actions against the owners of abandoned and foreclosed homes, helping to avoid or reverse the negative impact that abandoned structures have on Massachusetts neighborhoods. Since receiving the grant, the AGO completed outreach to all 38 communities identified by HUD as hardest hit by the foreclosure crisis. Staff is working with the municipalities to identify appropriate properties and bring receivership and enforcement actions. In central Massachusetts, for example, AGO staff are working toward a settlement concerning a bank-owned abandoned property. Under the AGO's proposal, the bank would transfer title to the local using authority and demolish the house at its own expense. This will allow the housing authority to erect a new multifamily structure and provide needed low-income housing. The AGO was also the recipient of a grant under the Economic Development Initiative program to facilitate rehabilitation of abandoned housing.

Additionally, in an effort to address the problem of abandoned properties that result from foreclosures, the AGO co-sponsored legislation creating a two-year pilot program establishing a statewide abandoned housing registry housed within the AGO. The registry would be known as the Massachusetts Abandoned Property Registry, or MAP, and would serve as a state-wide registry for vacant and foreclosed properties. Under the legislation, all property owners, including lenders, trustees, and service companies, would be required to register and properly maintain vacant and foreclosed properties.

Public Integrity

In FY09, the AGO took aggressive action to promote public integrity and to prevent and prosecute public corruption, both through criminal prosecution and legislative advocacy.

Criminal Prosecution The AGO obtained convictions in several public corruption cases including:

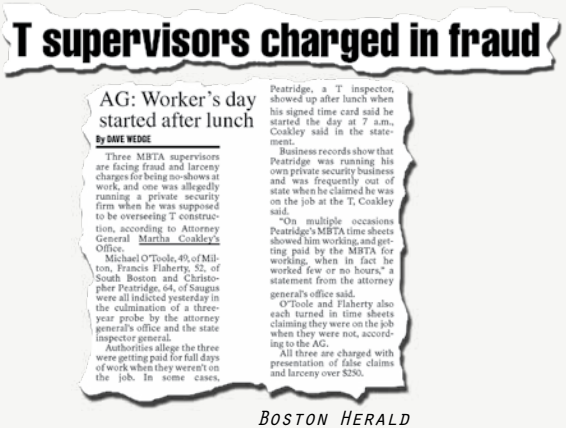
- A former executive assistant to the State Auditor was sentenced to two to three years in state

prison for bribery and larceny, for taking thousands of dollars in cash bribes to help individuals get their drivers' licenses reinstated and help them with pending court cases.

- 20 Massport longshoremen, including an Assistant Terminal Manager, were successfully prosecuted for falsifying payroll records, committing unemployment fraud, and putting children under age ten on time sheets, and fraudulently claiming vacation, medical benefits, pensions and royalty payments.
- A former bookkeeper for a local state college was sentenced to three years in state prison for stealing approximately $350,000 from the student accounts.
- Two former Haverhill Highway Department employees were charged with larceny and defrauding the city by stealing paving materials and other equipment and using Highway Department employees for private jobs for the defendants' private company.

The office also pursued many other criminal matters involving alleged public corruption, including the prosecution of:

- Two former Boston Housing Authority (BHA) employees and a private citizen for procurement fraud and conflicts of interest relating to the improper awarding of a contract for a BHA public project. All three individuals pled guilty in September 2009.
- Former Middlesex County Register of Probate for campaign finance violations based on theft of more than $100,000 of campaign funds for his personal use. The defendant pled guilty in October 2009.
- A Department of Correction's lieutenant for allegedly stealing approximately $100,000 in state funds, firearms and other items for his personal use.
- A former Nantucket Regional Transportation Authority manager for allegedly stealing over $8,000 from public bus fair boxes.
- Three MBTA employees with no-show jobs for alleged larceny based on falsifying time sheets.



T supervisors charged in fraud

AG: Worker's day started after lunch

By DAVE WEDGE

Three MBTA supervisors are facing fraud and larceny charges for being no-shows at work, and one was allegedly running a private security firm when he was supposed to be overseeing T construction, according to Attorney General Martha Coakley's Office.

Michael O'Toole, 49, of Milton, Francis Flaherty, 52, of South Boston and Christopher Peatridge, 64, of Saugus were all indicted yesterday in the culmination of a three-year probe by the attorney general's office and the state inspector general.

Authorities allege the three were getting paid for full days of work when they weren't on the job. In some cases, Peatridge, a T inspector, showed up after lunch when his signed time card said he started the day at 7 a.m., Coakley said in the statement.

Business records show that Peatridge was running his own private security business and was frequently out of state when he claimed he was on the job at the T, Coakley said.

"On multiple occasions Peatridge's MBTA time sheets showed him working, and getting paid by the MBTA for working, when in fact he worked few or no hours," a statement from the attorney general's office said.

O'Toole and Flaherty also each turned in time sheets claiming they were on the job when they were not, according to the AG.

All three are charged with presentation of false claims and larceny over $250.

Boston Herald
September 12, 2008

- The president of a collection company for allegedly stealing $2.7 million from the City of Boston in the course of collecting delinquent motor vehicle excise taxes.
- Former Hamilton Police Chief, a former Ipswich Selectman, and two other public safety officials for allegedly falsifying Emergency Medical Technician (EMT) training records.

In the first ever enforcement of the lobbying laws, the AGO took on a high profile matter in which individual and his company allegedly violated lobbying and campaign finance laws by receiving over $60,000 to promote legislation and failing to register as a lobbyist and comply with lobbyist campaign contribution limits.

Ethics Reform. Recognizing the importance of lobbying and other laws dedicated to address ethics and transparency in government, the AGO also worked closely with the Patrick Administration and the Legislature to craft legislation to strengthen the state's ethics, lobbying and campaign finance laws. The Legislature passed a final bill, signed by Governor Patrick on July 1, 2009, that included many important provisions, such as: tougher penalties for ethics, lobbying and campaign finance violations; new authority for the Attorney General to convene a statewide grand jury; a new obstruction of justice crime; new limits on gifts to public officials; tougher requirements for lobbyist disclosure, and new procedures to facilitate investigation and prosecution of ethics, lobbying and campaign finance violations.

In FY09, the AGO also began work on other proposals to strengthen criminal laws and address corruption. These efforts would culminate in July 2009 with the filing of an Economic Crime Bill to create new money laundering crime and a new enterprise crime provision to allow for prosecution of various forms of organized crime. The bill modernizes the state wiretap laws to address new technologies and new forms of criminal enterprises. These new measures would apply to all types of organized and white collar crime, including public corruption, and would give prosecutors necessary tools to prevent, investigate and prosecute violations by public officials and those who conspire with them to break the law.

Finally, the AGO, through litigation in support of public retirement boards, successfully defended pension forfeitures following the convictions of several public employees, resulting in savings to the Commonwealth and local retirement systems and ensuring that the consequences of the violation of the

public trust extend as far as the law will allow.

Integrity and the Federal Stimulus Program. In 2009, the Attorney General's Office also took a lead role in promoting integrity and preventing waste, fraud and abuse in federal stimulus spending under the American Recovery and Reinvestment Act (ARRA). Building on the AGO's experience with the Big Dig, the AGO crafted proposals and worked with the Patrick administration to ensure that ARRA projects would be subject to proper oversight. Along these lines, the AGO worked with the Patrick administration to ensure that a small portion of ARRA funds would be devoted to supporting prevention and oversight functions by state agencies.

In addition, Attorney General Coakley convened the Stimulus Oversight and Prevention of Fraud Task Force (STOP), bringing together a wide variety of state and federal agencies with regulatory and law enforcement oversight of federal stimulus funds. The Task Force was established to provide a coordinated and efficient approach to oversight of federal recovery spending in Massachusetts and to prevent fraud. Through regular meetings and communication, the task force aims to facilitate information sharing among the various agencies that will play a role in stimulus oversight, prevent duplicative efforts in reviewing spending and investigating alleged fraud on stimulus projects, and ensure efficiency in stimulus oversight activities. At its inception, the Task Force included representatives of over a dozen state and federal agencies, including the AGO, state Auditor's Office, state Inspector General's Office, Federal Bureau of Investigations, Internal Revenue Service, U.S. Attorney's Office, and the Offices of the Inspector General for the U.S.Departments of Defense, Education, Homeland Security, Housing and Urban Development, Justice, Labor and Transportation.

Economic Development

In FY09, Massachusetts suffered the effects of the most severe national recession in decades. In this challenging environment, the AGO continued to search for opportunities to support economic growth. As discussed elsewhere in this report, the AGO again took strong steps to address health care and energy costs, two major costs that place burdens on employers.

In addition, the AGO's Business, Technology and Economic Development Division continued its work

with business and community leaders and other state agencies to facilitate effective conversation and work to strike that appropriate balance of reasonable and effective regulation that supports development for our small businesses, large companies and centers for entrepreneurship and innovation. The AGO worked throughout FY09 on the development of new regulations for retail advertising that take into account new methods of communication and bring the regulations in line with current practice. AGO staff also continued to work on the implementation and enforcement of data breach regulations that will take effect in March 2010.

Joined by Representative Ann Margaret Ferrante, Attorney General Coakley visited the Gloucester Seafood Display Auction.

May 2009

In May 2009, the U.S. Department of Commerce sought to immediately enforce a ten day closure order against the Gloucester Seafood Display Auction, claiming that by mis weighing a shipment of cod in 2004, the Auction had violated a 2003 settlement agreement with the agency. The Commerce Department sought to close the auction immediately, even though the alleged 2004 violation was still the subject of litigation in the U.S. District Court. Recognizing the key role that the auction plays in bringing Massachusetts seafood to market, the AGO appeared in Federal District Court to file an *amicus* brief, arguing that the appeal should be decided on its merits before any sanction is carried out. The Court ultimately agreed with the AGO position based on independent grounds and entered an order staying the closure order.

Advocacy for Cities/Towns, Saving Taxpayers Money

In the difficult fiscal environment that characterized FY09, the AGO saved the Commonwealth's taxpayers more than $373.5 million through its advocacy and defense of government agencies and officials in litigation.

Among the successes was a series of tax cases in which the AGO working with the Massachusetts Department of Revenue preserved tax revenues totaling $337.4 million. In one case valued at $89 million filed by Capital One Bank, the Supreme Judicial Court upheld an excise tax on a company issuing credit cards to Massachusetts residents, despite the company's claim that it did not have a "physical presence" in Massachusetts. In a case filed by Fleet Funding, the AGO helped negotiate a settlement between the Commissioner of Revenue and Bank of America worth $174 million, resolving a longstanding dispute over

efforts to avoid state taxation by the use of real estate investment trust subsidiaries.

The False Claims Act authorizes the Attorney General to sue entities that overcharge or mislead the state government or its political subdivisions on contracting and purchasing issues. The AGO has used the False Claims Act aggressively to help prevent fraud and recover monies wrongfully procured from public sources. With 23 cases pending in FY09, the AGO obtained over $27 million in false claims recoveries.

A major arena for unfair and misleading overcharges has been the investment area, and the AGO has vigorously enforced the False Claims Act against securities brokers and investment banks that violate the law. During FY09, the AGO conducted numerous investigations into the placement of state and municipal investments in the auction rate securities market. Auction rate securities are inappropriate and unauthorized investment instruments for municipal funds due to their risky, long-term nature. In mid-2008, the auction rate security market experienced widespread failure, causing significant financial losses for those cities and towns whose funds were improperly invested. The AGO investigated the handling of municipal investments by several investment banks, including UBS, Morgan Stanley, and Citigroup. The AGO reached a settlement with UBS to return over $34 million to municipalities, as well as pay $1 million to the Commonwealth. In September, Morgan Stanley agreed to repay various Massachusetts municipalities for the auction rate securities which they were inappropriately sold, yielding approximately $1.5 million to cities and towns. In September, Citigroup agreed to purchase back the auction rate securities it had previously sold to Massachusetts Water Pollution Abatement Trust (MWPAT), yielding $20 million. The AGO used a small portion of these recoveries for the Commonwealth to support education and prevention efforts aimed as empowering municipalities and providing the information necessary to support more critical assessment of risk.

After its investigation into a bid-rigging conspiracy involving insurance brokerage giant Marsh & McLennan, the AGO filed several cases and secured recoveries for numerous towns and cities for insurance overcharges. In addition to the restitution paid by Marsh to the municipalities, through AGO efforts, Marsh was assessed a $1 million penalty, payable to the Commonwealth.

Saving Taxpayers Money

Through a variety of other investigations, the AGO has been able to prevent mis-spending by municipalities and obtain recovery of monies spent by towns that were misled. The AGO investigated claims that Stop & Shop billed and obtained payment for prescription drugs pursuant to workers' compensation insurance programs at prices higher than those permitted by Massachusetts law. The AGO filed an Assurance of Discontinuance in Superior Court under which the company was required to pay $89,133 to refund overcharges to consumers and $140,867 to refund overcharges to the Commonwealth.

Gas and Electricity Ratepayer Advocacy

The AGO serves as Ratepayer Advocate for the Commonwealth's individual and corporate consumers of gas and electricity. With approximately 150 state and federal cases pending in FY09, the office secured the recovery of more than $100 million for ratepayers over the lifetime of the rate filings in question.

FERC Advocacy. In multiple filings at the Federal Energy Regulatory Commission (FERC), the AGO worked with neighboring states to successfully challenge several transmission company proposals for transmission project incentives in Massachusetts, Maine, Connecticut and Rhode Island. Although incentives were allowed in most cases, FERC reduced the requested amount, saving customers throughout New England hundreds of millions of dollars. For Massachusetts customers, these savings total over $79 million over the lifetime of the projects. In addition, the AGO supported a settlement between Russell Biomass and Western Massachusetts Electric Company relating to the costs of interconnection of the facility to the transmission system that will save customers approximately $4 million over the life of the project.

State cases. The AGO litigated several cases on behalf of gas and electric customers before the Department of Public Utilities. In one major case, New England Gas Company requested rate increases totaling approximately $9.6 million in the fall of 2008. After the litigation efforts by the AGO, the Department of Public Utilities reduced the requested increase by almost $5 million dollars. In another major case, the AGO reached a settlement with Berkshire Gas over the loss of a supply contract, returning $1.3 million dollars to customers.

Ice Storm Investigation and Service Quality Cases. The AGO represented the customers of Fitchburg Electric (Unitil) in an investigation by the Department of Public Utilities (DPU) into Unitil's response to the December 2008 Ice Storm. The AGO, through expert testimony and evidentiary hearings, found that Unitil had violated several DPU requirements regarding planning and response during a weather related outage. As a result of these violations, the AGO recommended financial sanctions and changes to Unitil's operations and management. At the same time, staff in the Worcester Regional office of the AGO worked to assist consumers to lodge complaints and seek power restoration. The AGO also opposed a request

by National Grid for relief from service quality penalties for failure to meet outage benchmarks (frequency and duration) from 2004-2006. As a result, Unitil's request was denied and a service quality penalty in the amount of $8 million was returned to customers.

Energy Markets. In March 2008, the AGO became an end-use governance member of the New England Power Pool (NEPOOL), the regional stakeholder advisory organization to ISO-New England (ISO-NE). As a member of NEPOOL, the AGO was active on many fronts in FY09, including support of energy market participant financial assurance changes that will save Massachusetts ratepayers from $2 to $12.5 million annually and changes to the reserve constraint penalty factor which will save customers in the Boston area $780,000 to $3 million annually.

Outreach, Education, and Advocacy. In the fall of 2008, the AGO organized the first-ever Ratepayer Summit and brought together ratepayer advocates from the New England region, along with people working with large and small commercial ratepayers as well as individual consumers. The Summit provided the opportunity to understand the cost drivers for gas and electricity in new England and for the regional experts to hear from each other about effective strategies on behalf or ratepayers.

Later in the fall, over 200 community leaders attended a series of four *Winter Heating and Energy Roundtables*, hosted by the Attorney General in partnership with elected officials from the communities of Fitchburg, Holyoke, Plymouth and Salem. The roundtables provided the opportunity for town government, public safety, social service and public health leaders to share ideas and discuss the financial, public safety and public health implications of rising energy costs and showcased examples of short and long term initiatives for cost reduction and increased energy efficiency. The dialogue continued throughout the year via the (then) AGO Energy Blog (now titled *At Issue and in Focus*) which featured additional resources to help Massachusetts communities ensure resident safety and promote energy efficiency.

Finally, in the spring of 2009, the Attorney General was a chair of a working group established by ISO-NE at the direction of FERC to ensure that the ISO-NE is responsive to its customers. Throughout this process the AGO advocated for most emphasis on the costs of transmission projects and market rule changes as well

Attorney general to hold winter heating roundtable in city

HOLYOKE - Attorney General Martha Coakley's Office will hold a Winter Heating and Energy Roundtable in Holyoke on Oct. 2 from 9 a.m. to noon at the Heritage State Park Visitors Center located at 221 Appleton St.

The Winter Heating Roundtables are part of a comprehensive effort by the Attorney General's Office to preemptively address staggering energy cost increases this winter, anticipated to be 40 to 50 percent higher than last year. The roundtables will connect Attorney General Coakley and staff with local officials, for the purpose of discussing action plans and the financial, public safety and public health implications of rising energy costs, as well as practical solutions to help consumers get through the upcoming heating season.

Over the next couple of weeks other roundtables will be held in Fitchburg, Plymouth and Salem. The roundtables will bring together state and local government officials, public safety personnel, community action programs, faith communities, social service agencies, and those who are on the frontlines of the alternative energy movement in their communities to discuss ways to combat high energy costs before thermometers dip to the freezing mark.

One of the goals of the roundtables is to facilitate the sharing of best practices and creative ideas and encourage collaboration among the various agencies and organizations. Information gathered at each roundtable will aid the Attorney General's Office in representing energy customers around the state in future rate proceedings.

The roundtables will be held at the dates and times below:

Plymouth: Wednesday Oct. 1 from 9 a.m. to noon at the Mayflower Hearing room in Plymouth Town Hall, 1st Floor, located at 11 Lincoln St. Plymouth, MA 02360.

Salem: Friday Oct. 3 from 9 a.m. to noon at Old Town Hall located at 32 Derby Square, Salem, MA 01970.

The series of roundtables follows a Sept. 17 New England Ratepayer Summit, held in Cambridge, that brought together energy customers, their advocates, and government officials. The goal of the summit, which drew over 120 attendees, was to bring together ratepayers and their advocates from throughout the New England states to discuss how they can better collaborate to address rising energy costs.

For more information on the Attorney General's Office's role in energy rate proceedings, as well as energy efficiency tips and the Roundtables, visit the Attorney General's website at www.mass.gov/ago.

Holyoke Sun
October 09, 2008

as greater transparency in ISO-NE decision making process. As a result of these efforts and working with many New England stakeholders, ISO-NE agreed to incorporate cost principles into its mission statement and created a Consumer Liaison Group to provide customers with access to information and a forum to voice comments and concerns regarding New England's transmission grid and energy markets the costs of which account for almost two thirds of an average customer's bill.

Non-Profit/Public Charities Oversight

The Not-for-Profit sector represents a significant percentage of the Massachusetts economy and contributes significantly to Commonwealth's standing as leader in education, healthcare, arts and culture. The AGO oversees the registration and annual filings of charities and professional fundraisers and plays an important role in developing and fostering transparency in operations to assist the public in making good decisions in charitable giving. In FY09, the AGO received almost 21,000 reports of existing charities and over 1,200 registrations of new charities, collected over $2.2 million in fees for the Commonwealth, and reviewed almost 300 complaints.

The AGO reviewed wills in probate, requests to sell real property, and interim and final accounts in its role assuring appropriate disposition of charitable bequests. Among its more significant matters, the AGO investigated and issued findings regarding conflict of interest policy violations at Suffolk University and Holyoke Medical Center. Both entities agreed to make governance changes in response to the AGO's findings, and the AGO's public analysis serves to educate other non-profit boards regarding their fiduciary and legal duties. The AGO also investigated and ultimately assented to the Isabella Stewart Gardner Museum's petition to renovate and expand certain portions of the museum, and reviewed the controversial proposal by Brandeis University to sell some or all of its Rose Museum art collection. The AGO also undertook a review of executive compensation, director compensation and dual office holding at Blue Cross and Blue Shield of Massachusetts; a final report on the matter was issued shortly after the end of FY09.

The AGO also continued to play its enforcement role in this area. For instance, the office filed two separate lawsuits against two charities and four professional solicitors for their alleged involvement in fundraising

campaigns that misled potential donors into believing their charities were benefiting local veterans and local law enforcement personnel. The lawsuits alleged the professional solicitors working on these campaigns failed to disclose to potential donors their status as professional fundraisers who are paid by charitable organizations to solicit the public for donations. The cases remained pending at the end of FY09.

In FY09, the AGO also continued to take significant steps to improve transparency and ensure integrity in charitable transactions. The office completed the transition to on-line access to charitable registrations and reports, becoming only the fourth state to provide for such on-line access The AGO also initiated monthly reporting of non-compliant organizations, giving the public information more information about organizations. Finally, in FY09, the AGO co-sponsored legislation to update the law governing charities. The bill is designed to streamline processes to ensure and facilitate compliance by large and small organizations.

Quality, Affordable Health Care

In FY09, the AGO continued working toward the successful implementation of health reform in Massachusetts. In its efforts to secure access to quality and affordable health care, the AGO used its oversight powers, worked with the state Legislature and agencies, and vigilantly enforced consumer protection, antitrust and criminal laws.

Cost Containment Review. In FY09, the AGO launched a comprehensive review of factors driving up the cost of health care in Massachusetts, an investigation conducted to prepare for cost containment hearings to be held by the Division of Health Care Finance and Policy pursuant to G.L. c. 118G, § 6½. The AGO issued twenty civil investigative demands to a variety of health plans and health providers seeking information regarding health care cost and quality and worked with experts to examine cost trends.

Medicaid Fraud. For FY09, the AGO obtained record recoveries of over $55 million for the state Medicaid program, through a total of 11 settlements and eight criminal convictions. Many Medicaid fraud matters involved pharmaceutical companies, as described below.

Criminal Abuse Cases. The AGO's Medicaid fraud work included convictions of two brothers who pled guilty to multiple felony charges related to their ownership and operation of five Massachusetts nursing homes. Joel and Todd Logan were sentenced to five years probation on each charge, and were each ordered to pay $150,000 in restitution and loss of their licenses. In another matter, the AGO obtained a guilty plea by a former certified nurse assistant in connection with the sexual assault of a 93 year-old patient.

Pharmaceutical recoveries. The AGO pursued civil matters against major pharmaceutical companies addressing anticompetitive or unfair practices. In several major nationwide settlements, the AGO obtained significant recoveries and injunctions banning unfair, deceptive, and anticompetitive conduct. The AGO took a lead role in a joint state and federal investigation of Eli Lilly's promotion of the sale and use of Zyprexa for unapproved uses. The AGO obtained $22 million for the state Medicaid program, part of a national settlement that has returned more than $700 million to Medicaid programs nationwide and an additional $65 million to other federal health care programs. Additional Medicaid fraud actions against Bristol-Myers Squibb yielded over $9 million in an agreement that capped off a four-part, seven year investigation; over $5 million from the Cambridge Health Alliance for noncompliance with reporting requirements; and over $7 million in reimbursements against generic drug manufacturers Ivax, Teva, and Roxan for falsely inflating prices. In addition to these Medicaid fraud matters, the AGO pursued major civil consumer cases against pharmaceutical companies Cephalon, Eli Lilly, and Pfizer, resulting in almost $5 million in additional recoveries for Massachusetts.

Health insurer Violations. The AGO continued to pursue cases against health plans that illegally restricted coverage, denied health benefits mandated by law, or engaged in unfair or deceptive marketing. During FY09, through a settlement with Aetna Health Inc., the AGO resolved claims that the insurer failed to provide health benefits required by Massachusetts law. The AGO also continued to pursue litigation against HealthMarkets, Inc., and its subsidiaries, the MEGA Life and Health Insurance and Mid-West National Life Insurance, based on allegations that the insurers engaged in unfair and deceptive practices in their marketing and administration of health plans sold to small businesses and individuals in Massachusetts.

Medical Discount Plans. During the past year, the AGO launched a multi-pronged approach to address the increasing problem of deceptive marketing of medical discount plans. The office released a consumer advisory at the end of 2008 warning consumers about the limitations of these products, and also opened investigations and litigation targeting several individuals and organizations involved in the deceptive sale of medical discount card products. As a part of its efforts to combat deceptive sales of medical discount cards, the AGO began preliminary work to issue consumer protection regulations designed to protect Massachusetts residents from unscrupulous marketing of plans.

Dental Care. In September 2008, the AGO filed suit against a dentist whose license to practice was previously revoked by the Massachusetts Board of Registration in Dentistry, and 14 other individuals and entities based upon allegations that they had all violated the Consumer Protection Act in connection with their operation of Coast Dental, Spectrum Dental and Sierra Dental. The AGO alleged that the defendants lured patients in with deceptive marketing, defrauded them by providing shoddy or incomplete treatment, signed them up for financing to pay for that treatment, the terms of which were not properly disclosed, if at all, and then, once patient complaints escalated, abandoned the practices only to start the scheme anew elsewhere or under a different practice name. The AGO obtained a preliminary injunction against the defendants that prohibited them from maintaining, operating, or having an ownership interest in any dental clinic, dental practice or other entity organized to provide or manage dental services in the Commonwealth. Since filing suit, the AGO negotiated agreements with the multiple lenders who had provided financing to the patients in which the lenders agreed to implement an enhanced dispute resolution process for victims of the unfair and deceptive sales practices and credit-billing scheme of the dental operations.

Consumer Protection

In addition to the AGO's consumer protection work in the areas of mortgage lending and health care, the office pursued vigorous consumer protection efforts in a variety of contexts in FY09.

Car Dealer Advertising. In FY09, the AGO investigated and settled several cases involving false and misleading advertising practices in the automobile sales industry. These resolutions prohibited the use of

Community Benefits

Through its voluntary Community Benefits Program, the AGO provides guidance to non-profit hospitals and HMOs on how to assess the health care needs of their communities, work with communities to develop programs, and report on those activities to the AGO and the greater community. In February 2009, the Attorney General issued revisions to the Community Benefit Guidelines for Non-Profit Acute Care Hospitals and for Health Maintenance Organizations. These revisions were a result of a year-long collaborative process with a 12-member Advisory Task Force which included state-wide health care stakeholders including hospital and HMO representatives and consumer advocates. The comprehensive revisions to the Guidelines are designed to improve transparency and accountability in community benefit reporting; encourage pre-planning and community involvement; and align hospital and HMO community benefit activities with statewide health priorities. As part of roll out of the new guidelines, the Health Care Division conducted comprehensive training programs for hospitals and HMOs.

"asterisk pricing," a practice in which a dealer advertises a price with an asterisk and, in small print at the bottom of the ad, indicates that the advertised price presumes that the consumer will provide a certain amount of money in cash or trade. The settlements also prohibit the dealers from advertising rebates where the terms are not clearly disclosed or universally applicable, and from hiding terms and conditions of the rebates in small print when the terms affect the actual price of the vehicle.

Tobacco Enforcement. The AGO continued to participate in a combination of state-specific and multi-state enforcement initiatives to put into effect the requirements of the decade-old national tobacco settlement. On the state level, the AGO continued to work with the Department of Revenue on enforcement matters, including ensuring that entities within the tobacco distribution chain (e.g., wholesalers/distributors, stampers) comply with their statutory obligations. The AGO has worked with the Department of Public Health to address youth access issues, including sharing information about retailer enforcement and tobacco displays that violate the law.

On the multi-state level, the AGO continued to be involved in multiple working groups, including those focused on retailer enforcement matters and took the lead in negotiating an agreement with Shell Oil Products US (Shell), and its parent company Motiva Enterprises LLC (Motiva), over alleged illegal sales of tobacco products to minors. Under the terms of the agreement, Shell and Motiva agreed to adopt procedures designed to reduce sales of cigarettes to minors at Shell-branded retail outlets, and paid a $15,000 civil penalty to the Commonwealth. Attorney General Coakley also continued serving as national co-chair of the National Association of Attorneys General Tobacco Committee. As co-chair, Attorney General Coakley played a leadership role in preparing the states for potential national arbitration with the tobacco companies around the issue of whether the states appropriately enforced the 1998 Master Settlement Agreement. Attorney General Coakley also helped open a dialogue with federal officials concerning the appropriate state-federal balance in regulating tobacco sales after the passage of the landmark Family Smoking Prevention and Tobacco Control Act.

Data Breach. FY09 saw the culmination of a multi-state investigation led by the Massachusetts AGO involving 41 states relating to TJX's failure to appropriately protect its customers' financial information and to guard against a massive data breach that placed thousands of consumers' personal data at risk

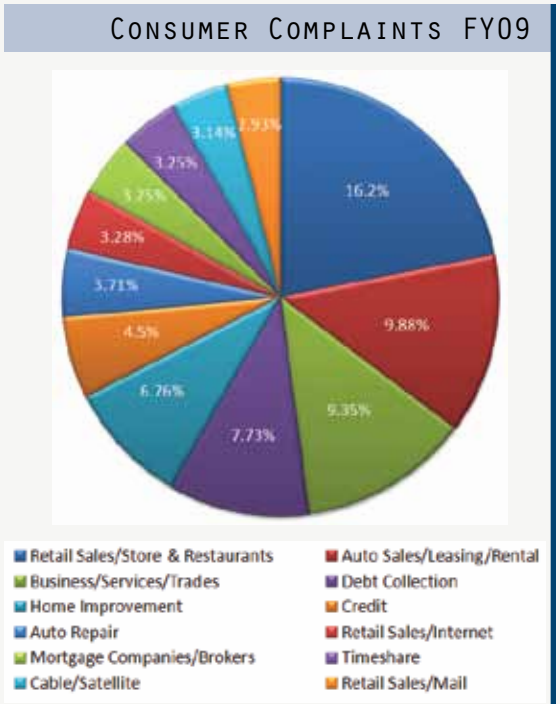
nationwide. TJX agreed to pay $9.75 million to the states and to implement and maintain a comprehensive information security program designed to safeguard consumer data and address any weaknesses in TJX's systems in place at the time of the breach.

Under the 2007 security breach notification law, the AGO receives notification of these data breaches and is responsible for enforcing the law's provisions. For FY09, the AGO reviewed over 630 data breach notices for compliance with the law and notified entities when they failed to provide the AGO or Massachusetts residents with proper notice.

Auto and Homeowners Insurance. In 2008, the Massachusetts auto insurance industry was deregulated and moved to a system of managed competition. The AGO strongly advocated for the reinstatement of the insurance surcharge hearings function of the Division of Insurance's Board of Appeals in order to protect consumers. The AGO successfully worked with the Legislature to ensure that this critical tool to protect ratepayers in a deregulated automobile insurance market was reinstated, and the law was enacted on April 15, 2009.

In FY09, the AGO continued to advocate for transparency in rate hearings and provided oversight of market practices. The AGO monitored insurance company rate filings to ensure that companies are not proposing excessive or unfairly discriminatory rates. In some of those cases, AGO oversight led to significant savings for ratepayers. In one matter that involved Occidental Fire and Casualty Insurance Company of North Carolina, the firm proposed auto insurance rates that were excessive and unjustified, as well as in violation of Massachusetts statutes. In March 2009, the AGO entered into a settlement with Occidental which rolled back rates and required the insurer to modify its practices. The AGO also investigated allegations that Progressive Direct Insurance Company was offering inaccurate quotes on its rate comparison website and failing to follow certain provisions set forth in its rating manual. Under the settlement, Progressive agreed to pay the Commonwealth $120,000 and to reimburse overcharged consumers. The AGO had 43 ongoing cases and recovered over $1.12 million in savings for individuals and the Commonwealth.

Consumer Complaints. Residents contact the AGO to lodge consumer-related complaints and make inquiries on a wide variety of consumer issues. The Public Inquiry & Assistance Center (PIAC) provides central intake for the office's consumer complaint and constituent services operation. The AGO also offers consumers access to specialized information relating to health care and insurance.



PIAC operates a consumer hotline receiving an average of 5,300 calls per month from consumers wishing to file a complaint or seeking information. A separate hotline focused solely on senior residents and staffed by volunteers similarly guides elder consumers with questions and complaints. PIAC offers a mediation program working with Local Consumer Programs as an informal way to resolve consumer disputes with businesses. In FY09, PIAC successfully resolved 3,052 complaints, resulting in $1.97 million being returned or credited to consumers.

PIAC worked with 19 Local Consumer Programs throughout Massachusetts and 13 Face-to-Face Mediation Programs which collectively provided consumer information, informal mediation and a more-formal, face-to-face mediation, often as an alternative to litigation to thousands of Massachusetts consumers.

The Insurance Hotline helps consumers resolve certain individual disputes without legal action through information mediation and during FY09 fielded over 3,200 consumer calls, received 594 complaints, and recovered $1.2 million in savings and refunds on behalf of consumers. AGO staff assist residents with wide range of health-related concerns from billing to coverage issues to claims handling to access issues. The AGO fielded over 3,200 phone calls, opened 780 health care related complaints and recovered almost $314,000 for consumers.

Worker's Rights and Leveling the Playing Field

In FY09, the AGO was able to return $5,223,372 to workers who were unfairly denied wages or otherwise victimized by violation of wage and hour laws, and also secured $576,058 in penalties to Commonwealth. The AGO staffs a hotline to address issues raised by Massachusetts workers relative to their rights under the wage and hour laws. The hotline received 30,566 calls in FY09 and opened almost 4,000 cases addressing violations of wage and hour laws. Each of the three regional offices continued to have dedicated staff to address and respond to wage and hour, prevailing wage and other issues throughout the Commonwealth.

In a significant legal victory for the AGO, the Massachusetts Supreme Judicial Court ruled in June 2009 that employees must be compensated for their unused vacation upon discharge. The SJC found that if an employer offers employees vacation time, then under the law, that time is considered "wages" which must be paid to employees on discharge.

In FY09, the AGO conducted a number of targeted enforcement efforts focusing on industries which revealed systemic and egregious violations of the Wage Laws. Most notably, the AGO focused on the painting industry, resolving 27 cases and recovering nearly $560,000 in restitution for over 250 employees as well as nearly $195,000 in penalties for the Commonwealth.

In furtherance of worker safety, the AGO issued an Advisory on the parameters of enforcement of chapter 306 of the Acts of 2004 (the so called OSHA 10 law) requiring employees on public construction sites to have training in construction safety.

The AGO also worked on two important prevailing wage cases in FY09. In one case, the AGO reached agreement with Excell Insulation Co. to settle allegations regarding failure to pay minimum wage and submit true and accurate payroll records. The company paid over $598,000 in restitution to employees, $62,000 in penalties to the Commonwealth and accepted a one year debarment, prohibiting it from bidding on or contracting for public works projects in Massachusetts. In the second case, the AGO obtained indictments against GVW Inc. and its owner for failure to pay prevailing wage and overtime, and failing to submit true and accurate payroll records. The company pled guilty to these charges, paid over $151,000 in restitution and a $30,000 fine, and was debarred for one year. The owner was also placed on unsupervised probation for a period of one year.

One matter in which the AGO issued a citation, MicroLogic, Inc., resulted in $378,000 restitution to employees and $31,000 in penalties for failure to pay employees. In another matter, the AGO reached an agreement with Toys "R" Us to compensate employees for earned vacation not paid upon separation of service with company. In that matter, the defendant paid restitution of $95,800 to 813 employees and a penalty of $8,000.

In FY09, the AGO continued its coordinated child labor enforcement efforts, conducting summer child

labor sweeps which resulted in 27 citations for over 100 violations. Among others, Domino's Pizza paid $15,000 in penalties for child labor violations and a McDonald's in Whitinsville paid $3,250 for such violations

Throughout FY09, AGO has continued to work with community partners including, worker's rights organizations, community organizations, immigrant rights organizations and other state and federal agencies. The result is an improved relationship with communities and workers who may have been unaware of the AGO's role and resources as well as with workers who might have been less likely to assert their rights under the wage laws because of their distrust of the government.

In continuing efforts to make materials and resources accessible to workers throughout Massachusetts, the Workplace Rights section of the website was translated into Spanish. The Worker's 'Log Book', which was developed to assist Massachusetts workers with personal recordkeeping to protect them against employers, was translated and made available in Spanish, Portuguese and Chinese.

In addition, the AGO added a new component to the Workplace Rights website, which provides information to workers about their rights to sue employers and potentially recover triple damages.

Bid Unit Statistics. The AGO maintains a hotline to receive and respond to inquiries relative to compliance with bidding laws in Massachusetts. From October 1, 2008 to September 30, 2009, the hotline responded to 3,170 inquiries and the office received and resolved 218 Bid Protests.

At the Local Level

The AGO worked with municipalities in the development of wind energy zoning bylaws which impose reasonable regulations on the siting of wind power projects. Certain of the bylaws reviewed and approved by the Municipal Law Unit include as-of-right siting for such projects, which is required for communities to qualify as a Green Community under the Green Communities Act of July 2008. These bylaws assist municipalities to save energy costs for public buildings and satisfy some of their energy needs from wind sources.

Protecting The Environment

In FY09, the AGO continued to play a national leadership role in many of the most important environmental issues of the day, such as the fight against global warming. The office also pursued state enforcement work in every major substantive environmental area, including combating air pollution, protecting our water resources, and cleaning up contaminated sites.

Addressing Global Warming. In April 2007, the U.S. Supreme Court issued its landmark decision in favor of Massachusetts, holding that EPA could no longer disregard its authority to regulate greenhouse gases

under the Clean Air Act, and it remanded the case back to EPA for action. In FY09, after continued pressure from the AGO and other states, the EPA proposed several actions preliminary to regulating greenhouse gases in accordance with the Court's opinion, including a determination that greenhouse gases do in fact threaten human health and welfare. The AGO, with a coalition of other states, participated actively in this process by submitting comments to the agency. The office took additional steps to expedite action at the federal level by regulation and legislation and at a regional level by assisting New York in defending its authority to participate in the Regional Greenhouse Gas Initiative. Recently, in response to sustained efforts by Massachusetts and other states, the EPA announced that it would adopt regulations in tandem with NHTSA to reduce mobile source emissions. The AGO also joined with other states in defense of California's right to regulate greenhouse gas emissions from automobiles which, while challenged by the U.S. Chamber of Commerce, was vindicated by the Obama Administration.

Challenging the Siting of Unsafe Facilities. On behalf of the Commonwealth, the AGO continued its opposition in many different forums to the siting of a liquefied natural gas import facility in Fall River. After the AGO filed a motion to dismiss the facility's federal suit that claimed federal preemption of state regulatory authority, the developer voluntarily dismissed the case. The AGO also filed a brief as *amicus curiae* in the U.S. Court of Appeals for the First Circuit in support of Rhode Island's appeal from a judgment that it's authority over dredging was preempted.

The office also continued efforts to ensure that the Nuclear Regulatory Commission would consider safety issues concerning storage of spent fuel in the context of its relicensure proceedings for Plymouth and Vermont Yankee nuclear plants. The NRC dismissed the AGO's petition for rulemaking on the topic, and the AGO appealed that decision, which is pending in the U.S. Court of Appeals for the Second Circuit.

Fighting to improve Air Quality. FY09 was an extremely productive year for the AGO's federal-level efforts to improve air quality. During the Bush Administration, the AGO, usually in concert with other states, challenged a number of new or revised federal regulations under the Clean Air Act on the ground that they weakened existing federal air programs or failed to take the scientific evidence into account in developing new regulations. When the Obama Administration took office, a number of these challenges were still pending in the D.C. Court of Appeals, including cases challenging Bush-era rules on mercury

emissions, particulates emissions, the ozone primary and secondary air quality standards, and interstate transport of smog and smog-forming emissions. We joined with other states and environmental groups in urging the new Administration to take a second look at these and other rules under challenge, and in most cases, including the cases mentioned, the Administration agreed to do so. In the case of mercury emissions, the Administration has already decided to devise a new rule that treats mercury as the hazardous air pollutant that it is, requiring power plants to meet emissions limits achievable using maximum achievable control technology, a standard that is much more stringent than that adopted in the previous rule.

Pollution and Environmental Violations. During FY09, the AGO obtained judgments or other final resolutions in enforcement actions that required defendants to pay almost $3.5 million in penalties or other payments. The AGO also spared Commonwealth taxpayers great expense through litigation establishing the legal responsibility of others to clean up contaminated sites directly.

The AGO brought a number of air pollution cases against companies in Massachusetts. In one major case, the AGO sued a company that makes edible coatings for the pharmaceutical, health product, and food industries that was emitting volatile organic compounds (VOCs) at a rate of at least three to four times more than its permit allowed, in addition to other violations. The company agreed to pay a $2 million fine, to contribute $150,000 for a program to retrofit diesel locomotives with emission reducing technology, and to contribute an additional $150,000 toward the revitalization of the City of Attleboro's waterfront.

The AGO also took action to protect our water resources, including a case involving an oil spill in the Chelsea Creek, which resulted in a civil penalty and other payments totaling $312,500, and a case involving destruction of wetlands in Billerica, which resulted in a civil payment of $100,000, and payment of $200,000 toward replication of wetlands in the Concord River watershed.

The office also brought suit to compel a landfill in Newburyport to address persistent sulfur dioxide emissions, and to close the landfill expeditiously in accordance with DEP regulations. The case yielded an agreement requiring the landfill to be capped by the end of 2009, and loamed and seeded by the following spring.

Environmental Crime. In addition to civil environmental protection matters, the AGO's Environmental Crime Strike Force (ECSF) continued to pursue serious criminal matters, including failure to report that hazardous materials have been released into the environment. When there is an unreported release, all of the emergency resources that exist to prevent the spread of contamination cannot be accessed. For this reason, the failure to report a hazardous materials release is punishable by up to 20 years in prison and by a fine of up to $100,000 per day. In FY09, ECSF successfully prosecuted four related railroad companies, Pan Am Railways, Inc., Boston and Maine Corporation, Maine Central Railroad Company, and Springfield Terminal Railways Co. for failure to report a spill of several hundreds of gallons of diesel fuel at the rail yard in Ayer, Massachusetts. After an eight-day trial, the jury found the defendants guilty on all charges. The court ordered the companies to pay a combined total fine of $500,000, and put the companies on probation for three years, requiring the companies to provide training to all employees in proper spill handling and reporting practices, to develop a company-wide Environmental Management System, and to report quarterly on environmental compliance activities.

Brownfields. In FY09, the Attorney General's Office amended its Brownfields Covenant Regulations after soliciting public comment on how to meet the challenges of brownfields redevelopment. The Brownfields Covenant Program uses the Attorney General's authority under Chapter 21E, the state's hazardous waste site cleanup law, to facilitate the cleanup and redevelopment of abandoned or underutilized contaminated properties. Brownfields Covenants are legal agreements that provide liability relief to those involved in the redevelopment, and they have supported the development of housing, commercial development and open space at dozens of sites throughout the Commonwealth. The regulatory amendments streamlined the application process for agreements and created new incentives to invest in the most challenging contaminated properties without sacrificing the Commonwealth's cleanup standards or other environmental goals.

Civil Rights

The AGO dedicated significant resources in FY09 to address discrimination in housing and mortgage lending, to support the civil rights of returning veterans and service members, and to enforce the Civil Rights Act in our cities and towns. In addition, the AGO prepared a first in the nation lawsuit in the fight

for marriage equality, which was filed in early FY10 -- *Commonwealth v. United States Department of Health and Human Services, et al.* seeks to overturn provisions of the federal Defense of Marriage Act, which discriminates and unfairly excludes married same-sex couples and their families in Massachusetts from critically important rights and protections.

The AGO obtained over 25 judgments against landlords, real estate agents and companies that discriminated against people seeking housing; recovered money damages for victims of housing discrimination; assisted tenants in foreclosed properties in finding housing; and required property owners to clean up lead paint hazards to make housing units safer for children.

At the Perkins School for the Blind in Watertown, MA, Attorney General Coakley, joined by MA Commissioner for the Blind Janet LaBreck and National Federation of the Blind President Dr. Marc Maurer, announces landmark agreement with Apple, Inc.

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The AGO also secured a national landmark agreement with Apple, Inc. that required Apple to make its iTunes software accessible to blind consumers and students worldwide and to pay $250,000 to Massachusetts to be used to purchase assistive technology for blind students. This settlement ensures blind users full access to be able to review and purchase music, university course materials, and other materials.

The AGO embarked upon a successful statewide investigation into landlords and real estate agents who violated civil rights laws by posting discriminatory rental advertisements on Craiglist.org. While the investigation was pending at the end of FY09, it ultimately resulted in 20 settlements that included recoveries for the Commonwealth, mandatory fair housing training and advertising requirements for the defendants, and the issuance of AGO advisories providing information and guidance to tenants, property owners and real estate companies about housing discrimination laws.

The AGO continues to protect the dignity and safety of all persons by aggressively prosecuting individuals who committed hate crimes. The AGO obtained eight civil rights injunctions on behalf of victims who were harassed or assaulted based on their race, ethnicity, sexual orientation and religion.

In the ongoing battle to protect reproductive rights, the AGO successfully defended a federal court challenge to the constitutionality of the new 35 foot fixed buffer zone around reproductive health care facilities that ensures the safety of patients and staff members. In July 2009, the First Circuit Court of

Appeals ruled in favor of the Massachusetts law, rejecting First Amendment claims. And in January 2009, the AGO joined six other states in filing a lawsuit against the federal government to challenge Bush Administration "provider conscience" regulations that jeopardize women's ability to access reproductive health care from their providers. The states then worked successfully with the Obama Administration, which then moved to rescind those regulations.

Crime and Public Safety

In FY09, the AGO pursued a wide variety of criminal investigations and prosecutions all geared toward promoting public safety and combating street and white-collar crime. The office also worked closely with the Legislature on important legislation to strengthen the state's criminal laws and give prosecutors important tools.

Attorney General Coakley served as co-chair, with District Attorney Jonathan Blodgett, of the Governor's Anti-Crime Council Urban Violence Subcommittee. In November of 2008, the subcommittee made a report to the Governor addressing the need for investment in effective prevention, intervention, and rehabilitation programming and services.

Criminal legislation. In FY09, the AGO completed work with the Legislature on "An Act Further Protecting Children." Signed into law by Governor Patrick in July as Chapter 205 of the Acts of 2008, the law increased criminal sanctions for serious child sex offenders and also provide prosecutor with critical tools to hold child predators accountable. The bi-partisan bill passed by an overwhelming majority in both the House and the Senate.

In addition, in February 2009, the Attorney General joined a group of bipartisan legislative leaders in filing legislation to increase the penalties for corporations convicted of manslaughter. The bill would increase the maximum fine from $1,000 to $250,000, updating a law first enacted in 1784.

Cybercrime. Public safety officials in the first decade of the 21st century know that practically all search warrants issued in criminal cases now involve digital evidence. During FY09, the AGO investigated almost

300 cases in which the underlying crime and/or fraud was perpetrated using computers. The specially trained AGO staff facilitated the work of investigators and attorneys across the entire office. FY09 saw the final steps in completion of a Computer Forensic Laboratory that offers state-of-the-art analysis of the evidence in these cases. The laboratory has 25 more cases this year than it did last year, and almost ten times more cases than it did in 2007.

Enterprise/Major Crime. In FY09 in AGO prosecutors and state police conducted several lengthy investigations utilizing state-of-the-art investigative and surveillance techniques and targeting traditional and non-traditional criminal conspiracies operating throughout multiple counties of the Commonwealth, including Suffolk, Norfolk, and Middlesex. Criminal conspiracies were disrupted and effectively dismantled as a result of these investigations, and certain aspects of these investigations remain ongoing. The AGO also obtained convictions in important cases involving cocaine trafficking and arson.

The AGO works with a diverse group of law enforcement partners, including the United States Attorney's Office, the DEA, FBI, the United States Postal Service, Boston Police, the Special Service Section of the Massachusetts State Police, and various other local police departments and agencies.

White Collar Crime and Insurance Fraud. In FY09, the AGO stepped up enforcement of laws against fraud in unemployment and other insurance, resulting in fines and jail sentences in several cases of note. In the fall of 2008, the AGO obtained guilty pleas from two defendants, each of whom pled guilty to multiple counts of insurance fraud, larceny and mortgage fraud related charges. They both received five years in jail and $600,000 in restitution to victims who lost their homes and insurance companies that paid claims that were fraudulent. For his role staging accidents and as a runner in the false claims in another case, the defendant pled guilty and received 3 years in prison. The AGO also obtained guilty pleas and thousands of dollars in restitution from other defendants who committed motor vehicle insurance fraud, larceny, and workers compensation insurance fraud.

In another major case, in June 2009, a defendant pled guilty to one of the largest unemployment scams in recent history. The defendant stole over $164,000 from the DUA after filing 15 fraudulent claims over three years using stolen identities. He was sentenced to 18 months to two years in prison and was placed on

probation for three years and was ordered to pay the $164,000 back to the state.

FY09 saw the first use of a wiretap by the AGO in a white collar fraud investigation that led to the indictment of five people in connection with telemarketing fraud involving over 1,000 victims and $100,000. Two defendants pled guilty in FY09; three cases remain pending.

Appeals Division. In FY09, the AGO handled appeals which resulted in 18 published decisions from the United States Court of Appeals for the First Circuit, four published decisions from the Supreme Judicial Court, four published decisions from the Massachusetts Appeals Court, and nearly 40 published decisions from the United States District Court. Some of these cases involved novel issues of law relating to the use of GPS technology to track sex offenders placed on parole or probation, the standards and process for holding juvenile delinquents in custody beyond age 18, and post-conviction access to DNA evidence in criminal cases.

In FY09, the AGO opened 24 new direct appeals from criminal convictions in the Commonwealth's appellate courts and approximately 100 new federal *habeas corpus* challenges to state criminal convictions in the United States District Court and United States Court of Appeals for the First Circuit. During this same period, the division closed 21 direct appeals and 111 federal *habeas* cases. At the end of the Fiscal Year, approximately 460 active criminal and civil matters remained pending in the division.

In November 2008, Attorney General Coakley argued before the U.S. Supreme Court in *Melendez-Diaz v. Commonwealth*, a precedent-setting Confrontation Clause case involving the admission of drug analysis certificates at trial. The Court issued a 5-4 decision, over a heated dissent by Justice Kennedy, in which it ruled for the defendant that the Sixth Amendment requires the state to produce a live witness rather than a certificate. The majority opinion did, however, indicate that states could design "notice-and-demand" statutes to mitigate the burden on state crime labs.

Charitable Fraud

The AGO's role in overseeing and protecting non-profit organizations extends to criminal investigations and prosecutions involving embezzlement of charitable funds. FY09 saw the AGO pursue investigations of a former chief financial officer at a local museum who allegedly stole over $1 million, an accounting consultant to an on-campus student/faculty religious organization who allegedly stole over $750,000, an accounting manager from a local non-profit broadcast company who allegedly stole approximately $500,000, and in two unrelated matters, substantial embezzlements from two local hospitals, one in Boston and one in Worcester.

In the Massachusetts Supreme Judicial Court, the AGO filed two amicus briefs on important questions of criminal justice and policy:

- In *Commonwealth v. Connolly*, the Attorney General, joined by the district attorneys, addressed when warrants for the installation of GPS tracking devices on vehicles were required under state and federal law.
- In *Commonwealth v. Runyan*, the Attorney General, joined by the district attorneys, Executive Office of Public Safety and Security, Executive Office of Health & Human Services, and Department of Public Health, urged the Court to reverse a lower court decision that invalidated the Commonwealth's safe firearm storage laws.

Victim Compensation. In FY09, the Victim Compensation and Assistance Division received 1,419 new claims, an increase of 100 over FY08. Of those, 167 were homicide claims, including 21 homicides related to domestic violence. This is a decrease in the domestic violence homicide claims received in FY08. The total of new domestic violence-related claims was 194; driving under the influence claims totaled 14. Of the claims made eligible during FY09, 113 victims were under the age of 17, and 24 victims were over the age of 65. Under the Forensic Sexual Assault Exam protocol, the Division received 53 new claims for compensation and awarded $12,650.58 in exam-related expenses.

During FY09, the Division opened 930 new claims and 787 supplemental claims, awarding compensation to victims totaling $3,101.954. Claims were processed and payments issued in an average of 8.4 weeks, a decrease in processing time of almost 3 weeks compared to FY08. The AGO reviewed 67 claims in FY09. Of these, 28 were affirmed, 6 were modified or reversed, 8 were classified as late filings, and three remained pending.

The AGO was awarded $271,484 in ARRA stimulus funding to supplement state and other Federal VOCA monies used for compensation to victims of violent crime. At the end of FY09, the AGO applied for and was awaiting notice from the Department of Justice of its annual VOCA compensation grant in the amount of $1,040,000.

Fiscal Year 2009
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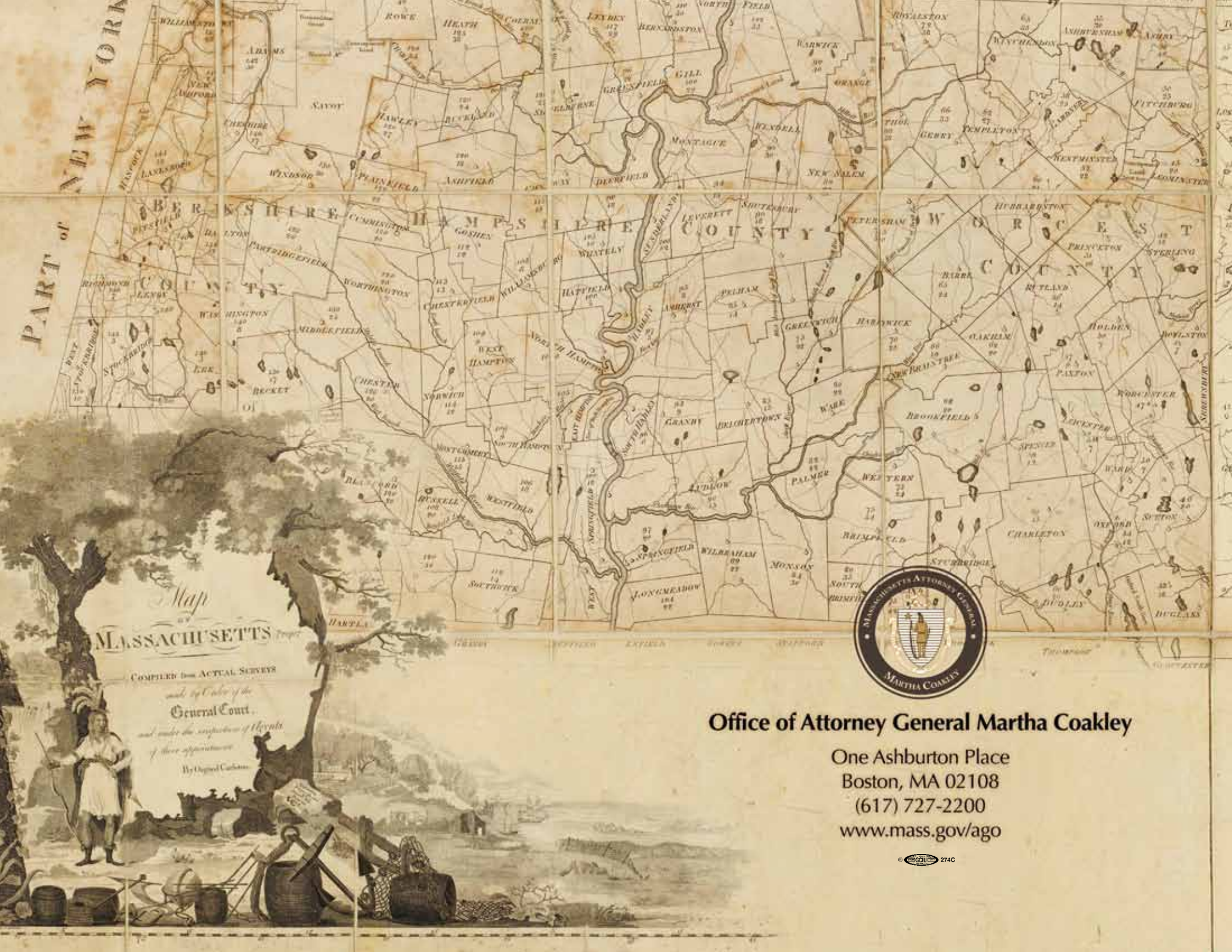

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