

OFFICE OF THE STATE AUDITOR

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# DIANA DIZOGLIO

Official Report – December 27, 2023

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## Bureau of Special Investigations Annual Report

Fiscal Year 2023  
July 1, 2022–June 30, 2023



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## ABOUT THE BUREAU OF SPECIAL INVESTIGATIONS

As part of the Office of the State Auditor, the Bureau of Special Investigations (BSI) is charged with investigating allegations of public assistance fraud throughout the Commonwealth. The diligent work of BSI examiners ensures that taxpayer dollars, which fund Massachusetts’s public benefits programs, are used effectively so that those critical benefits are available to residents who truly need them.

Under Section 17 of Chapter 11 of the Massachusetts General Laws, BSI’s investigative authority extends to any assistance program administered by the Department of Transitional Assistance (DTA), the Department of Children and Families,<sup>1</sup> and the Division of Medical Assistance (which administers MassHealth, the state’s Medicaid program). Although BSI’s enabling statute does not grant it direct authority to the Department of Early Education and Care (EEC), we work with EEC through a memorandum of understanding. Public assistance fraud cases substantiated by BSI’s investigations are referred to agencies for administrative action, fraudulent overpayments are recovered through civil agreements, individuals are disqualified from programs for specified periods, and cases are prosecuted in state district or superior courts and the US District Court for the District of Massachusetts. BSI recommends cases for prosecution based on the severity of the fraud, the intent of the perpetrator, and the case’s potential to serve as a deterrent to future fraud.

BSI examiners operate from five offices across the Commonwealth. BSI consists of three separate investigative units: the Central Processing Unit (CPU), the MassHealth/DTA Unit, and the Data Analytics Unit (DAU). An assistant director, who reports directly to the director of BSI, heads each unit. While each unit has its own specific concentration, all BSI units collaborate with one another, as investigations often involve allegations of fraud in more than one benefit program. BSI participates in joint investigations and task forces that focus on combating fraudulent activities with other state and federal agencies across the Commonwealth.

This report, as statutorily required, summarizes BSI’s work in fiscal year 2023 (July 1, 2022–June 30, 2023).

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1 The Department of Children and Families does not administer public assistance funding and therefore does not fall within the scope of BSI’s investigative work.

## EXECUTIVE SUMMARY

Public assistance programs administered by the Department of Transitional Assistance, EEC, and MassHealth provide vital social services for the Commonwealth’s most vulnerable residents—children, persons with disabilities, low-income individuals and families, and seniors. Following the end of the public health emergency related to the COVID-19 pandemic, this fiscal year saw a return to some government operational norms. BSI staff members increased their physical presence within regional offices under an updated hybrid workplace model and resumed conducting investigatory tasks in person. While the last few years have had their share of unprecedented challenges, BSI continues to leverage a variety of technology solutions to bridge the distance between offices, to increase accessibility, and to effectively complete public benefits fraud investigations. The fiscal year 2023 (FY23) Bureau of Special Investigations Annual Report summarizes

**In FY23, BSI identified  
\$12,322,688  
in fraud.**

BSI’s work and initiatives to execute its mission to make government work better by investigating, under its statutory charge, fraud, abuse, and illegal acts involving public assistance benefits throughout the Commonwealth. During FY23, BSI continued to investigate and identify fraud to maintain program integrity and uphold the Commonwealth’s residents’ faith in public assistance programs. BSI’s efforts ensure that public assistance programs operate with transparency, accountability, and equity.

During FY23, the COVID-19-related operational challenges the bureau experienced decreased significantly—both internally and externally, along with our partners and stakeholders—. Key improvements included: (1) external stakeholders implemented procedural changes based on guidance and best practices from the federal government, (2) referrals increased and remained steady, (3) backlogs decreased, and (4) fraud calculations experienced fewer delays.<sup>2</sup>

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<sup>2</sup> During FY23, BSI completed numerous fraud investigations related to EEC and MassHealth benefits. Notably, identified fraud amounts for both of these programs have decreased throughout this fiscal year. Administration changes and staffing transitions affected EEC’s ability to complete BSI calculation requests. In addition, MassHealth ceased calculating member-benefit overpayments in December 2022 because of uncertainty related to guidance from the Centers for Medicare and Medicaid Services (CMS). Specifically, CMS issued guidance to states declaring that “states cannot recover or recoup the cost of services from a beneficiary, even if they have been found after an administrative or criminal proceeding to have committed Medicaid beneficiary fraud or abuse.” See <https://www.medicaid.gov/federal-policy-guidance/downloads/covid-19-unwinding-fags-oct-2022.pdf> at FAQ 31. To ensure compliance with this CMS guidance, MassHealth paused overpayment calculations from December 2022 through April 2023. EEC and MassHealth have since resumed completing BSI overpayment calculations, but not civil recoveries. BSI anticipates that future reports will include calculated overpayments and, when permitted by CMS, recoveries.

In FY23, BSI opened 8,643 new investigations and completed 5,100<sup>3</sup> total investigations. This report includes a comprehensive breakdown of the fraud identified within each program BSI investigates. It is notable that of the 782<sup>4</sup> completed cases with identified fraud, the average amount of fraud per completed case was \$15,757.91.<sup>5</sup>

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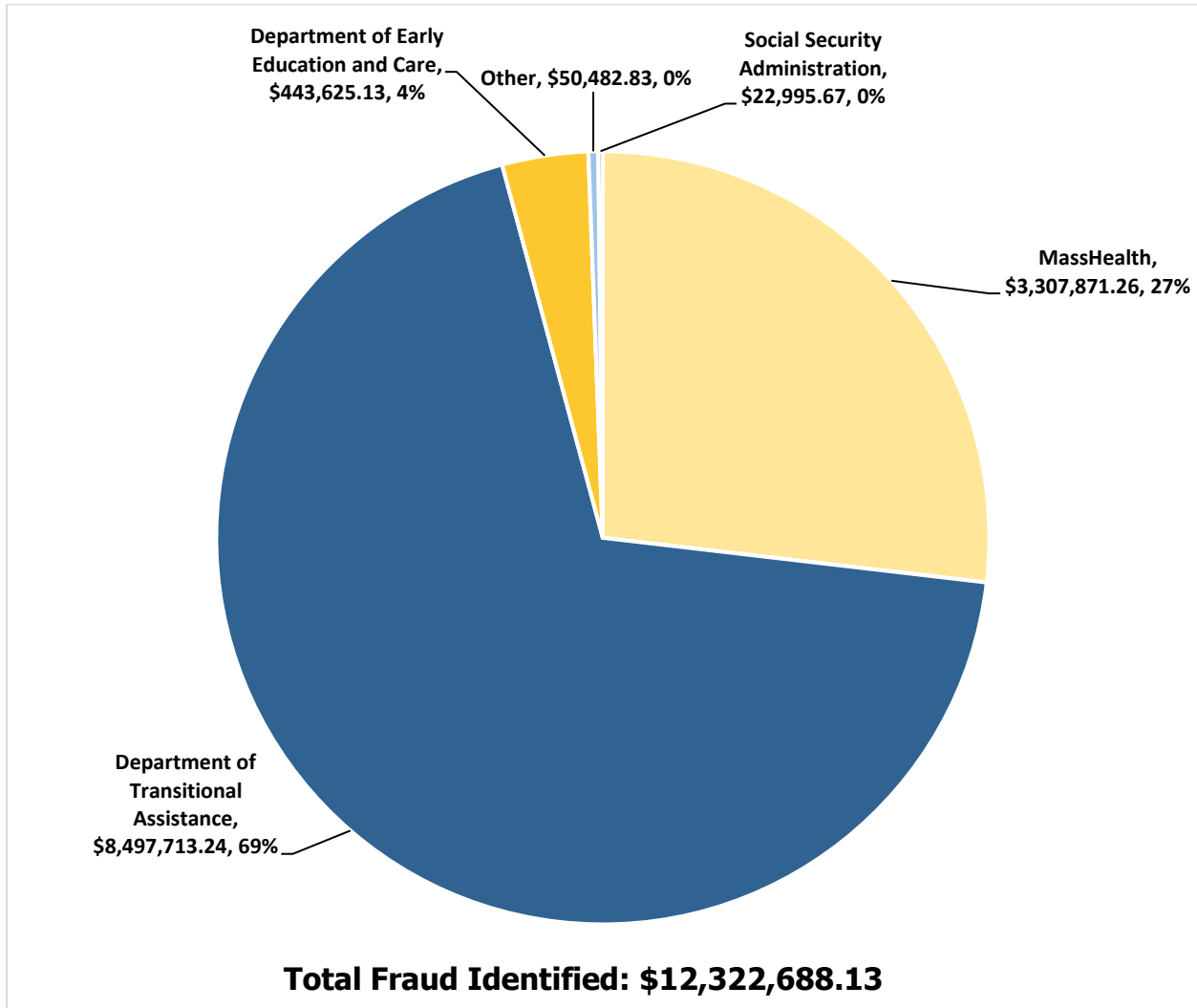
3 This figure includes investigations that may have been opened during previous fiscal years and is not only tied to investigations opened during FY23.

4 This number reflects all the cases with a calculated overpayment (financial type) of a specific public benefit.

5 Comparatively, during FY21, BSI completed 479 cases with identified fraud and the average amount of fraud was \$12,817.79 and during FY22, BSI completed 668 cases with identified fraud and the average amount of fraud was \$20,238.55. See <https://www.mass.gov/lists/reports-on-public-benefit-fraud>.

## BSI YEAR IN REVIEW

**Figure 1. FY23 Fraud Dollars Identified by Public Benefit Program**



Note: Some percentages are listed as 0% because of rounding

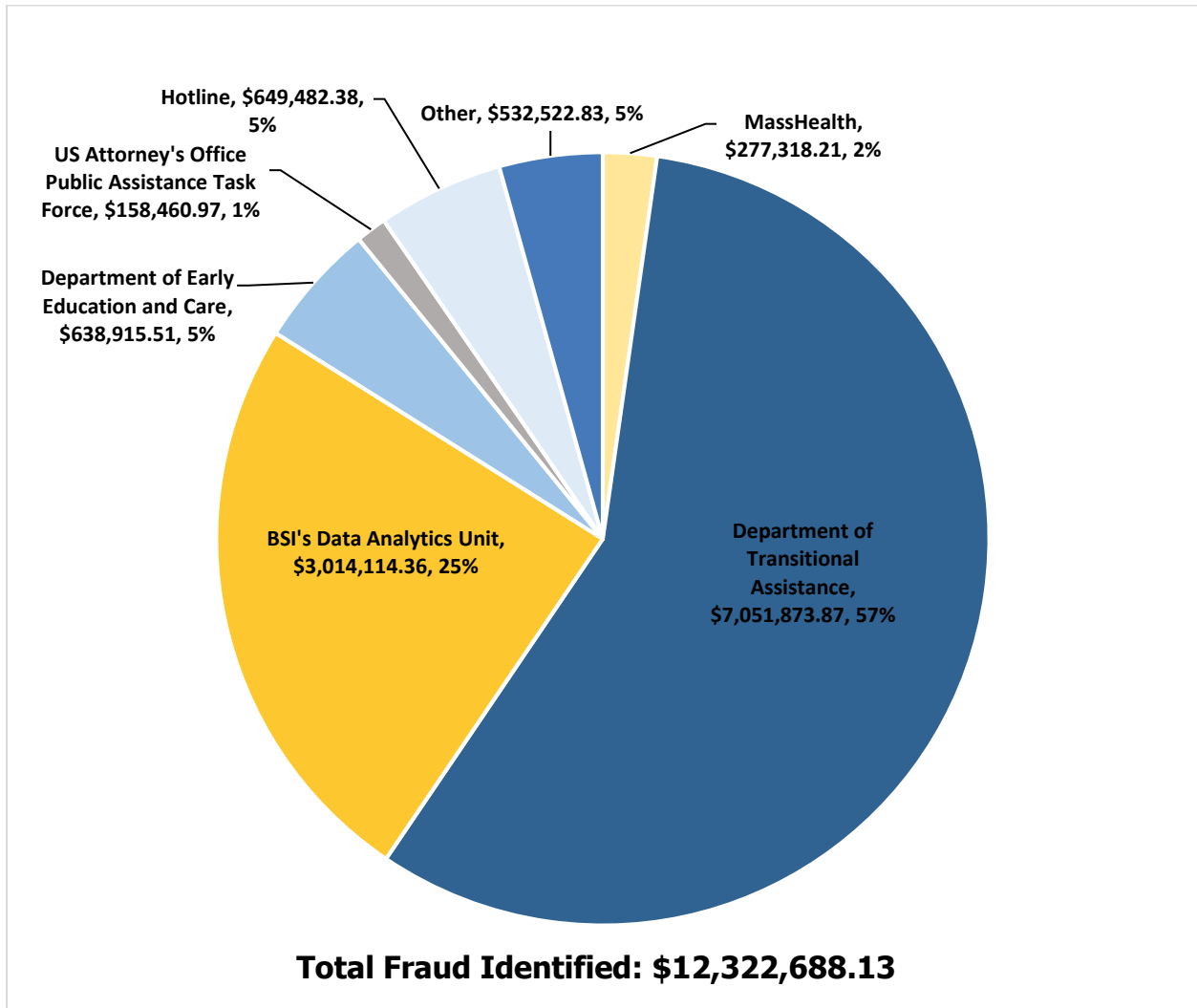
### BSI By the Numbers

- 2,897<sup>6</sup>: BSI cases at the start of FY23
- 8,643: New investigations

<sup>6</sup> In the FY22 Annual Report, the number of cases reported at the start of FY23 was 2,898. During FY23, a case that did not progress through the workflow was discovered and subsequently fixed, which led to its exclusion under FY23 reporting criteria. BSI's current case management system structures and stores BSI data differently than BSI's former legacy database, Workstation.

- 5,100: Total completed investigations
- 782: Completed investigations with identified fraud
- 6,438: BSI cases at the start of fiscal year 2024

**Figure 2. FY23 Fraud Dollars Identified by Referral Source**





**Table 1. FY23 Caseload by Referral Source**

Caseload	Bureau of Special Investigations	Department of Early Education and Care	DAU	MassHealth	Department of Transitional Assistance	Hotline	Law Enforcement	PCA Task Force	Task Force	Other	Total
Beginning Balance	0	32	393	506	1,530	388	0	0	28	20	<u>2,897</u>
New Investigations	2	0	288	205	7,009	1,078	2	15	42	2	<u>8,643</u>
Total Completed Investigations	0	23	101	458	3,603	901	0	0	12	2	<u>5,100</u>
Completed with No Fraud	0	5	3	386	884	757	0	0	3	1	<u>2,039</u>
Completed with Identified Fraud	0	3	61	19	663	33	0	0	2	1	<u>782<sup>7</sup></u>
Completed as Potential Intentional Program Violation	0	0	0	49	2,027	105	0	0	0	0	<u>2,181</u>
Completed Pending Court/Non-Court/Calculation <sup>8</sup>	0	15	37	4	29	6	0	0	7	0	<u>98<sup>9</sup></u>

7 This number reflects the total number of cases with a disposition selected that signifies identified fraud. BSI uses different disposition codes to categorize completed and closed investigations with identified fraud.

8 Completed Pending Court/Non-Court/Calculation includes calculated cases pending court/non-court outcomes and cases that are pending fraud calculation(s) from referral source(s).

9 This number indicates cases without a disposition or financial type (calculated overpayment of specified public benefit) because they are pending court/non-court/calculation.

## Closed Cases with Identified Fraud by Disposition

When BSI investigations are completed, BSI fraud examiners make determinations regarding the final resolutions of cases, which may include referring the matter for prosecution, completing a civil recovery, or referring the matter for further action. Cases referred for prosecution are cases in which BSI files a criminal complaint against the subject(s) or refers the case to a district attorney's office, the Office of the Attorney General (AGO), or the US Attorney's Office.

All investigations completed and closed by BSI are considered closed cases, with or without identified fraud. Closed cases are cases that have been adjudicated completely, for which BSI will not pursue any further action. In some cases, a closed case without identified fraud does not necessarily indicate that fraud was not committed, but more likely that BSI was not able to obtain the necessary documentation to substantiate the fraud, or that the individual was not receiving public assistance benefits during the period of the allegation.

BSI uses different disposition codes to categorize closed investigations with identified fraud. The various disposition codes are as follows:

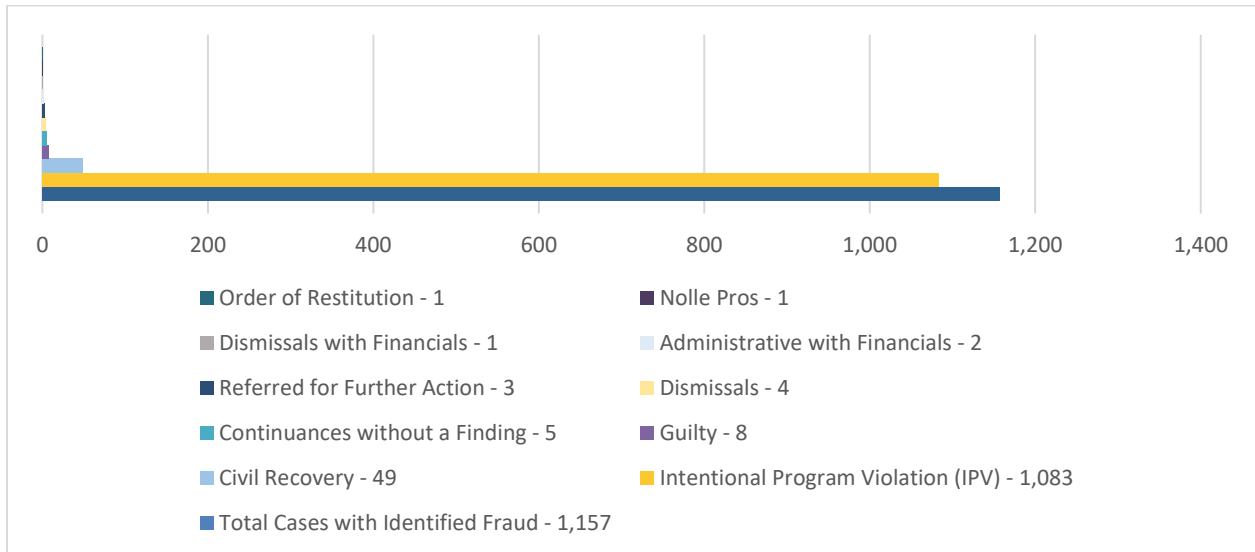
- Intentional program violations (IPVs) are cases that are returned to DTA, MassHealth, or EEC to be handled administratively by those agencies.
- Administrative closing with financials are cases that are completed with an overpayment calculation, but recovery was not completed due to various factors (the subject is deceased, the subject moved and BSI was unable to locate them, BSI error, etc.).
- Civil recovery cases are resolved through an agreement in which subjects agree to repay part or all of the fraudulently obtained benefits to the Commonwealth. Repayment terms must follow the originating agency's rules and regulations.
- Continuance without a finding are completed cases with identified fraud that were referred for prosecution where the subject admits that there is sufficient evidence for a reasonable jury to find them guilty of the charged offense(s), but they will not be subject to conviction following a probationary period.
- General continuances are completed cases with identified fraud that were referred for prosecution where a general continuance has been ordered following either the subject's guilty plea or a guilty verdict after a bench or jury trial.
- Guilty are completed cases with identified fraud that were referred for prosecution where the subject has either pleaded guilty or received a guilty verdict after a bench or jury trial.

- Dismissed are completed cases with identified fraud that were referred for prosecution where the court dismissed the case; the matter may be returned to the benefit program for further action.
- Dismissed with financials are completed cases with identified fraud that were referred for prosecution where the court dismissed the case and the matter is returned to the benefit program for further action, including overpayment collection.
- Refer for further action with financials are completed cases with identified fraud that were referred for further action; the matter may be referred to the Office of the State Auditor for a potential audit or another state agency for further action.
- Orders of restitution are completed cases with identified fraud that were referred for prosecution where the court's final disposition includes an order of restitution.
- Nolle Prosequi (Nolle Pros) are completed cases with identified fraud that were referred for prosecution where prosecution was declined by a district attorney after filing charges before a verdict was rendered.

During FY23, BSI closed 1,157 cases with identified fraud and categorized them under the following disposition codes:

- 1,083 IPVs
- 49 civil recoveries
- 8 guilty court dispositions
- 5 continuances without a finding
- 4 dismissals
- 3 referrals for further action with financials
- 2 administrative closing with financials
- 1 dismissal with financials
- 1 Nolle Pros
- 1 Order of Restitution

**Figure 3. Summary of Closed Cases with Identified Fraud for FY23**



## FISCAL YEAR 2023 SUMMARY BY UNIT

### Central Processing Unit

CPU received 8,643 new referrals for investigation in FY23 and processed, analyzed, and reviewed 5,552 referrals from the following sources.

**Table 2. FY23 CPU Referral Sources**

Source	Number of Referrals	Percentage of Total*
DTA	4,030	72.59%
Hotline	1,006	18.12%
MassHealth	491	8.84%
DAU	20	0.36%
EEC	2	0.04%
BSI	1	0.02%
Task Force	1	0.02%
Other	1	0.02%

\* Percentages do not total 100% because of rounding.

The following is a breakdown of the public assistance programs involved in the 5,552 analyzed referrals.

**Table 3. FY23 CPU Caseload by Public Assistance Program**

Type	Number of Cases	Percentage of Total*
Supplemental Nutrition Assistance Program	3,723	67.06%
MassHealth	763	13.74%
Transitional Aid to Families with Dependent Children	749	13.49%
Emergency Aid to the Elderly, Disabled and Children	219	3.94%
Merge Case <sup>10</sup>	62	1.12%
Other	29	0.52%
EEC	6	0.11%
Supplemental Security Income	1	0.02%

<sup>10</sup> Merge cases occur when BSI receives a separate allegation on a subject that is already under investigation and the new allegation is merged into one case for investigative and administrative purposes.

CPU team members identified 2,184 referrals as potential IPV cases, where BSI determined that a fraud claim had merit but returned the case to the DTA for further action based on the evidence. Typical agency actions include civil recovery, disqualification, and recalculation of benefits. Additionally, CPU closed or merged 1,811 referrals administratively with no fraud determined after completing preliminary investigations. CPU designated 1,557 referrals for active investigation. CPU team members also continued to carry a small caseload in FY23, completing 34 investigations within the unit.

During FY23, the CPU team completed a project with DTA's Data Matching Unit (DMU). For this project, CPU completed the intake process of 4,796 referrals involving individuals identified by DTA as having unreported or underreported household wages while in receipt of DTA assistance. In addition, CPU analyzed, reviewed, and prepared these referrals for the BSI team.

Another project CPU assisted with during FY23 was BSI's DAU's Personal Care Attendant (PCA) High Earner Project. For this project, DAU analyzed PCA income provided by MassHealth for the highest-earning PCAs during 2022 and determined whether their income was accurately reported to other public benefit programs. DAU generated 401 referrals that CPU analyzed in preparation for assignment to examiners, out of which 288 new cases were prepared for assignment. During analysis, CPU consolidated a number of these referrals with an already existing referral as a new allegation. These cases were accelerated during the intake process to prepare the team for investigation.

CPU team members are in direct contact with the public and stakeholders. CPU handles referral intake calls and manages the online referral process. These types of referrals are categorized as hotline referrals. CPU completed the intake process on 1,078 hotline referrals. Additionally, the CPU team assists members of the public and guides them to the appropriate agency to handle their requests. CPU also communicates and collaborates as a team to assist examiners during their investigations. As a team, CPU uses many technical resources to stay current with guidelines and to verify allegations it receives. In turn, CPU continued to update examiners with all policy/income guideline changes from our stakeholders throughout FY23.

### **Fraud Investigations Unit, formerly MassHealth | DTA | EEC Unit**

The Fraud Investigations Unit (FIU) consists of a special investigator, five fraud examiners, and three senior fraud examiners, all of whom are under the supervision of an assistant director and two supervising fraud examiners.

FIU completed 981 cases in FY23, which contributed to identifying fraud totaling \$9,551,227.91 in 756 cases. The breakdown of identified fraud by public benefit program in FY23 is as follows:

- \$3,398,554.28 for Supplemental Nutrition Assistance Program (SNAP) investigations (35.58%)
- \$1,592,061.91 for MassHealth investigations (16.67%)
- \$4,080,089.37 for Transitional Aid to Families with Dependent Children (TAFDC) investigations (42.72%)
- \$340,492.76 for EEC investigations (3.56%)
- \$66,551.09 for Emergency Aid to the Elderly, Disabled and Children (EAEDC) investigations (0.70%)
- \$50,482.83 for Other (0.53%)
- \$22,995.67 for Social Security investigations (0.24%)

Due to the ongoing backlog in the court system caused by the COVID-19 pandemic, BSI has favored civil recoveries over filing complaints in court. Civil recoveries have been the more favorable option as they often end with a signed agreement for repayment, and on occasion, repayment takes place through a reduction of ongoing benefits. During FY23, FIU completed 12 civil recoveries, totaling \$371,570.25 in fraudulent overpayments. The process of a BSI civil recovery involves coming to a repayment agreement to recoup overpaid benefits attributed to fraud. BSI sends all signed repayment agreements to the respective agency for collection.

In May 2023, BSI was notified that a directive from the Centers for Medicare and Medicaid Services prohibited MassHealth from collecting overpayments from its members. To comply with this new federal directive, BSI halted all civil recoveries in the MassHealth program and returned all completed investigations back to the agency. BSI has a continued pause on civil recoveries for completed MassHealth investigations.

Collaboration continued with MassHealth and AGO on the PCA Task Force investigating PCA fraud-related cases. During FY23, BSI participated in a joint investigation with the task force that determined the subject used her married name to apply as a consumer for services through the PCA program and her maiden name to apply as the PCA for herself. The subject submitted timesheets and was paid for the PCA services she fraudulently indicated that she provided to herself. The calculated amount of overpayment totaled \$36,897.30 for approximately two years of fraud. The case was recommended for criminal prosecution

and presented to the Grand Jury in Worcester Superior Court. Two indictments were issued: larceny over \$1,200—Section 30 of Chapter 266 of the Massachusetts General Laws—and Medical Assistance Fraud—Section 40 of Chapter 118E of the General Laws. The subject was sentenced to one year committed in a house of corrections on both counts to run concurrent with 200 days credited as time served.

During FY23, members of the PCA Task Force from MassHealth, AGO, and BSI conducted their second personal care management (PCM) | fiscal intermediary (FI)<sup>11</sup> stakeholder meeting. This meeting highlighted recent investigations and educated BSI’s partners on the information needed for our investigations to be successful. Stakeholder meetings have been beneficial to improving our communication with PCMs and FIs.

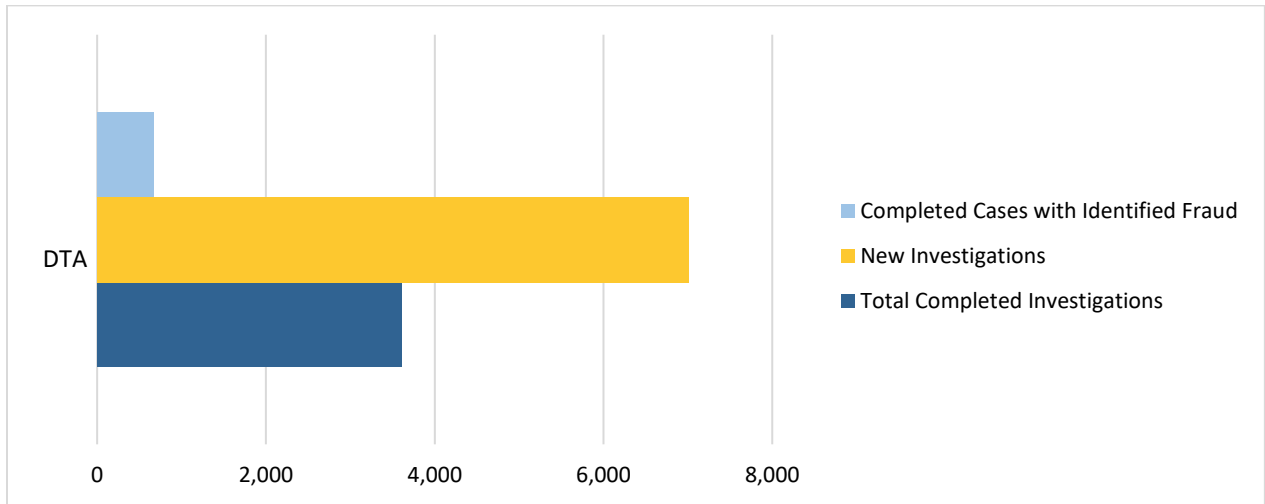
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<sup>11</sup> The federal government contracts private insurance companies—FIs—to administer its programs and process its payments.

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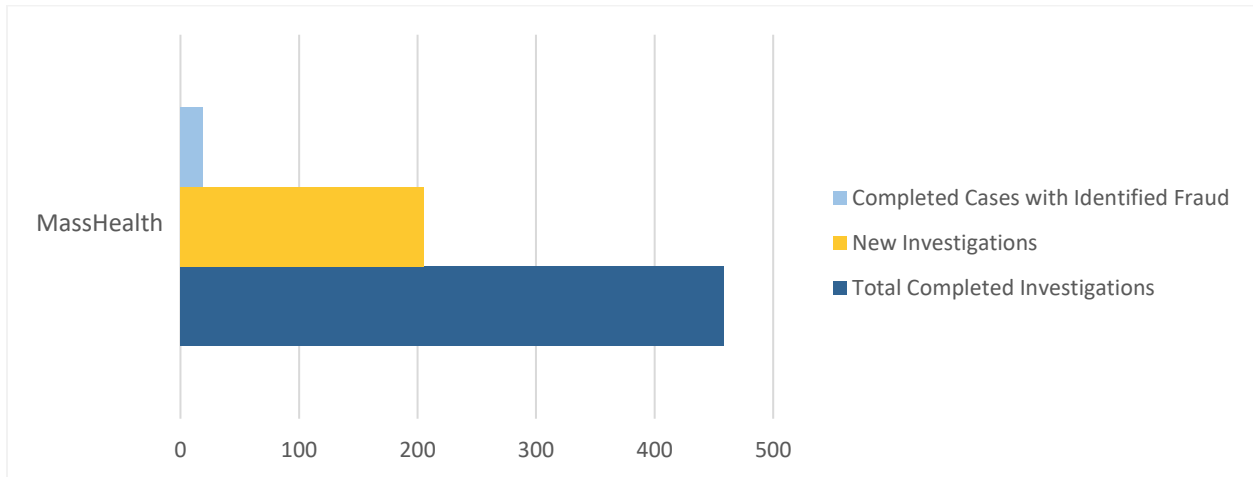
**Figure 4. FY23 DTA Caseload**



Note: BSI’s DTA caseload for FY23 included SNAP, TAFDC, and EAEDC cases.

During FY23, FIU continued to receive a high number of case assignments from referrals generated through multiple projects. These projects included the previously reported DTA Pandemic Unemployment Assistance (PUA) project and the PCA High Earner project. While the PUA project wound down, the PCA High Earner project ramped up. The findings from these projects were similar, in that examiners consistently found that, in cases of identified fraud, DTA cash and SNAP benefit recipients failed to report their receipt of unemployment insurance and PUA benefits or PCA income to DTA. Completed PUA cases with identified fraud were returned to DTA as IPVs for their administrative process and overpayment recovery.

**Figure 5. FY23 MassHealth Caseload**

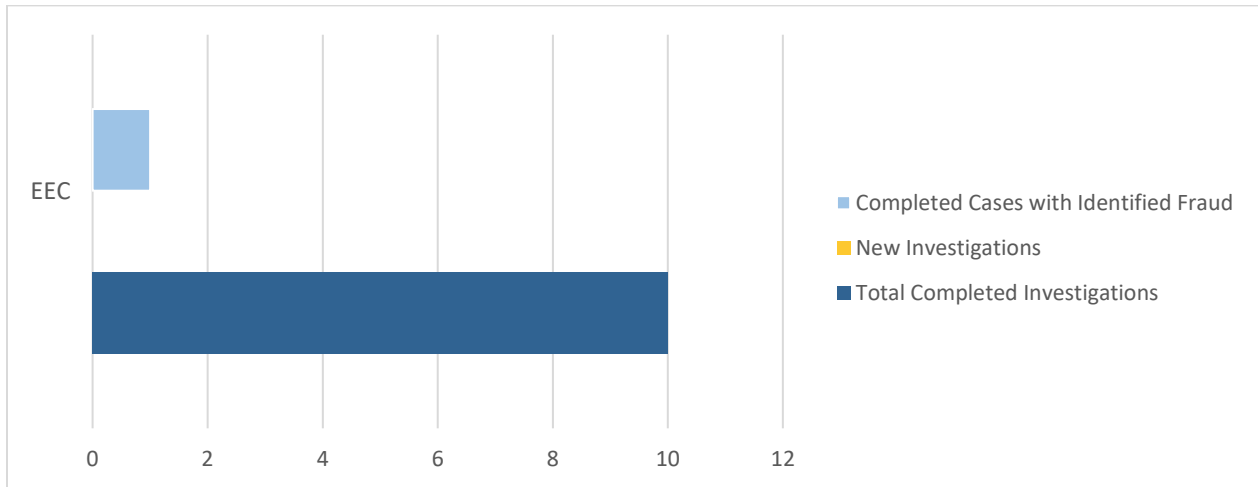


During FY23, BSI continued to improve its workflow with an FI, Tempus.<sup>12</sup> The streamlined procedure that BSI and Tempus implemented during the last fiscal year to request documentation and fraud calculations has improved organization and timely results for both agencies.

BSI continued to collaborate with MassHealth and AGO on the PCA Task Force on joint investigations of PCA fraud-related cases. During FY23, the PCA Task Force reviewed PCAs whose wages were well over \$100,000 during the 2022 tax year. BSI investigations in these cases reviewed whether the PCAs, who were also in receipt of other public benefits, held other employment that would hinder or interfere with their ability to earn such high PCA wages, and/or whether they accurately reported their earned income to the public benefits programs. These investigations identified PCAs who failed to report their PCA income and were overpaid public benefits as a result.

<sup>12</sup> As an FI, Tempus Unlimited, Inc. performs employer-required tasks and related administrative tasks for individuals, commonly referred to as consumers, in Massachusetts PCA programs. Following the FI merger in January 2022, Tempus now has the sole contract for FI services with the Executive Office of Health & Human Services—Office of Medicaid ([MassHealth PCA FI Program](#)).

**Figure 6. FY23 EEC Caseload**



Lastly, FIU completed four EEC investigations and identified \$340,492.76 in fraud. Because individuals suspected of defrauding EEC often also receive other forms of public assistance, BSI routinely checks whether they receive other public assistance benefits and, in particular, their reporting of household income and composition to other agencies. These supplemental investigations have led to the discovery of additional fraud perpetrated in DTA and MassHealth public benefit programs.

As part of BSI's expanding working relationship with EEC, BSI examiners participate in EEC's administrative hearings under the Informal Fair Hearings Rules provided by Section 10.11 of Title 606 of the Code of Massachusetts Regulations (CMR). The EEC administrative hearing provides BSI examiners the opportunity to explain their investigations and findings to EEC review officers.

## Data Analytics Unit

BSI's DAU generated 401 referrals for CPU analysis in FY23. In the majority of these referrals, CPU alleged that PCAs failed to accurately disclose their income to DTA and MassHealth as required while receiving public benefits.

DAU also identified and generated referrals for three MassHealth providers. The analysis focused on improper billing associated with a variety of dental services. Other analyses conducted by DAU in FY23 focused on behavioral health, durable medical equipment, laboratory, and PCA services. DAU also continued to field referrals from BSI's Public Assistance Fraud Hotline. During FY23, DAU received and analyzed 17 provider referrals made through the hotline, some of which are currently ongoing.

DAU continued the development of its Analytical Support Services. DAU's Analytical Support Services allow BSI examiners to choose from a suite of services designed to aid in the completion of data analysis tasks associated with their investigations. Some of these services include the creation of visualizations (maps, timelines, charts, graphs, etc.) for presentation in court and other settings; custom findings reports for the analysis of financial, healthcare, and other relevant data; network and social analysis; technical training; and Optical Character Recognition (OCR) services. In FY23, DAU received, processed, and completed eight Analytical Support Services requests. Among the services provided, highlights included processing bank records through OCR and analyzing the output, creating visualizations from various data sources, and creating finding reports for large-scale address analysis, financial records, and electronic benefits transactions (EBT). By collaborating with examiners and completing these requests, DAU was able to streamline investigations by automating otherwise manual processes in addition to summarizing vast amounts of information into a more easily digestible format.

In addition, DAU again focused on the overall development of its OCR and spatial analysis capabilities and the expansion of their respective use cases. Specifically, DAU made strides related to the automation of processing certain investigatory documents using OCR. Work conducted in FY23 resulted in the successful automated processing of financial records related to eight different bank account types from various financial institutions. These financial records only pertain to BSI's public benefit fraud investigations. Additionally, DAU made headway related to the automated processing of tax documents. During FY23, DAU developed a Department of Revenue Form 1 summary, which passed multiple quality checks and a proof of concept stage. A related summary of healthcare information, known as Schedule HC, was brought to intermediate development. These advancements are critical to improving the efficiency and

effectiveness of our work by automating BSI's tax transcription process during fraud investigations. DAU also made progress related to the automated processing of PCA timesheets. During FY23, DAU brought the processing of PCA timesheets for one FI, Tempus, to advanced development. Lastly, DAU continued work on a project to map and visualize the travel records of PCAs and other Medicaid providers. DAU made strides in the identification of providers whose claim behavior required closer examination and that effort is ongoing. This work allowed DAU to continue its development of recently acquired spatial analysis tools and enhance its overall spatial analysis capabilities.

DAU's continued efforts to enhance and further develop the Analytical Support Services program will assist in expediting the investigative process and streamlining certain operational functions within BSI. By utilizing these services, examiners and other units within BSI will improve time by reducing or eliminating manual processes. Additionally, these services provide BSI additional options in how information is processed, summarized, and presented during the investigative process.

DAU continues to support multiple state and federal partners through joint investigative work, in addition to accepting referrals for investigation and creating and sending referrals to the appropriate entities. For example, DAU is collaborating with federal partners, including the federal Office of the Inspector General for Health and Human Services on an ongoing analysis related to services provided within both the Medicaid and Medicare programs.

## Other BSI News

During FY23, BSI's training team, comprised of staff members from all units, continued identifying staff training needs; created informative and engaging trainings, presentations, and job aides; and effectively led training sessions for all BSI staff members. In preparation for onboarding a sizable cohort of newly hired fraud examiners, the training team refreshed BSI's training content—which consists of multiple presentations, job aids, and learning templates—to reflect up-to-date federal poverty limits and any updated benefit program information. Onboarding materials serve as useful guides and remain available for all BSI staff members to reference.

Following significant training on the process of conducting civil recoveries and interviews, BSI initiated 12 repayment agreements and disqualification consent agreements (DCAs), totaling \$371,570.25, during FY23. DCAs are agreements that subjects voluntarily sign to disqualify themselves from receiving further DTA and/or EEC benefits because of their IPVs. When pursuing civil recovery for DTA and EEC cases, DCAs are required as part of the civil recovery agreement.

Also during FY23, BSI internally promoted a supervising fraud examiner to assistant director of CPU following the retirement of the unit's former assistant director. A fraud examiner subsequently filled the vacated supervising fraud examiner role through an internal promotion. These changes required a considerable transfer of knowledge, both historical and practical.

Finally, FY23 featured the start of the final phase, Phase III, of BSI's new case management system (CMS) project. The new CMS is a platform where all staff members have access to a full case file without physically requesting information from the assigned examiner. The CMS has enhanced the process by which BSI personnel assign cases, request and save documents, request tasks, track case progress, log financials, and generate reports of investigations. Information requests and information-gathering tasks are assigned and tracked through the CMS and reports are generated within the CMS rather than in separate Word documents.

The functionality to assign and reassign cases in bulk was developed, tested, and added to the CMS as part of Phase III. Email capabilities and compatibility remain under testing. The CMS serves as an organized database for examiners to save case files with greater access to management and significantly decreases BSI's use of and reliance on paper. The ability to create allegation-based report templates and attach relevant documentary evidence to a report within the CMS has expedited examiners' administrative

processes following their investigations. Phase III of the project continues to allow for feature updates and workflow improvements that further enhance user-friendliness and satisfaction.

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## NOTABLE BSI ACTIVITY

### **Lynn Woman Indicted Twice for Welfare Fraud.**

In August 2021, a Lynn woman was indicted in the Essex County Superior Court in Salem on one count of larceny over \$1,200 and 31 counts of uttering a false writing. The indictments allege that over a period of approximately 10 years, the woman stole childcare benefits and SNAP benefits by providing false information to EEC. The indictments allege that the woman concealed the fact that she resided in an intact family with her spouse, the father of her children, who was gainfully employed. In addition, it is alleged that the woman provided false information to EEC and failed to accurately report her own income to appear eligible for benefits; she is alleged to have altered and/or forged income information on paystubs submitted to EEC. As a result, she allegedly stole approximately \$254,074.57 in childcare benefits from August 2011 through September 2021. On August 24, 2021, the woman pleaded not guilty at arraignment. In April 2022, 12 of the uttering charges were dismissed following a non-evidentiary hearing to dismiss. This case remains pending in Essex Superior Court.

On June 1, 2023, the woman was again indicted in the Essex County Superior Court, this time on one count of larceny over \$1,200, one count of receiving or embezzling stolen transitional assistance funds, two counts of uttering a false check, and three counts of public assistance fraud. The new indictments alleged that over a two-year period, the woman stole SNAP benefits by providing false information to DTA. The woman allegedly failed to accurately disclose her wages from employment as a PCA, provided false information to DTA, failed to accurately report her household's income to appear eligible for benefits, and altered and/or forged income information on paystubs submitted to DTA. As a result, she allegedly stole approximately \$24,331 in SNAP benefits from May 2020 through April 2022. On June 14, 2023, the woman pleaded not guilty at arraignment. This case also remains pending in Essex Superior Court.



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### **Quincy Woman Sentenced for Filing False Claims and Probation Violations.**

On July 14, 2022, a Quincy woman who owned and operated a counseling practice located in Quincy, pleaded guilty in Norfolk County Superior Court to two counts of Medicaid fraud, two counts of larceny under \$250, and one count of private health insurance fraud. She was indicted on these counts in November 2021. Between 2016 and 2021, the woman allegedly billed for services that were either not performed or not rendered by a licensed practice member and submitted false claims to MassHealth and private insurance with incorrect service/treating provider information. Upon reviewing the woman's bank accounts, it was determined that she used the money for personal expenses.

Shortly after her indictments in November 2021, the woman was indicted again, in Norfolk County Superior Court in December 2021. Charged with one count of larceny over \$1,200 and one count of filing a false healthcare claim, these indictments also related to her ownership and operation of her counseling practice. The false claims at issue, however, only involved Medicare, as the indictments alleged that the woman billed Medicare for services that were either not performed or not rendered by a licensed practice member. Similar to the previous indictments, the woman allegedly used the money acquired through this alleged fraud on the same kinds of personal expenses. She pleaded guilty to both of these counts on July 14, 2022, as part of a change of plea agreement.

At the time of indictment in November 2021 and December 2021, the woman was already on probation from two previous criminal cases, filed in 2015 and 2018 in Norfolk County Superior Court, respectively. In those cases, she was indicted for, and pleaded guilty to, larceny, public assistance fraud, uttering, and forgery in November 2020 for failing to accurately report her household income to EEC and DTA. The woman was sentenced to five years of probation, with the first year to be served with a GPS monitor and in-home confinement, with exceptions for work. As part of her probation, the woman was prohibited from any further criminal charges. The new 2021 indictments alleged that the provider fraud occurred before and after the change of pleas in both of these cases, in direct violation of her probation.

Following her change of plea to guilty, the woman was sentenced for the 2021 indictments, as well as the probation violations, on August 2, 2022. Her sentence ordered incarceration for three years, with credit for time served (255 days), probation for three years, and restitution totaling \$532,522.83 at \$150 per month repayment set to begin three months following her release. She was also excluded from the MassHealth program; she is prohibited from employment as a MassHealth provider or with another MassHealth provider and billing MassHealth for services rendered.

### **Framingham Woman Sentenced for Welfare Fraud.**

On October 3, 2022, a Framingham woman was sentenced by US District Court Judge Nathaniel M. Gorton to time served (approximately one day) and three years of supervised release, with the first 15 months to be served in home confinement. She also received an order to pay restitution totaling \$253,199.57 to the benefit agencies she defrauded. In March 2022, the woman pleaded guilty to four counts of the theft of public funds and two counts of making false statements. Over approximately 12 years, the woman allegedly stole \$68,223 in Social Security benefits, \$1,908 in MassHealth benefits, \$21,790 in SNAP benefits, and \$161,277 in Section 8 housing assistance by falsely claiming she lived alone when, in fact, she was living with her husband. Allegedly, she falsely informed the Social Security Administration about her household composition in June 2016, and she did the same with the Marlborough Community Development Authority in May 2017.

### **Marston Mills Woman Indicted for Childcare and Welfare Fraud.**

On May 24, 2023, a Marston Mills woman was indicted for allegedly receiving childcare and DTA benefits fraudulently. The woman faces one count of larceny and four counts of theft of public funds. The indictment alleges that between 2015 and 2020, the woman failed to report her spouse, the father of her children, as a part of her household and that she failed to report his income. As a result, his income was not counted when the benefits programs determined her eligibility and it is alleged she stole approximately \$110,890.99 in EEC benefits from June 2015 through November 2020, \$29,177 in SNAP benefits from January 2015 through January 2019, and \$3,927.55 in TAFDC benefits from May 2018 through August 2018. This case is currently pending in Barnstable County Superior Court.

### **BSI Participation in Document and Benefit Fraud Task Force Sustained.**

BSI received 48 referrals in FY23 as an active member of the US Attorney's Public Assistance Fraud Task Force. BSI also continued to serve on the Homeland Security Investigation's Document and Benefit Fraud Task Force (DBFTF), which comprises various local, state, and federal agencies with expertise in detecting, deterring, and disrupting organizations and individuals involved in various types of document, identity, and benefit fraud schemes.

DBFTF's "Double Trouble" investigation continued to identify suspects who allegedly obtained stolen identities of US citizens living in Puerto Rico and then used those identities to obtain documents and public benefits that they would not otherwise be eligible to receive. Most frequently, these benefits included

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Registry of Motor Vehicles identity documents, Social Security numbers, Medicaid, unemployment compensation, and public housing subsidies. During FY23, this task force expanded its investigations to include other public benefits programs. Also during FY23, one defendant was sentenced in a Double Trouble case.

On March 22, 2022, a resident of the Dominican Republic, previously residing in Lawrence, pleaded guilty to one count of false representation of a Social Security number. When applying for a Massachusetts driver's license, he presented the name, Social Security number, and date of birth of a US citizen from Puerto Rico. In addition, he received approximately \$6,117 in unemployment insurance benefits in the name of the stolen identity. During the investigation, Social Security records revealed that the victim, whose identity was stolen, resided in Puerto Rico and had never been to Massachusetts, let alone applied for benefits in Massachusetts. Charged with one count of false representation of a Social Security number and one count of identity theft, he was arrested as part of a sweep conducted in December 2018. (<https://www.justice.gov/usao-ma/pr/six-arrested-lawrence-identity-theft-and-social-security-fraud>)

On September 21, 2022, US District Court Judge Richard G. Stearns sentenced the individual to one year and a day in prison and two years of supervised release. He was ordered to pay \$100 in restitution and will be subject to deportation upon the completion of his sentence.

### **BSI Affirmative Litigation.**

In January 2022, BSI pursued affirmative litigation following Middlesex Savings Bank's (MSB's) refusal to comply with an information request BSI initiated in accordance with Section 17(10) and (12) of Chapter 11 of the Massachusetts General Laws. In an effort to determine whether accurate income and asset information was provided to the public benefits program for the subject of one of BSI's investigations, the investigating examiner issued an information request to MSB for bank statements and other materials from the subject's known accounts. MSB refused to comply with the request and declined to provide the subject's bank records without a signed release or subpoena.

Represented by counsel from AGO, BSI initiated an administrative civil action. BSI maintained that its "power to examine financial records under G.L. c. 11, § 17(10) necessarily encompasses the power to retrieve, retain, and disseminate copies of those records for purposes authorized by G.L. c. 11, § 17, and the Auditor's rules and regulations. G.L. c. 11, § 12; G.L. c. 11, § 16; 965 CMR § 2.00 (Fair Information Practices Act)." (*Commonwealth of Massachusetts v. Middlesex Savings Bank*, (2023)). In its reply to BSI's

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complaint, MSB asked the court to dismiss BSI's complaint or in the alternative order MSB's compliance with BSI's information request. MSB maintained that BSI's request was not a duly authorized summons or subpoena, that BSI lacked statutory authority to issue a summons or subpoena to produce records, and that compliance with BSI's request, absent a duly authorized summons or subpoena, conflicted with MSB's privacy obligations to its client(s).

MSB's lack of compliance stemmed from their contention that it was "not obligated to obey BSI demands for financial (records) under §§17(10), (12) absent a judicial order under G.L. c. 214, §§3(12)-(13)." In support of its position, MSB argued that BSI's statutory authority did not identify BSI's written request as a summons or subpoena, that a bill proposed by the Auditor in 2015 was indicative of BSI's inability to self-enforce compliance with its requests, and that a court judgment was necessary to enforce MSB's compliance within a reasonable time. The crux of MSB's opposition, however, rested on its dispute of BSI's information request constituting a self-enforcing order, given that it was a "written request" and BSI's authorizing statute did not use terms like "order," "summons," or "subpoena." *Commonwealth of Massachusetts v. Middlesex Savings Bank*, (2023).

BSI maintained that its information request was a lawful directive that MSB was "explicitly *mandated* to comply with," that the request's lack of self-enforcement did not negate MSB's obligation to comply, and that MSB's compliance was not precluded by any privacy obligations. *Commonwealth of Massachusetts v. Middlesex Savings Bank*, (2023).

In January 2023, Superior Court Judge Robert B. Gordon ordered MSB to produce all responsive documents to BSI within five days and to refrain from disclosing the terms of the order to the subject until at least two days after the records' production was completed. Justice Gordon found that the lack of self-enforcement within BSI's authorizing statute was immaterial and did not erode its legal force altogether. He held, "The fact remains that the BSI, acting within the scope of its express authority to request and review records deemed relevant to a public fraud investigation, issued an order that the Bank (MSB) produce financial records of the Subject that are within the Bank's possession." *Commonwealth of Massachusetts v. Middlesex Savings Bank*, (2023). MSB did not appeal this order and produced the requested financial records in February 2023.

This litigation was the first judicial affirmation of BSI's investigatory authority under Section 17 of Chapter 11 of the General Laws.

While the bulk of cases BSI investigates are referred from state agencies and law enforcement, the general public also plays a vital role in reporting fraud. The State Auditor's Office has an online form to report public assistance fraud: <https://www.mass.gov/forms/report-public-benefit-fraud-online>. Citizens can also use BSI's fraud reporting hotline: (617) 727-6771.

All complaints are kept confidential.