



OFFICE OF THE INSPECTOR GENERAL
COMMONWEALTH OF MASSACHUSETTS

GLENN A. CUNHA
INSPECTOR GENERAL

2020 Annual Report

APRIL 30, 2021

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2020 HIGHLIGHTS

In 2020, the Office of the Inspector General (Office) transformed its operations in response to the COVID-19 health emergency. However, the pandemic did not change the Office's mission, the dedication of its employees or its commitment to making government better. In short, the Office continued to work hard for the people of the Commonwealth throughout the last year.

In March 2020, concerned about the health and safety of his staff, Inspector General Glenn A. Cunha closed the Office's physical workplaces and directed all employees to work from home during the public health crisis. The Office's staff quickly adapted to ensure that they continued to fulfill the Office's important mission. This monumental task included equipping every employee with the technology and other tools they needed to work remotely, moving the Office's professional training classes online, developing protocols for conducting remote investigations and reviews, and enhancing internal controls to protect public funds.

In response to the pandemic, the Office transformed its operations in order to continue fulfilling its work on behalf of the people of the Commonwealth

The pandemic also created other challenges. For instance, complaints to the Office's fraud hotline soared – increasing 31% in March, another 28% in April and an unprecedented 172% in May. In total, the Office responded to 2,986 complaints on its fraud hotlines in 2020, more than double the 1,368 investigators answered in 2019.

Because the pandemic created new fraud risks, the Office increased its oversight, opened COVID-19-related investigations, and created new programs and guidance to help state and local governments

Furthermore, new state and federal programs designed to help individuals, businesses and governments weather the economic impacts of COVID-19 also inadvertently created new fraud risks. The Office responded to these risks, opening investigations related to COVID-19 fraud; reviewing vendors' reporting requirements for COVID-19-related spending; and providing advice on the oversight of Coronavirus Aid, Relief and Economic Security (CARES) Act funding.

The Office also found ways to assist public employees facing new challenges because of the pandemic. It issued guidance outlining how state agencies can safeguard public funds during the pandemic, including providing model best practices to use before and after purchasing pandemic-related supplies and services. The Office also created trainings for municipal employees newly placed in procurement roles because of the pandemic, and it launched a consolidated [OIG COVID-19 Information and Resources](#) page on the Office's website. This page offers advice on navigating emergency purchases and virtual bidding for public entities, as well as complying with recordkeeping requirements in a virtual and telework environment. In addition, the Office worked with the COVID-19 Response Command Center to address hotline complaints about inadequate personal protective equipment and staffing levels at group homes.

In addition to addressing the challenges related to COVID-19, the Office maintained its commitment to detecting, preventing and correcting fraud, waste and abuse of public money and resources across the Commonwealth. The Office's work – which included investigations, reviews, collaborations and trainings – spanned numerous areas of state and local government, including public safety, transportation, library services, education, healthcare and public administration. The Office's efforts resulted in criminal convictions, policy changes, new legislation, stronger internal controls and expanded training opportunities for public employees. Furthermore, in 2020, investigations initiated by the Office recovered over \$1.8 million for public entities through settlements, restitutions, fines and repayments.

In 2020, the Office's work spanned all sectors of the government and led to criminal convictions, civil settlements, stronger internal controls, policy changes, improved operations and the recovery of over \$1.8 million for the Commonwealth and local governments

Looking more closely at each division, in 2020, the **Audit, Oversight and Investigations Division** (Investigations Division) conducted investigations and reviews into a broad range of alleged misconduct, including fraud, bribery, theft, extortion, public corruption, absenteeism, waste of public assets, mismanagement, self-dealing and nepotism. For instance, the Investigations Division conducted a joint investigation with the Massachusetts Attorney General's Office that resulted in the indictment of an accountant for allegedly stealing more than \$930,000 from the towns of Uxbridge, Monterey, Wenham and Millville. The Investigations Division also reviewed the negotiations surrounding two police contracts in the city of Methuen. After the Office issued its public report on the contracts, Methuen's mayor placed the city's longtime police chief on leave. A short time later, the police chief announced his retirement.

While continuing to fulfill its statutory mandate to conduct reviews and investigations related to the Executive Office of Health and Human Services, in 2020, the **Bureau of Program Integrity** (Bureau) also supported the development of a program integrity unit within the Department of Developmental Services. The Bureau also worked to improve the Department of Transitional Assistance's (DTA) fraud detection capabilities while its applications for benefits assistance soared. For example, the Bureau made recommendations about improving the quality of DTA's data collection during benefits eligibility processing. The Bureau also assisted DTA with improving its access to data from the Department of Unemployment Assistance (DUA). Access to DUA data was crucial in the spring of 2020 when applications to both DUA and DTA increased dramatically.

The legislature created the **Division of State Police Oversight** (State Police Division) in response to the discovery that some troopers in Massachusetts State Police (MSP) Troop E, which patrolled the Massachusetts Turnpike, were being paid for overtime shifts they had not worked. In 2020, the State Police Division continued its effort to determine whether comparable overtime abuses exist in other troops, reviewing Troop A's federally funded overtime shifts. The State Police Division did not find that any troopers in Troop A missed a full four-hour overtime shift, but it did find indications that 33 troopers failed to complete 93 overtime shifts. The State Police Division also found that, contrary to MSP policy, troopers often treated their commute to and from work as part of their overtime shift.

The **Internal Special Audit Unit** (Transportation Unit) continued its work examining and evaluating the Massachusetts Department of Transportation (MassDOT) and working collaboratively with MassDOT to ensure the quality, efficiency and integrity of the department's operating and capital programs. Among other activities, the Transportation Unit identified significant overbilling by NEL Corporation (NEL), a company that MassDOT hired to maintain and repair bridges throughout the Commonwealth. The Transportation Unit collaborated with the Office's Civil Recovery Unit and the Attorney General's Office to recover \$700,000 from NEL. The Transportation Unit also continued its in-depth review of the Merit Rating Board, the division within the Registry of Motor Vehicles responsible for maintaining and updating driving records.

The **Legal Division** assisted the Office in its response to the COVID-19 crisis with legal analysis of pandemic-related legislation. In addition, the Legal Division spearheaded the Office's continued work arising from the Hinton Drug Lab crisis and the Office's comprehensive investigation. Throughout 2020, the Legal Division represented the Office as an interested party in Hinton Drug Lab post-conviction litigation and led the Office's production of a summary of its investigation methodology.

Created in 2019 to assist the Office recover public funds, the Legal Division's **Civil Recovery Unit** works closely with the Attorney General's Office to identify specific investigations in which government employees or public contractors submitted false claims, wasted public funds or engaged in other wrongdoing. The Office's enabling statute provides a mandate to conduct civil recovery actions and, since its inception in 2019, the Civil Recovery Unit has worked to recoup funds the Commonwealth and local governments have lost because of false claims, breaches of contract, predatory sales practices and other misconduct.

The **Policy and Government Division** (Policy Division) is responsible for overseeing many of the Office's legislative mandates, including a requirement to report annually on healthcare spending by the Massachusetts Medicaid (MassHealth) and Health Safety Net programs. In 2020, the Policy Division reviewed MassHealth's payments for adult foster care and sleep studies. The division also continued to work with MassHealth to promote the use of background checks before MassHealth members hire a personal care attendant. Separately, the Policy Division continued to participate in the development of policies and procedures related to the Commonwealth's public design and construction laws, reviewed public land transactions and provided input on more than 100 pieces of legislation.

The **Regulatory and Compliance Division** (R&C Division) continued to help state and local government employees use best practices and comply with Massachusetts' public purchasing laws. This assistance included responding to 1,196 inquiries on the Office's Chapter 30B hotline about public bidding laws, good governance, and best practices for purchasing supplies and services. As mentioned above, in response to the COVID-19 health emergency, the R&C Division converted the Office's professional training program – known as the MCPPO program – from mostly live and in-person classes to

1,196
Chapter 30B
Hotline Calls
Received in 2020

100% online. The R&C Division also expanded the curriculum for the MCPPO program, including introducing 60-to-90-minute webinars, adding videos to the Office's YouTube Channel, and developing asynchronous online trainings. MCPPO also streamlined its registration process. Together, these initiatives attracted a record 5,046 participants to trainings in such topics as procurement law, fraud awareness, public governance, diversity and inclusion in public purchasing, contract administration, leadership and public construction.

The Office recognized the R&C Division's quick and efficient conversion to an online training platform and the importance of providing professional development opportunities during the pandemic by awarding it the first-ever John William Ward Performance Recognition Award.

During 2020, the Office also continued to cultivate a diverse, skilled and engaged workforce dedicated to excellence, teamwork and the highest standards of professional conduct within a supportive, inclusive and collaborative work environment. In response to the Office's strategic plan, the Office created the Diversity, Equity and Inclusion (DEI) Committee, which strives to help the Office implement best practices to promote diversity, equity and inclusion in the workplace. The DEI Committee also assists the Office in recruiting and retaining a diverse workforce that is highly skilled and invested in the Office's mission. In addition, the committee creates programs to facilitate conversations about racism, social justice and equity, including programs to empower employees to be allies and advocates in the Office and in their communities.

In March 2020, the Office welcomed its first [Justice Geraldine S. Hines Legal Fellow](#). And in July, the first [Dr. Frances Burke Investigator Fellow](#) marked her one-year anniversary with the Office. The Office established the two-year fellowship programs in 2019 to improve its recruitment and retention of a talented and diverse workforce. The fellowships provide substantive and valuable experience to individuals with strong commitments to public service. In January 2021, seven months ahead of schedule, Inspector General Cunha promoted the first Burke Fellow, making her a full-time investigator. The Office is currently in the process of selecting its second Hines Legal Fellow and Burke Fellow.

Further details about the activities summarized above, as well as the results of additional investigations, reviews and other projects, are set forth in the rest of this report.

ABOUT THE OFFICE

The Office of the Inspector General for the Commonwealth of Massachusetts (Office) is an independent state agency charged with preventing and detecting fraud, waste and abuse in the use of public funds and public property. By statute, the Office has broad authority to oversee the use of state, local and federal funds by state and local governments, as well as by those who receive government funds or use public property. This includes state agencies, counties, cities, towns, quasi-governmental authorities and districts, as well as individuals, corporations, and not-for-profit organizations that do business with the government.

To fulfill its broad mandate, the Office investigates allegations of fraud, waste and abuse at all levels of government and reviews programs and practices to identify vulnerabilities and opportunities for improvement. It also conducts investigations into companies and other organizations, such as vendors that contract with state and local governments to provide goods and services.

When conducting an investigation or review, the Office has the authority to subpoena records, interview witnesses and take testimony under oath. At the completion of an investigation, review or other project, the Office may issue a letter or report detailing findings and outlining recommendations to prevent future fraud, waste and abuse. In some instances, the Office will offer training, policy guidance or technical assistance. In other cases, the Office may require the agency, city or town to submit a corrective action plan detailing the measures it will take to address the problems identified during the Office's investigation.

Further, the Office reports suspected criminal activity to the appropriate authorities, including the Massachusetts Attorney General's Office and the U.S. Attorney's Office. In addition, the Inspector General meets regularly with the Inspector General Council to discuss the Office's activities.

Prevention is a key component of the Office's mission. In addition to investigations and reviews, therefore, the Office devotes much of its work to preventing the misuse of government resources. For example, the Office collaborates with state agencies to strengthen their operations, internal controls and program integrity efforts, which reduces risks, saves money and improves services. The Office also provides training to help prevent fraud, waste and abuse in government spending. It offers personalized guidance to local government employees on issues that arise under the Uniform Procurement Act, Chapter 30B of the Massachusetts General Laws (Chapter 30B), which governs the purchase and disposition of supplies, services and real property by municipalities and other public entities.

To achieve its mission, the Office is organized into eight divisions: Administration and Finance; Audit, Oversight and Investigations; the Bureau of Program Integrity; the Division of State Police Oversight; the Internal Special Audit Unit; Legal; Policy and Government; and Regulatory and Compliance.

The **Administration and Finance Division** provides vital support to the entire Office by managing the Office's finances, human resources, case management system, information technology, operations and purchasing. Since early 2020, the Administration and Finance Division has also played a key role in the Office's response to COVID-19. The Administration and Finance Division was (and is) an integral part

of the Office's response team, providing input for new policies and guidelines, addressing staff questions and concerns, providing assistance and strategies for remote working, and addressing safety and risks related to the pandemic.

The **Audit, Oversight and Investigations Division** (Investigations Division) investigates allegations of criminal and civil misconduct in the use of public funds. When an investigation reveals potential criminal conduct, the Investigations Division often works closely with other law enforcement agencies – such as the Federal Bureau of Investigation, the state police, federal inspectors general and local police departments – as well as with prosecutorial agencies – including the Attorney General's Office, the U.S. Attorney's Office and local district attorneys' offices. Further, the Investigations Division works on matters involving potential civil actions, either directly with the affected agency or in conjunction with the Attorney General's Office. At any given time, the Investigations Division may be investigating allegations of bribery, theft, extortion, time fraud, false claims, mismanagement, favoritism and other wrongdoing.

Additionally, the Investigations Division works to prevent and detect fraud, waste and abuse by conducting systemic reviews, proposing legislative and regulatory changes and recommending improvements to internal and financial controls in the expenditure of public funds. The Investigations Division also issues public advisories and letters to help state and local governments reduce fraud, waste and abuse.

The **Bureau of Program Integrity** (Bureau) conducts oversight of the agencies and programs within the Executive Office of Health and Human Services (EOHHS). The Bureau monitors the quality, efficiency and integrity of programs administered by EOHHS agencies and seeks to prevent, detect and correct fraud, waste and abuse. The Bureau consults and collaborates with EOHHS agencies while conducting this oversight.

The **Division of State Police Oversight** (State Police Division) monitors the quality, efficiency and integrity of the Massachusetts State Police's (MSP) operations, organizational structure and management functions.¹ Additionally, the State Police Division seeks to prevent, detect and correct fraud, waste and abuse in the expenditure of public funds and monitors policy changes instituted as a result of the MSP's certification or accreditation by a state or national police accrediting agency pursuant to Section 73 of Chapter 22C of the Massachusetts General Laws.

The **Internal Special Audit Unit** (Transportation Unit) monitors the quality, efficiency and integrity of the Massachusetts Department of Transportation's (MassDOT) operating and capital programs. Additionally, the Transportation Unit provides oversight of the Massachusetts Bay Transportation Authority. As part of its statutory mandate, the Transportation Unit seeks to prevent, detect and correct fraud, waste and abuse in the expenditure of public and private transportation funds. The Transportation Unit is also responsible for examining and evaluating MassDOT's operations, including its governance, risk-management practices and internal processes.

¹ Section 72 of Chapter 22C of the Massachusetts General Laws refers to the Division as "an internal special audit unit." The Inspector General renamed the State Police Division to avoid confusion with the previously created Internal Special Audit Unit within the Department of Transportation (see M.G.L. c. 6C, § 9).

The **Legal Division** provides essential legal advice to the Office and manages legal strategy in all Office litigation. Attorneys in the Legal Division represent the Office in state and federal court, draft and review legislation, teach procurement law and provide guidance on state and local public procurement matters. Attorneys in the Legal Division also assist the Office's investigative divisions on legal issues that may arise during an investigation, audit or review by assisting during formal interviews; analyzing evidence; conducting legal research; coordinating responses to and enforcing summonses; and liaising with state, municipal and private entities. In addition, the Legal Division also plays a key role in compliance and internal controls within the Office.

Attorneys in the Legal Division's **Civil Recovery Unit** investigate and pursue civil actions to recover money on behalf of the Commonwealth and local governments. These attorneys work closely with the other investigative units within the Office, frequently partnering on investigations that may be appropriate for civil recovery. The Civil Recovery Unit also works closely with the Attorney General's Office when developing matters for litigation or preparing for settlement.

The **Policy and Government Division** (Policy Division) oversees the Office's policy, healthcare and legislative initiatives. The Policy Division is responsible for carrying out the legislature's annual mandate for the Office to study and review the Massachusetts Medicaid and Health Safety Net programs. The Policy Division also reviews programs and practices in state and local agencies to identify system-wide vulnerabilities and opportunities for improvement.

In addition, the Policy Division helps develop policies and procedures related to the Commonwealth's public design and construction laws. The Policy Division works with state agencies and authorities throughout the Commonwealth to establish best practices in public construction. Each year, the Policy Division reviews public design and construction projects, methods and practices, as well as public real property transactions, to ensure that the public's interests are protected. Finally, during each legislative session, the Policy Division reviews and comments on numerous pieces of legislation, meets with and provides guidance to legislators and municipalities and responds to requests from the Governor's Office to review proposed legislation before it is signed into law.

The **Regulatory and Compliance Division** (R&C Division) leads the Office's educational initiatives, including the Massachusetts Certified Public Purchasing Official (MCPPO) program, and provides guidance to state and local employees about public procurement, governance and fraud prevention and detection.

In Massachusetts, state and local public purchasing officials are responsible for obtaining the supplies, services and facilities needed to provide services to their communities, stakeholders and constituents. These purchases involve considerable expenditures of public funds. As a result, it is vital that state and local employees understand public purchasing and comply with all legal requirements. To meet this vital need, the R&C Division provides training and professional development through the MCPPO program, which offers a wide range of classes concerning good government, including public purchasing, internal controls, board governance, contract administration and fraud prevention. Other state agencies make valuable contributions to the program, including providing speakers and instructors on specialized

topics. The R&C Division also publishes manuals and advisories, and it works with other divisions to publish the Office's quarterly [*OIG Bulletin*](#).

To further assist state and local employees, the R&C Division offers a hotline to respond to inquiries and complaints concerning the purchase of supplies, equipment, services and real estate in accordance with Chapter 30B. The R&C Division also interprets and formulates policies on Chapter 30B.

RECOVERIES

Often, the Office's efforts result in agencies, municipalities, companies and individuals recovering funds that properly belong to them. These recoveries take different forms, including settlements, negotiated agreements, court-ordered restitution, fines and repayments. Moreover, the Office's referrals, reviews and investigations lead to the imposition of fines or civil penalties against individuals or organizations. The Office's work also leads to the prevention of improper payments.

In 2020, the Office's investigations and reviews resulted in \$1,802,940 in restitutions and settlements. See Figure 1 below. Further details about the matters listed in Figure 1 appear throughout the rest of this report.

Matter	Type of Recovery	Amount
Pioneer Products/Noble Industrial Supply	Settlement	\$850,000
NEL Corporation	Settlement	\$700,000
Donna Scott	Restitution	\$45,000
Kevin O'Brien	Settlement	\$80,000
Robert Freniere	Settlement	\$30,000
Glenn Kemper	Repayment	\$27,440
Glenn Kendall	Restitution	\$20,000
Mary Jane Czupryna	Restitution	\$16,000
All States Asphalt, Inc.	Reimbursement	\$13,000
Katelynn Sullivan	Restitution	\$11,500
Francois Fils-Aime	Restitution	\$10,000
Total		\$1,802,940

Figure 1. List of 2020 Recoveries.

HOTLINES

I. Fraud, Waste and Abuse Hotlines

The Office is committed to ensuring that individuals can confidentially report suspected wrongdoing in the use of public funds or assets. The Office therefore operates a general fraud hotline for individuals to report suspected wrongdoing involving local, state or federal funds. It also has created a specialized transportation hotline to report suspected fraud, waste or abuse related to public transportation programs and the misuse of transportation funds.

All complaints to the Office's hotlines are treated confidentially, and individuals can choose to submit a complaint anonymously. The Office evaluates each complaint to determine whether it falls within the Office's jurisdiction and whether it warrants action. Some complaints lead to extensive investigations, some are referred to other agencies and others are closed if a preliminary inquiry fails to substantiate the allegations.

While not all complaints result in an investigation or review, many uncover wrongdoing, such as corruption, theft, fraud, favoritism in selecting contractors, mismanagement and wasteful spending. Complaints also lead to improvements in how government agencies operate, as well as to cost recoveries and civil settlements.

The Office has received 9,959 hotline complaints between January 1, 2013, and December 31, 2020. In 2020 alone, the Office received and responded to 2,986 complaints. The general fraud hotline received 2,774 complaints while the transportation fraud hotline received 212 complaints. The complaints covered a variety of topics, including embezzlement, procurement fraud, public corruption, time theft and abuse of the federal Paycheck Protection Program. The complaints came from all over the Commonwealth and involved numerous areas of government, such as administration, education, housing, public safety, public benefits, state services and transportation.

Many complaints in 2020 related to unemployment insurance fraud associated with the COVID-19 pandemic, with the Office fielding 250 unemployment insurance complaints in a single week in May. Overall, the Office referred 1,208 complaints to the Program Integrity team at the Massachusetts Department of Unemployment Assistance.

Fraud Hotlines Uncover

Corruption

Theft

Time Fraud

Mismanagement

Wasteful Spending

And More

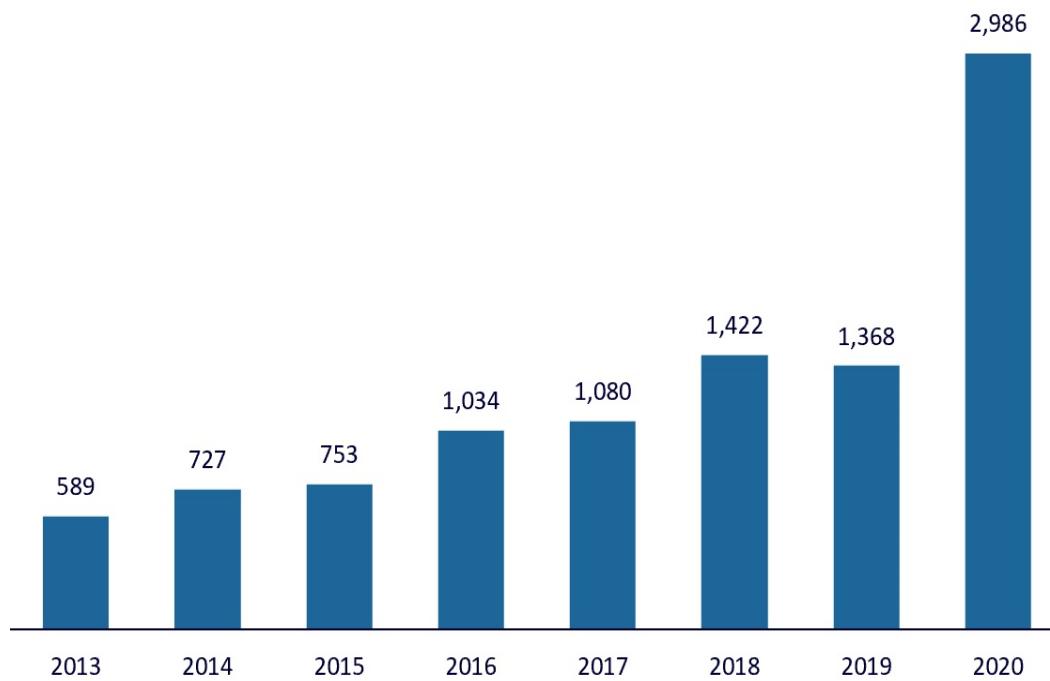


Figure 2. Fraud Hotline Complaints by Calendar Year.

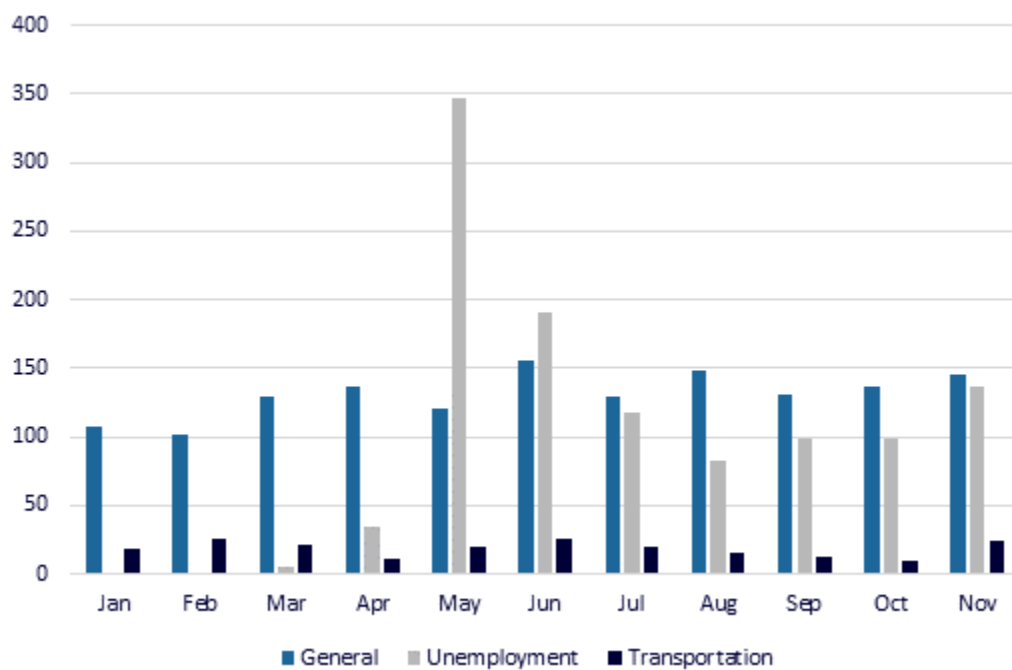


Figure 3. Fraud Hotline Complaints by Month (2020).

II. Chapter 30B Hotline

Fraud prevention is critical to improving government and safeguarding public assets. Consequently, the Office has established a hotline to respond to questions and complaints concerning public procurements and public bidding laws, including Chapter 30B of the Massachusetts General Laws (Chapter 30B). Through the hotline, the Office helps state and local employees to comply with bidding laws and to conduct fair, open and competitive procurements. Calls to the hotline also lead public entities to rebid contracts, strengthen procurement procedures, institute internal controls and implement other improvements.

The Chapter 30B Hotline is a resource to help public employees protect public funds and comply with public purchasing laws

In 2020, the Office responded to 1,196 inquiries and questions about Chapter 30B, public construction bidding laws, local purchasing requirements, fraud prevention and internal controls.

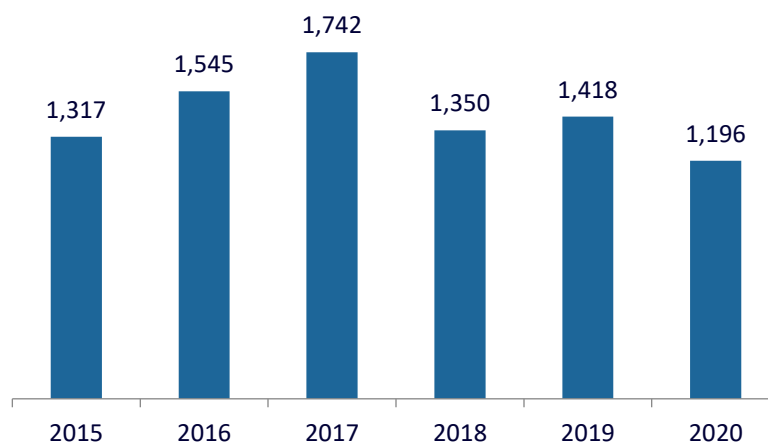


Figure 4. Chapter 30B Hotline Calls by Calendar Year.

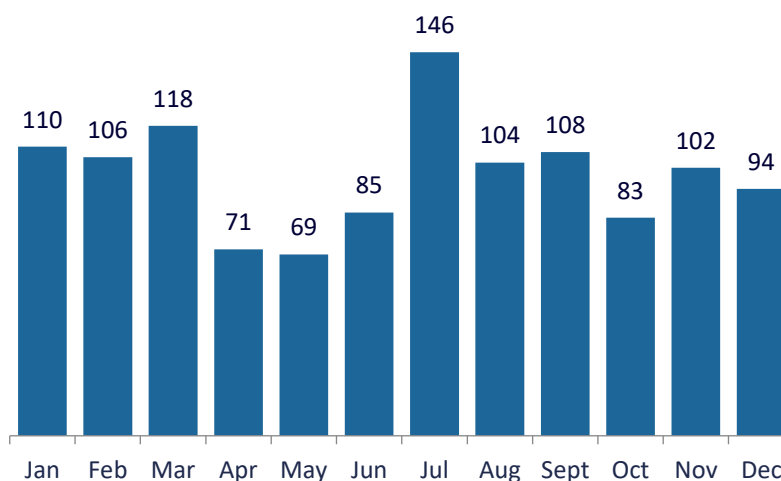


Figure 5. Chapter 30B Hotline Calls by Month (2020).

AUDIT, OVERSIGHT AND INVESTIGATIONS DIVISION

As previously discussed, the Audit, Oversight and Investigations Division (Investigations Division) investigates possible misconduct in the use of public funds and property and recommends improvements to operational and financial controls. The Investigations Division also reviews potential waste and abuse of public funds. As part of its work, the Investigations Division manages the Office's general fraud hotline.

Audit, Oversight and Investigations Division

- Investigates Criminal and Civil Misconduct
 - Recommends Improvements to Internal Controls
 - Manages Fraud Hotline
-

In 2020, the general fraud hotline received 2,774 complaints, more than double the 1,173 complaints it received in 2019. Many complaints in 2020 were about unemployment insurance fraud associated with the COVID-19 pandemic, with the Investigations Division fielding 250 unemployment insurance complaints in a single week in May. Overall, the Investigations Division referred 1,208 complaints to the Program Integrity team at the Massachusetts Department of Unemployment Assistance. In addition, the Investigations Division responded to 1,566 unique complaints on other issues, which led to new cases on a variety of topics, including embezzlement, procurement fraud, public corruption and abuse of the federal Paycheck Protection Program. The work of the Investigations Division spanned many areas of government, including administration, education, housing, public benefits and public safety.

When the Investigations Division identifies criminal misconduct, it works with prosecutors to bring those responsible to justice. In 2020, the Investigations Division worked on criminal cases with the Massachusetts Attorney General's Office, the U.S. Attorney's Office for the District of Massachusetts and district attorneys' offices.

The Investigations Division also works closely with other divisions in the Office. In 2020, the Investigations Division collaborated with the Legal Division's Civil Recovery Unit on an investigation into a high-pressure and misleading telemarketing operation; the investigation led to the recovery of \$850,000 for municipalities and the Commonwealth. The Investigations Division also teamed up with the Transportation Unit for its operational review of the Merit Rating Board. The Investigations Division's collaboration with the Bureau of Program Integrity led to the successful prosecution of the manager of a group home run by the Department of Developmental Services for stealing \$16,000 worth of groceries. The manager agreed to repay the Commonwealth for the stolen groceries.

In 2020, the Investigations Division worked on many investigations – either on its own or with prosecutors – that are not yet public. Below is a summary of the Investigations Division's work from 2020 that has become public through indictments, settlements, public letters and public recommendations for corrective measures.

I. Administration

A. Former Town Accountant

The Office conducted a joint investigation with the Attorney General's Office that led to multiple indictments against Justin Cole, the former town accountant for the town of Uxbridge, for allegedly stealing more than \$930,000 from the towns of Uxbridge, Monterey, Wenham and Millville between December 2012 and June 2018.

Mr. Cole worked as Uxbridge's town accountant between 2007 and 2018. During the same time period, Mr. Cole also provided accounting services to the towns of Wenham, Millville and Monterey through his company, Baystate Municipal Accounting Group. According to the allegations in the indictment, Mr. Cole stole money from the towns by submitting fake invoices from companies he owned for services those companies never provided. Mr. Cole also used town of Uxbridge funds to buy software and pay rent for his private businesses. The indictments allege Mr. Cole stole \$855,475 from Uxbridge, \$24,597 from Monterey, \$47,600 from Millville and \$3,478 from Wenham.

Mr. Cole was indicted on seven counts of larceny over \$250, two counts of larceny over \$1,200, six counts of presentation of false claims, four counts of unwarranted privilege by a municipal employee and one count of financial interest by a municipal employee. Mr. Cole is presumed innocent until proven guilty.

B. Former Mayor of Fall River and Associates

The Office has previously reported on the criminal cases involving former Fall River Mayor Jasiel F. Correia II and his associates. In 2018, Mr. Correia was indicted for allegedly defrauding investors in a company called SnoOwl by using company funds on vacations, entertainment and other personal expenses. In 2019, a federal grand jury charged Mr. Correia with bribery, conspiracy to commit extortion, extortion, aiding and abetting, wire fraud and filing false tax returns. Several of the charges alleged he extorted more than \$600,000 in cash and other benefits from individuals seeking to open licensed marijuana businesses in Fall River. The indictments were the result of a joint investigation by the Office, the U.S. Attorney's Office, the Federal Bureau of Investigations, the Internal Revenue Service and the U.S. Department of Housing and Urban Development. Mr. Correia's trial on the SnoOwl-related fraud and extortion charges started April 20, 2021. Mr. Correia is presumed innocent until proven guilty.

Also in 2019, charges were filed against three other individuals who had roles in the alleged extortions of marijuana businesses. Hildegard Camara, David Hebert and Antonio Costa were charged separately with extortion conspiracy and extortion. Each was also charged with making false statements to federal agents. All three pled guilty in September 2019 and have cooperated with the government. They are awaiting sentencing.

Additionally in 2019, Mr. Correia's former chief of staff, Genoveva Andrade, was indicted on charges of extortion conspiracy, extortion, bribery and making false statements. On December 14, 2020, Ms. Andrade pled guilty to extortion conspiracy, extortion, bribery and making false statements. Specifically, Ms. Andrade admitted to conspiring with Mr. Correia to extort \$150,000 in cash from one businessman and to extort other benefits – including a Rolex watch – from a second businessman. Ms. Andrade also admitted to kicking back half her city salary to Mr. Correia for the first nine months of her employment as his chief of staff. Additionally, she admitted to making false statements to federal agents investigating Mr. Correia. Ms. Andrade is scheduled for sentencing on June 10, 2021. Mr. Correia and others charged are presumed innocent until proven guilty.

Finally, charges have been filed against three other individuals who had roles in the alleged extortions of marijuana businesses: Hildegard Camara, David Hebert and Antonio Costa. All three have pled guilty and are awaiting sentencing.

C. West Newbury Select Board

The Office reviewed allegations that a member of the West Newbury Select Board, Glenn Kemper, owed the town thousands of dollars. The Office found that Mr. Kemper owed the town over \$29,440 for his share of premiums for health insurance provided by the town. For several years, Mr. Kemper disregarded town employees' attempts to collect his debt. Finally, the other Select Board members knew about Mr. Kemper's debt but failed to require him to repay the town.

Mr. Kemper has served on the West Newbury Select Board most of the past 16 years. He served as chair of the Board in fiscal years 2010, 2016 and 2019.² Mr. Kemper began participating in the town's health insurance program in May 2012. He consistently paid his portion (50%) of the monthly premiums until May 2013. After that, his payments became sporadic. By the time the town's finance director cancelled Mr. Kemper's health insurance on December 31, 2016, Mr. Kemper owed the town \$29,440. Over the next two years, Mr. Kemper repaid just \$2,000 of his debt. He paid off the balance – \$27,440, not including interest – after learning of the Office's investigation.

The Office's review revealed that by virtue of his position, Mr. Kemper avoided paying for health insurance premiums that all other participating town employees had to pay, in essence giving himself an interest-free loan from the town. Further, the other members of the Select Board relied on town employees to collect the debt, rather than implementing a plan themselves. In doing so, the other selectmen did not consider Mr. Kemper's position and authority over the employees who were attempting to collect his debt. The other selectmen failed in their responsibilities to town employees and the town.

² West Newbury's town government follows a July to June fiscal year. For instance, fiscal year 2010 ran from July 1, 2009, to June 30, 2010.

In its letter, the Office recommended:

- The town revise its policies and procedures to include clear and precise parameters for participating in the town's health insurance program; and
- The Select Board take the Office's free training for members of public boards and commissions.

D. The Office Provides Guidance to the Plymouth County Commissioners' Office on Oversight of CARES Act Funds

In 2020, Plymouth County (County) received \$90 million from the federal government under the Coronavirus Aid, Relief and Economic Security (CARES) Act to distribute to the 27 cities and towns located in the county.³ Shortly thereafter, Plymouth County Commissioner Gregory Hanley sought guidance from the Office regarding oversight of the funds.

The Office recommended that Plymouth County assign responsibility for the funds to the Commonwealth, which had received CARES Act funds to allocate to the rest of the state.⁴ In addition, the Commonwealth had extensive experience distributing and tracking federal funds. Plymouth County lacked that expertise; nor did it have experience related to COVID-19, public health or public administration. It therefore was not suited to evaluating competing needs or to properly allocate these crisis funds to Plymouth County communities.

Plymouth County did not assign the funds to the state, and the Office therefore continued to provide guidance to the Commissioners. In August 2020, the Office recommended that the County:

- Maximize available federal funding sources by requiring communities to seek reimbursement from the Federal Emergency Management Agency before applying for CARES Act funds;
- Develop a comprehensive budget for the administrative costs that the County would incur in connection with distributing and overseeing the CARES Act funds;
- Renegotiate contracts with the law firm and accounting firm that the County hired to oversee the distribution of the CARES Act funds, including capping the fee the firms could charge;
- Follow Massachusetts procurement laws and encourage county departments, cities and towns to take advantage of statewide contracts when making purchases that qualify for CARES Act reimbursement; and
- Allocate a portion of CARES Act funding to support the reopening of schools.

³ The CARES Act is a \$2.2-trillion economic stimulus bill passed by Congress in March 2020. Among other initiatives, it provides funding for state and local governments to assist with the impact of COVID-19. See Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136, 134 Stat. 281 (2020).

⁴ The city of Boston received its own allocation under the CARES Act.

II. Education

A. Former Boston Public School Headmaster

The Office reviewed the post-retirement employment of Linda Nathan and determined that she violated the earnings limitations in Section 91 of Chapter 32 of the Massachusetts General Laws (Section 91).

When an individual retires from public service in Massachusetts, state law limits the amount of money the individual can subsequently earn from a public entity. This reflects a policy decision that an individual should not earn more from the state as a retiree than they would have had they continued to work. Consequently, Section 91 limits post-retirement earnings from a public entity to the difference between the retiree's yearly pension and "the salary that is being paid for the position" that the individual held when they retired.⁵ If an individual violates this earnings cap, the law allows retirement boards to collect the overearnings.

In September 2014, Ms. Nathan retired from the Boston Public Schools after working in the public sector for more than 32 years. The Retirement Board calculated her initial annual pension as \$103,842, and shortly after she retired, she began receiving a monthly pension of \$8,654.

In November 2015, Ms. Nathan accepted a full-time position as executive director of the Center for Artistry and Scholarship (CAS), a non-profit established by the Conservatory Lab Charter School (CLCS) to assist CLCS in meeting certain charter school responsibilities. CLCS is a public school and it receives public funding.

As CAS's executive director, Ms. Nathan earned \$150,000 and was one of CLCS's top decision makers. She drafted budgets, provided program evaluations and served as the charter school's public spokeswoman. Documents created in 2017 and 2018 – before Ms. Nathan's Section 91(b) compliance came under scrutiny – state that during her first two years at CAS, Ms. Nathan devoted the majority of her time to CLCS. In fact, in December 2017, Ms. Nathan told the Department of Elementary and Secondary Education that during the 2016-2017 school year she had spent 75% of her time on CLCS business. She told DESE she continued to spend 60% of her time on CLCS during the 2017-2018 school year.

The Office found that as executive director of CAS, Ms. Nathan was being paid to provide services to CLCS, a public entity. As a result, Ms. Nathan's earnings were subject to the limits in Section 91. Based on Ms. Nathan's self-reporting of time spent conducting CLCS business, the Office concluded that Ms. Nathan's overearnings totaled \$67,979 for the years 2016 to 2019.

⁵ M.G.L. c. 32, § 91.

In its letter, the Office recommended that the Boston Retirement Board review Ms. Nathan's earnings, calculate her overearnings and reduce Ms. Nathan's pension until she has repaid the overearnings. The Boston Retirement Board is currently in settlement negotiations with Ms. Nathan.

B. Burlington Public School Superintendent

Following a hotline tip, the Office reviewed the superintendent of Burlington Public Schools' use of school resources and the management of a school bank account. The Burlington School Committee and school employees cooperated throughout the investigation.

The Office concluded that Eric Conti, the superintendent of Burlington Public Schools (BPS), regularly used school resources in ways that were not authorized by his employment contract. The Office also concluded that the clause allowing Dr. Conti to use school resources was likely void because state ethics law prohibits using public property for personal purposes. The Office also found that the school inappropriately used a bank account to reimburse employees for purchases that should have been submitted to the town for approval.

In 2015, the BPS School Committee approved contract language allowing Dr. Conti "reasonable use of the district's facilities and equipment when not in conflict with student programming." When Dr. Conti asked the School Committee for this contract language, he gave the example that he wanted to use the gym and shower facilities in the time between the end of his workday and School Committee meetings.

The reasonable-use language in Dr. Conti's contract, and in other school employees' contracts, effectively ignored the provision in the state conflict-of-interest law that prohibits public employees from receiving unwarranted privileges.⁶ The Office did not find that this was the School Committee's intent; however, public officials cannot contract around the conflict-of-interest law. As a result, the contract language was likely void and unenforceable.

The Office also found that Dr. Conti's use of BPS equipment exceeded the terms of his contract. For example, Dr. Conti used BPS equipment to repair his car, refurbish barn doors for his farm and to haul materials to his Virginia farm. In addition, other school employees used school equipment to help Dr. Conti with his, and their own, personal projects.

The Office also found that BPS used a bank account to reimburse employees for training and travel expenses; this violated BPS's policies and lacked internal controls. Specifically, based upon BPS's reimbursement policy, the town of Burlington should have directly paid employee reimbursements, not BPS, and the reimbursement should have been subject to multiple levels of review prior to payment. In addition, the superintendent's secretary was responsible for the reimbursement account, which meant that when Dr. Conti required reimbursement, his subordinate was responsible for approving the request.

⁶ Unwarranted privileges include using public property and supplies for personal purposes. See M.G.L. c. 268A, § 26.

Furthermore, BPS used the account to deposit checks and cash that should have been deposited into separate, more appropriate accounts.

In its letter to BPS, the Office recommended that the School Committee eliminate the clause regarding the use of facilities and equipment from all BPS employee contracts. The Office also recommended that the School Committee actively oversee the superintendent's performance, including contract compliance, and that every committee member complete annual state ethics training. The Office also recommended BPS follow its reimbursement policy, expand internal controls and work with the Department of Revenue's Division of Local Services to ensure the school follows proper accounting processes.

BPS reported that, in response to the Office's recommendations:

- BPS administrators stopped using the district's equipment and facilities for personal projects;
- The School Committee removed the clause that allowed personal use of BPS facilities and equipment from all employment contracts;
- The School Committee plans to complete state ethics training by June 2021; and
- BPS stopped using the reimbursement account when it hired a new school business manager in 2017. The account was permanently closed in January 2020.

C. Former METCO Director

The Office conducted a joint investigation with the Essex County District Attorney's Office into spending by a former director of the Marblehead METCO program.⁷ The investigation found evidence that the former director, Francois Fils-Aime, stole approximately \$20,000 from a fund that was intended to benefit students. In particular, the investigation found evidence that Mr. Fils-Aime used a bank account referred to as "the Marblehead METCO Sunshine Fund" for his personal benefit, including for restaurant meals. The account was funded by METCO parents' yearly dues, as well as by donations from individuals and organizations.

Following the joint investigation, a grand jury indicted Mr. Fils-Aime on larceny charges. In March 2021, Mr. Fils-Aime admitted to sufficient facts for a guilty finding both larceny charges. Mr. Fils-Aime received a year of unsupervised probation and he must complete 100 hours of community service. He

⁷ The Department of Elementary and Secondary Education describes the METCO program as follows:

The METCO Program is a grant program funded by the Commonwealth of Massachusetts. It is a voluntary program intended to expand educational opportunities, increase diversity, and reduce racial isolation, by permitting students in certain cities to attend public schools in other communities that have agreed to participate.

METCO, DEPT. OF ELEMENTARY AND SECONDARY EDUC., available at <https://www.doe.mass.edu/metco> (last viewed April 28, 2021).

must also pay \$10,000 in restitution to the Marblehead Public Schools. The case was continued without a finding subject to Mr. Fils-Aime repaying the \$10,000 and successfully completing his probation.

III. Housing

A. Former Manager of Non-Profit Housing Agency Stole Over \$45,000

The Office, in a joint investigation with the Attorney General's Office, found that Donna Scott stole more than \$45,000 from her employer, Heading Home, Inc.

Heading Home provides emergency shelter, transitional housing, permanent housing and supportive services to homeless and formerly homeless families and individuals. It is partially funded by grants from the state's Department of Housing and Community Development. Ms. Scott was a program manager at Heading Home at the time of the theft. She left Heading Home in 2016. The Office and the Attorney General's Office found that Ms. Scott stole \$45,132.59 that was intended to provide services to individuals and families experiencing homelessness.

In December 2020, Ms. Scott pled guilty in Suffolk Superior Court to one charge of larceny over \$250. Ms. Scott was sentenced to three years of probation, including one year of home confinement, and was ordered to pay restitution of \$45,132.59 to Heading Home.

B. Hingham Housing Authority

Following an investigation, the Office found that Sharon Napier, the former executive director of the Hingham Housing Authority (HHA), promoted her interests over HHA's by hiring a vendor with whom she had a personal and financial relationship.

In March 2006, Ms. Napier incorporated Housing Inspectional Services (HIS) with Patrick Rossetti, with whom she lives. Also, in 2006, HHA hired HIS to conduct inspections for its apartments. When Ms. Napier joined HHA in 2011, she continued to use HIS to perform inspections. She oversaw HIS's work, approved HIS's invoices and processed payments to HIS.

During Ms. Napier's time at HHA, the housing authority paid HIS nearly \$43,000, ranging between \$5,000 and \$6,800 per year. This accounted for about 10% of HIS's revenue. During the same period, Mr. Rossetti wrote a total of \$94,950 in checks from HIS to "cash," which Ms. Napier deposited in her personal checking account just before paying the mortgage for the home they shared. The payments ranged between \$900 and \$1,000 per month when they lived in a condominium – about 60% of the mortgage payment – and increased to \$2,300 per month in December 2016 when they moved into a house – slightly more than 100% of the mortgage payment.

In addition, the Office found that the HHA Board of Directors (Board) inappropriately paid more than \$10,000 for Ms. Napier's legal fees in connection with an investigation by the State Ethics Commission into her conduct at HHA. Following its investigation, the State Ethics Commission fined Ms.

Napier \$2,500 for violating the state's conflict-of-interest law. The same week that Ms. Napier paid her fine, she asked HHA for \$3,551.20 in "special pay," which resulted in her net pay being \$2,496.94 higher than normal. The Office found inconsistencies in the back-up documentation Ms. Napier submitted to justify the "special pay."

Finally, the Office found that the former HHA Board's inattention during Ms. Napier's tenure resulted in poor governance and insufficient oversight.

In its letter to the Board, the Office recommended that:

- HHA Board members attend the Office's free training for members of public boards and commissions;
- The HHA Board review its policies and procedures, including its payroll and reimbursement processes; and
- The HHA Board require its staff to complete procurement and conflict-of-interest trainings.

In response to the Office's recommendations, the HHA Board, which now includes several new members, has made efforts to improve the management at HHA and increase its oversight of the housing authority's operations. During the Office's investigation, the HHA Board entered into an agreement with the Quincy Housing Authority to oversee HHA's daily operations. The HHA Board has also made improvements to its own operations and its oversight of the HHA.

C. Georgetown Housing Authority Executive Director

In 2019, the daughter of the executive director at the Georgetown Housing Authority received a rental unit at the housing authority. In response to a hotline tip, the Office reviewed the application and selection process for that rental unit. The Office found that although the executive director's daughter was eligible for a rental unit, the Georgetown Housing Authority failed to follow state regulations designed to avoid favoritism when family members apply for public housing. In addition, the executive director provided substantial assistance to her daughter, including completing and hand-delivering her daughter's application to a subordinate when she knew a unit was available.

In its letter, the Office recommended that:

- The Department of Housing and Community Development create a policy requiring housing authority employees to recuse themselves when family and friends apply for housing; and
- The Georgetown Housing Authority adopt written policies that outline its application process.

In November 2020, DHCD issued a public housing notice alerting all housing authorities to the issues raised by the Office. The executive director of the Georgetown Housing Authority wrote to the Office saying she accepted all its findings and recommendations.

IV. Public Safety

A. Methuen Police Department

In 2020, the Office completed its review of two Methuen Police Department contracts and found a failure of leadership at all levels of city government. The contracts, approved in 2017 by then-Mayor Stephen Zanni and the Methuen City Council, included excessive raises for longtime Methuen Police Chief Joseph Solomon as well as for the department's sergeants, lieutenants and captains. The Office also found that the president of the superior officers' union acted inappropriately when he drafted the superior officers' contract.

In 2018, the Office began reviewing the negotiations surrounding the collective bargaining agreement between the city of Methuen (City) and the superior officers' union representing the sergeants, lieutenants and captains who work for the Methuen Police Department. In February 2019, the Office issued a letter finding that Mr. Zanni and the Methuen City Council violated various laws, rules and duties of care to the City in connection with the superior officers' contract.

In 2020, the Office continued its review of the superior officers' contract and expanded its work to include Chief Solomon's employment contract for the period from March 1, 2017, to February 28, 2022.

The Office found leadership failures at all levels of city government. As mayor, Mr. Zanni approved unprecedented changes to the superior officers' contract without considering their potential financial impact and without asking the city auditor to assess the impacts. The changes included an expanded definition of base pay and other provisions that significantly increased the superior officers' total compensation. Nevertheless, Mr. Zanni signed the contract without reading the entire document or asking the city solicitor to review the terms. City officials also did not review the final contract before presenting it to the City Council for approval. Mr. Zanni also failed to exercise due diligence when he negotiated Chief Solomon's contract extension.

In addition, the Office found that the president of the superior officers' union, Captain Gregory Gallant, revised the contract after the superiors' union had ratified it, making changes that City officials had not agreed to. Captain Gallant's changes included expanding the definition of base pay and creating a formula designed to maximize the superior officers' total compensation. Captain Gallant's alterations resulted in 35% to 183% raises for superior officers.

Furthermore, Chief Solomon knew about these changes and violated his obligations to the City when he remained silent about the unapproved language that indirectly but substantially raised his compensation, making him one of the highest paid police chiefs in the country. Furthermore, Chief Solomon may have had a conflict of interest when he served on the City's negotiating team for contracts that increased his compensation.

The Office recommended that:

- All City officials, including the chief of police, put the City's interests above their own.

- The mayor exercise due diligence in all contract negotiations;
- The mayor provide strong oversight of all department heads, including Chief Solomon; and
- The mayor evaluate all available avenues of discipline against Chief Solomon and Captain Gallant.

After the Office issued its report, Methuen's new mayor, Mayor Neil Perry, immediately placed Chief Solomon and Captain Gallant on paid administrative leave. Shortly thereafter, in January 2021, Chief Solomon announced his retirement. The Office commended the Mayor Perry for taking steps to improve oversight and governance in Methuen.

V. State Services

A. Former Director of Commonwealth Print Services

The Office conducted a joint investigation with the Attorney General's Office and found evidence that Glenn Kendall, the former director of Commonwealth Print Services (CPS), used state resources for his private printing company.

CPS is a state-owned facility that provides copying and printing services to state agencies and the public. Mr. Kendall worked at CPS from 2005 through 2018, the last seven years as its director. During this same time period, Mr. Kendall also owned KenCo Printing (KenCo), a printing business in Medford.

The Office's joint investigation found evidence that in 2017 and 2018, Mr. Kendall used CPS's computers, copiers and other equipment to fulfill orders from his KenCo customers. Using KenCo invoices, he then billed his customers more than \$20,000 for these jobs, which comprised more than 100,000 pages of print.

On December 18, 2020, a state trooper assigned to the Attorney General's Office took out a complaint in the Boston Municipal Court against Mr. Kendall for two counts of unwarranted privilege under the state ethics law, which bars public employees from using their official position for personal gain.⁸ On December 21, 2020, Mr. Kendall admitted to sufficient facts to warrant a guilty finding on the charges against him. The case has been continued without a finding subject to Mr. Kendall completing three years' probation and paying \$20,000 in restitution to the state.

⁸ See M.G.L. c. 268A, § 26.

BUREAU OF PROGRAM INTEGRITY

The Bureau of Program Integrity (Bureau), created by legislative mandate in 2013, conducts oversight of the agencies and programs within the Executive Office of Health and Human Services (EOHHS). Section 16V of Chapter 6A of the Massachusetts General Laws requires the Bureau to monitor the quality, efficiency and integrity of programs administered by EOHHS agencies and to prevent, detect and correct fraud, waste and abuse. The legislature also specifically requires the Bureau to assist and coordinate with EOHHS agencies on specific categories of work, including fraud detection, eligibility processing and data sharing.

Bureau of Program Integrity

Reviews and Improves Agencies and Programs within the Executive Office of Health and Human Services

While maintaining its independence, the Bureau takes a collaborative approach to its oversight and often works in partnership with the EOHHS administration and EOHHS agencies.

In 2020, the Bureau responded to specific areas of concern related to COVID-19 and engaged with the Department of Developmental Services (DDS), the Department of Transitional Assistance (DTA), the Department of Mental Health (DMH) and the Department of Children and Families (DCF). The Bureau also works in conjunction with other divisions within the Office. In 2020, the Bureau continued to assist the Audit, Oversight and Investigations Division (Investigations Division) with assessing and responding to complaints made through the Office's general fraud hotline that related to EOHHS agencies and programs. The Investigations Division and the Bureau collaborated on 38 EOHHS-related complaints in 2020, more than double the number of similar complaints in 2019. Eighteen of these complaints led to an investigation, review or outside referral.

I. COVID-19

The Bureau remained focused on its core mission and made the necessary adjustments to reflect the challenges of COVID-19 and its impact on EOHHS agencies and programs. The Bureau worked with the COVID-19 Response Command Center to address hotline complaints about inadequate personal protective equipment (PPE) and staffing levels at group homes and other EOHHS facilities. Based on these hotline complaints, the Bureau opened 11 investigations or reviews. For example, the Bureau initiated investigations or reviews regarding state employees allegedly taking advantage of the pandemic to inflate overtime hours and complaints about wasteful expenditure of public funds specifically designated to help fight the pandemic.

In addition, the Bureau made recommendations to EOHHS in order to ensure that vendors appropriately spent the \$139 million of COVID-related funding that EOHHS provided for congregate care

programs, including group homes for DDS, DMH and DCF clients. The Bureau recommended that EOHHS require vendors to report their spending by program and category (staffing, PPE or other infection control activities) and specify what, if any, funds were used for executive compensation. In response to the Bureau's recommendations, EOHHS provided vendors with a reporting template that required them to break down their expenditures by program and category. However, EOHHS did not require vendors to report their expenditures at the level of detail that the Bureau recommended. Vendors filed their expenditure reports with EOHHS in January 2021, and the Bureau recommended that EOHHS include representatives from DDS, DMH and DCF in the process of reviewing the reports.

The Bureau also consulted with DTA's Program Integrity Division about fraud risks that developed in the wake of the pandemic, and this consultation became more extensive throughout 2020.

Throughout its consultation and problem-solving with EOHHS and its agencies, the Bureau identified and recommended that EOHHS and its agencies rely on fundamental best practices to meet the challenges of the pandemic. For example, the Bureau assisted with developing and implementing evidence-based evaluations and reviews, including data analytics, data sampling, case reviews, surveys, targeted audits, and staff and stakeholder interviews.

II. Department of Developmental Services

In 2020, the Bureau continued working with DDS to improve its internal controls infrastructure and to address fraud and business risks, particularly with respect to the administration of group home programs.

A. DDS Bureau of Program Integrity

The Bureau supported the development of DDS's Bureau of Program Integrity (DDS BPI) and collaborated with DDS BPI on reviews and investigations. The Bureau modeled best practices, and DDS BPI incorporated them into their protocols and procedures. DDS BPI demonstrated significant growth and leadership throughout 2020. For example, responding to recommendations from the Bureau, DDS BPI expanded the scope of its internal hotline, hired and trained new analysts and created a network of internal controls coordinators to work with regional management and DDS BPI on improving internal controls and fiscal practices.

B. State-Operated Group Homes

In 2020, the Bureau assisted with the successful prosecution of two DDS employees who committed larceny while working at DDS state-operated group homes. One was a long-term [group home manager](#) who used group home funds to purchase approximately \$16,000 of groceries for herself. The other prosecution involved a [supervisor](#) who committed time fraud by entering overtime shifts into DDS's payroll system and falsely claiming over \$38,000 in wages.

Based on lessons learned from these prosecutions, the Bureau recommended significant changes to DDS's approach to managing group homes. For example, the Bureau recommended that DDS use data for monitoring expenditures, including grocery purchasing and payroll data, in order to identify patterns and trends that pointed towards fraud, waste or abuse. DDS is in the process of implementing this recommendation.

The Bureau continued to receive hotline complaints regarding practices at state-operated group homes. For example, the Bureau investigated complaints that certain group home managers were working unnecessary and excessive overtime hours during the pandemic. The Bureau found evidence in DDS's payroll data to corroborate the complaint and shared it with DDS. The Bureau recommended that DDS implement systems to monitor group home managers' overtime and compliance with overtime procedures.

In addition, the Bureau analyzed DDS's pre-pandemic payroll data and worked with DDS BPI's risk analyst to identify inconsistencies in the way staff record compensatory time. The Bureau recommended that DDS:

- Correct inaccurate compensatory leave time balances;
- Establish consistent practices regarding payouts to employees for compensatory time; and
- Monitor the quality of data entry into the payroll system on a regular basis.

C. Vendor-Operated Group Homes

The Bureau tracked DDS's response to 2019 recommendations focused on improving contract administration and vendor management. Robust contract administration and vendor management is critically important to DDS's mission because the agency relies on vendors to provide most of its services. For example, in 2019, the Bureau recommended that DDS:

- Use data analytics for program monitoring and risk assessment; and
- Break down silos and integrate resources within DDS to improve contract administration.

In 2020, DDS created an agency-wide workgroup to discuss how to integrate resources and improve contract administration. The Bureau participated in some of these workgroup meetings.

The Bureau also helped DDS pursue external partnerships to improve its vendor management. The Bureau consulted with the Disabled Persons Protection Commission to explore the potential connection between allegations of abuse and neglect in group homes and poor fiscal management. In addition, the Bureau facilitated a virtual presentation from the Massachusetts Attorney General Office's Public Charities Division and False Claims Division for over 40 participants from DDS. This session provided DDS with a better understanding of how to identify and take action in response to concerns about vendor practices; it also created a foundation for collaboration among the Bureau, DDS and the Attorney General's Office.



Figure 6. Presentation to DDS.

To continue improving contract administration and vendor management, the Bureau recommended that DDS:

- Identify risks of fraud and waste in vendors' fiscal management and operations;
- Monitor vulnerabilities that have already been identified;
- Implement quality management tools, such as performance audits, data sampling and surveys of DDS staff, families and other stakeholders; and
- Continue to pursue external partnerships.

III. Department of Transitional Assistance

In 2020, the Bureau focused its work with DTA on program integrity and on improving the quality of DTA's data. The Bureau worked collaboratively with DTA's Program Integrity Division, as well as with the Budget and Policy Analytics group, which is the internal group of analysts at DTA who support management processes.

A. Program Integrity

The Bureau's statutory mandate specifically requires the Bureau to consult with DTA on fraud detection and data matching and to coordinate with DTA's Program Integrity Division. In early 2020, prior to the pandemic, the Bureau recommended that DTA's senior management team promote an agency-

wide commitment to program integrity. When COVID-19 required sweeping changes in its operations and programs, DTA created an agency-wide working group that met from April through July 2020 to identify and address high-risk areas of fraud. The Bureau participated in this group and worked closely with the Program Integrity Division on risk assessment. Throughout the remainder of 2020, the Bureau met with DTA's Program Integrity Division on a regular basis.

The Bureau also consulted with the Program Integrity Division to help improve DTA's access to and use of unemployment benefits data from the Department of Unemployment Assistance (DUA). The agency's access to DUA data was crucial during the spring of 2020 when applications to both DTA and DUA increased dramatically because of the pandemic.

In addition, the Bureau followed up with DTA on recommendations from 2019 regarding benefit recipients who earned income as personal care attendants (PCAs), who provide in-home care to MassHealth Medicaid members. In 2019, the Bureau found that one fifth of the recipients who were employed as PCAs had never reported any income to DTA. As a result of this review, the Bureau encouraged DTA's senior management team to conduct a broader review of PCA employment and its impact on recipients' eligibility. Citing the demands of the pandemic, DTA did not conduct this review in 2020. However, the Bureau continued to work with DTA to use data analysis to identify PCAs who were appropriate for program integrity referrals and a closer review of their PCA employment income. The Bureau also recommended specific ways that DTA could improve its data collection relating to PCA employment and income.

In February 2020, after DTA identified a series of fraudulent applications for the Supplemental Nutrition Assistance Program (SNAP), the Bureau assisted DTA with reviewing vulnerabilities in its online portal for SNAP applications. Some of the suspicious applications were submitted in bulk during overnight hours, which was an indication that the fraudsters automated or coordinated the submission of applications. The Bureau assisted DTA with diagnostic work and an action plan; the Bureau also connected DTA with appropriate resources, including resources within the Executive Office of Technology Services and Security to help detect additional fraudulent applications.

B. Quality Management of Data

Since its establishment in 2013, the Bureau has engaged in several projects and reviews that provided opportunities to assess the quality of the data that DTA's case managers enter into BEACON, DTA's eligibility database, while they evaluate recipients' eligibility. The Bureau has consistently raised concerns that BEACON data, particularly the information related to recipients' employment, was of poor quality and too unreliable for analytics. In 2019, DTA implemented a series of employment-related reforms to the Transitional Aid to Families with Dependent Children (TAFDC) program. DTA also entered into a new eight-year, \$64-million contract for the Competitive Integrated Employment Services (CIES) program, which pairs recipients with community-based vendors that provide employment support services. In order to track the impact of these reforms and the implementation of the CIES contract, the Bureau determined that DTA needed high-quality data related to recipients' employment.

In 2020, with these longstanding concerns about data quality in mind, the Bureau reviewed DTA's processes for quality control and quality assurance of data entry into BEACON. The Bureau used sampling methodologies and analytical techniques to identify obvious data entry errors and assess the potential risks related to them. The Bureau again found that DTA had not taken appropriate steps to improve data quality management, and that DTA had not prioritized data quality as a critical link to implementing, evaluating and improving benefit programs. The Bureau sent an advisory letter to DTA and recommended that DTA identify data quality as a high priority and implement quality management practices and procedures. The Bureau also recommended that DTA:

- Work with case managers to improve their data entry;
- Implement regular data monitoring activities; and
- Continuously evaluate and improve the data collection process that occurs during eligibility interviews.

DTA recognized the Bureau's concerns and responded to the Bureau's recommendations with some initial steps to address them and improve data quality. For example, DTA started developing a system enhancement project, the "BEACON Discrepancy Checker Module," geared towards improving the quality of BEACON data.

C. Data Matching with the Social Security Administration

Promoting the timely and accurate verification of recipients' Social Security numbers (SSNs) is another longstanding priority for the Bureau. In its inaugural report on the TAFDC program in 2013, the Office outlined a number of concerns about DTA's process for obtaining and verifying SSNs and recommended that DTA implement a control system to ensure that all recipients have valid, verified SSNs. In response to this report, DTA enhanced its process for obtaining, updating and verifying SSNs by implementing a data-match process with the Social Security Administration (SSA). The Bureau has continued to monitor DTA's verification of SSNs and has recommended improvements to DTA's intake processes and data matching.

In 2020, in collaboration with DTA's Program Integrity Division, the Bureau conducted a close analysis of DTA's data-match process with SSA and determined that this was another area in which DTA had failed to exercise quality management. The Bureau found evidence that DTA approved benefits for recipients without verifying their SSNs and that DTA case managers had failed to address discrepancies between the SSN provided by the recipient at intake and data provided by SSA through the data match. The Bureau recommended immediate changes and assisted with data clean-up activities to help mitigate the risk of fraud. The Bureau also determined that there were technical flaws in the SSA data match process and recommended that DTA correct these flaws in collaboration with EOHHS's Information Technology services. Finally, the Bureau recommended that DTA outline clear processes and procedures so that all staff – including field staff and staff within the Program Integrity Division – understand their roles and responsibilities with respect to using SSA data. DTA acknowledged that this was an area of high

risk and it has initiated several projects and enhancements to BEACON to address the Bureau's recommendations.

IV. Department of Mental Health

In 2019, the Bureau developed partnerships with the senior leadership teams at EOHHS and its agencies to address identified risks in the administration of SNAP benefits in group homes. Individual residents of group homes are eligible for SNAP benefits, but state agencies that operate group homes, such as DDS and DMH, become stewards of those benefits on behalf of group home residents. For example, at DMH-operated group homes, which are known as Group Living Environments (GLEs), GLE managers may assist residents in maintaining their SNAP benefits, hold EBT cards for safekeeping or use funds from individual EBT cards to contribute to group purchases of food for the home. The Bureau recommended that DMH and DTA work in close coordination to manage and maintain the SNAP benefits of GLE residents. Following up on these recommendations, the Bureau participated in a working group with DMH and DTA, providing data analysis and other technical assistance.

In response to the Bureau's recommendations, DMH and DTA executed a data-sharing agreement to identify the residents of GLEs who receive SNAP benefits and to ensure that each agency has consistent information about these residents. The Bureau also recommended that DMH review and improve the controls within GLEs to mitigate risks that SNAP benefits could be misused, but DMH paused some of this work to focus on responding to the pandemic.

Drawing on the experience of helping to establish DDS BPI, the Bureau recommended that EOHHS work with DMH to create new management roles related to internal controls and program integrity. In 2020, DMH outlined plans for these new management roles but did not fill them. DMH indicated that this was due to a transition in the senior leadership at the agency and the demands of the pandemic. The Bureau recommended that, with the support of EOHHS, DMH should revisit plans to create new management roles at the earliest opportunity.

Finally, the Bureau worked with EOHHS, DMH and the Department of Public Health (DPH) to address COVID-19-related complaints regarding Tewksbury Hospital. The complaints alleged that the management infrastructure at Tewksbury Hospital was inadequate, and that infection control and cohorting protocols were poorly developed and executed. The Bureau worked with EOHHS, DMH and DPH to assess the hospital's protocols and recommended immediate and long-term solutions. In response to the Bureau's recommendations, EOHHS brought in outside resources to outline and implement a corrective action plan for infection control and hygiene. The Bureau tracked the hospital's response to this corrective action plan.

V. Department of Children and Families

In 2020, the Bureau continued working with DCF to improve the administration of the agency's contract with the Judge Baker Children's Center (JBCC) to run DCF's after-hours hotline. The Bureau has

been recommending improvements to DCF's management of the after-hours hotline since 2017, when the Office received complaints about extended hold times and poor performance. In response to these complaints, DCF redesigned its after-hours hotline services and put the contract out to bid. In 2019, DCF selected JBCC, which has held the contract for the after-hours hotline since 1982, to remain as the service provider under a new 10-year, \$45-million contract.

The Bureau recommended several ways in which DCF and JBCC could work together to monitor and improve the quality, integrity and efficiency of the after-hours hotline. Throughout 2020, the Bureau found that DCF and JBCC implemented many of the Bureau's recommendations. For example, DCF and JBCC collaborated on extensive training for JBCC staff, new standards and processes for managing the performance of JBCC staff, and quarterly reviews of JBCC services through a case sampling methodology. To further support the implementation of the after-hours hotline contract, the Bureau established a partnership with the Office of the Child Advocate, which brought valuable clinical expertise and extensive experience working with DCF to this oversight work.

DIVISION OF STATE POLICE OVERSIGHT

The legislature created the Division of State Police Oversight (State Police Division) as an independent unit to oversee the Massachusetts State Police (MSP).⁹ The State Police Division's mission encompasses, but is not limited to (1) monitoring the quality, efficiency and integrity of the MSP's operations, organizational structure and management functions; (2) seeking to prevent, detect and correct fraud, waste and abuse in the expenditure of public funds; and (3) monitoring policy changes instituted as a result of the MSP's certification or accreditation by a police accrediting agency pursuant to Section 73 of Chapter 22C of the Massachusetts General Laws. The State Police Division's enabling statute requires it to publish an [annual report](#) each March. Below are highlights from that report.

Division of State Police Oversight

Monitors the Quality, Efficiency and Integrity of
the Massachusetts State Police

I. Audits, Investigations and Reviews

A. Review of Highway Overtime Shifts

The State Police Division reviewed federally funded highway overtime shifts (Special Overtime Shifts) that troopers in Troop A worked in 2016.¹⁰ These four-hour overtime shifts are similar, but not identical, to the highway overtime shifts that were at the center of the overtime abuses by members of Troop E.¹¹ The review of Special Overtime Shift in Troop A was part of the State Police Division's ongoing effort to examine whether overtime abuse exists in other troops. This ongoing review also enables the State Police Division to identify policies and other controls that the MSP should put in place to prevent overtime abuse in the future.

⁹ Section 72 of Chapter 22C of the Massachusetts General Laws refers to the State Police Division as "an internal special audit unit." The Inspector General renamed the State Police Division to avoid confusion with the previously created Internal Special Audit Unit within the Department of Transportation (see M.G.L. c. 6C, § 9).

¹⁰ Troop A is part of the Division of Field Services, which oversees highway safety, assists municipal law enforcement agencies by responding to public safety emergencies or incidents and provides other patrol resources and special operations across the Commonwealth. The Division of Field Services is now comprised of six troops covering the entire Commonwealth (A, B, C, D, F and H). Each troop covers a specific geographic region of the Commonwealth. Troopers are assigned specific areas within each troop during routine patrols and overtime shifts.

¹¹ After multiple troopers were charged for crimes related to overtime abuse, the MSP abolished Troop E and shifted its responsibilities to other troops in the MSP.

MSP records, including data from the radios installed in all MSP cruisers, indicate that 33 troopers in Troop A did not work their full overtime shifts during 2016.¹² However, the State Police Division did not find overtime abuse comparable to the abuse found in Troop E.

The individual troopers in Troop E who were convicted in relation to overtime abuse failed to work between approximately 90 and 400 hours of overtime. In Troop A, the State Police Division reviewed 207 overtime shifts for 43 troopers and found 93 instances in which records indicated that the trooper was absent for at least 15 minutes of the overtime shift.

Overall, the State Police Division found that 10 of the 43 troopers who worked Special Overtime Shifts in 2016 always worked their full shift. The remaining 33 troopers did not work a combined total of 79.2 hours across 93 shifts. One trooper was absent for more than three hours of a Special Overtime Shift. The Division did not find any trooper who was absent for a full four-hour overtime shift.

The State Police Division also found that troopers often treated their commuting time as part of the four-hour overtime shift. However, MSP policy is clear that commute time is not included in a trooper's hours of work for an overtime shift. In its review, the State Police Division took a conservative approach and counted commute time as part of the overtime shifts. If the division did not count troopers' commute times towards hours worked, this would increase the number of overtime hours that some Troop A troopers failed to work in 2016.

Troopers often
treated their
commuting time
as part of the
four-hour
overtime shift

The State Police Division's finding that a trooper was absent for a portion of an overtime shift is not necessarily a specific finding of wrongdoing. Further investigation would be needed to make that determination.

Based on its review, the State Police Division recommended that the MSP enforce its policy that commute time is not part of the overtime shift. For example, the MSP should clarify through policy and training that highway overtime shifts do not begin until the trooper is present at the assigned shift location and that the shift continues at the assigned location for four hours thereafter, with the trooper performing their assigned overtime duties.

B. Review of the Top-50-Earners Quarterly Audit

In 2020, the State Police Division reviewed the original methodology for the Top-50-Earners Quarterly Audit (Top-50 Audit), which is an audit the MSP conducts to detect fraudulent activity by the 50 troopers who received the most earnings in the previous quarter. At the MSP's request, the State Police

¹² In the spring of 2017, several Massachusetts media outlets began reporting about overtime irregularities in Troop E. The Division chose to review highway overtime shifts before the Troop E overtime abuse became public in order to identify the full scope of any potential overtime irregularities in other troops.

Division also reviewed the MSP's proposed changes to the audit, including moving from a quarterly to a weekly audit schedule and selecting the auditees at random. The State Police Division's goal was to determine how to redesign the Top-50 Audit to effectively identify overtime fraud.

The State Police Division found that, as originally designed, the Top-50 Audit did not serve the audit's goal of identifying overtime fraud. First, the original guidelines and methodology primarily examined whether troopers complied with the MSP's policies and procedures, as well as with the troopers' collective bargaining agreement, regarding limitations on hours worked per day and per week.

Second, because the Top-50 Audit focused on the troopers who earned the most money in the previous quarter, the MSP repeatedly audited the same high-salaried troopers, who generally do not work as much overtime as other troopers. Third, the top-earners approach also flagged recent retirees whose quarterly pay was inflated by one-time payouts unrelated to overtime.

The State Police Division found the MSP's new practice of conducting weekly audits of troopers who are chosen at random expanded the number of individuals the MSP reviews. However, the State Police Division determined that the MSP could better achieve the Top-50 Audit's goal of identifying overtime abuse by focusing on troopers who work the most overtime hours.

The State Police Division recommended that the MSP continue to improve its Top-50 Audit and take a more fraud-based approach with a primary focus of verifying that troopers are in fact working the total number of overtime hours reported. Also, the State Police Division recommended that the MSP focus its review on the troopers who worked the most overtime hours during the review period.

II. The MSP's Efforts to Achieve Certification and Accreditation

The State Police Division continued to monitor the MSP's efforts to achieve certification and accreditation pursuant to Section 72 of Chapter 22C of the Massachusetts General Laws.

By the end of 2020, the MSP had met over 85% of the mandated standards necessary to achieve certification from the Massachusetts Police Accreditation Commission. Additionally, the State Police Division found that the MSP established a Policy Review Committee to examine all MSP policies, rules and regulations each year to maintain compliance with all certification and accreditation standards. As required by Section 72 of Chapter 22C, the MSP will continue working towards certification and accreditation and the State Police Division will continue to monitor these efforts.

III. The MSP's Efforts to Improve Its Timekeeping and Payroll System

The State Police Division reviewed changes the MSP made to its time-and-attendance and payroll processes during 2020 to determine whether the modifications tighten internal controls and reduce the risks of fraud, waste and abuse of public funds. The division found that the MSP enhanced the approval process in PayStation, its time-and-attendance and payroll system, by eliminating the ability of subordinates to review and approve their supervisors' time and attendance. The State Police Division

found that instituting this chain-of-command-based approval process enhanced accountability and reduced the risk of fraud and abuse.

The State Police Division recommended that the MSP continue upgrading PayStation with a focus on mitigating the risks of fraud, waste and abuse of public funds.

INTERNAL SPECIAL AUDIT UNIT

The Massachusetts Department of Transportation (MassDOT) is responsible for managing the Commonwealth's roadways, public transit systems, public airports and the Registry of Motor Vehicles (RMV). The Internal Special Audit Unit (Transportation Unit) monitors the quality, efficiency and integrity of MassDOT's operating and capital programs, including the Massachusetts Bay Transportation Authority (MBTA). As part of its statutory mandate, the Transportation Unit also seeks to prevent, detect and correct fraud, waste and abuse in the expenditure of public and private transportation funds.

Internal Special Audit Unit

Examines and Evaluates the Massachusetts
Department of Transportation and the MBTA

Furthermore, the unit is responsible for examining and evaluating MassDOT's operations, including its governance, risk-management practices and internal processes. The Transportation Unit has an additional legislative mandate to review certain MBTA procurements.¹³ The Transportation Unit's enabling statute requires it to publish an [annual report](#) each March. Below are highlights from that report.

I. Audits, Investigations and Reviews

A. Bridge Contractor Overbilling

The Transportation Unit concluded an investigation of NEL Corporation (NEL), a company that has several contracts with MassDOT to maintain and repair bridges throughout Massachusetts. The contracts required NEL to provide specific items – including certain tools, equipment, personal protective equipment and sanitary facilities – without an additional charge to MassDOT. However, NEL knowingly charged MassDOT for these items for several years.

In collaboration with the Office's Civil Recovery Unit and the Massachusetts Attorney General's Office, the Transportation Unit sought to recover the overpayments. After negotiations, NEL agreed to pay \$700,000 to resolve allegations that it knowingly overbilled MassDOT under all five contracts reviewed. As part of the settlement, NEL also agreed to implement measures to prevent future overbilling, including designating a contract manager to ensure that the company only bills MassDOT for work, supplies and equipment allowed by contract. Additionally, NEL must hire an outside auditor to conduct annual reviews of NEL's billing on all open MassDOT contracts, certify to MassDOT and the Transportation Unit that it has completed the audit and provide a copy of the report. The audit report should state

¹³ See 2015 Mass. Acts c. 46.

whether overbilling occurred and include a plan to correct any deficiencies identified. These measures remain in effect for five years.

B. The Merit Rating Board

The Transportation Unit continued its in-depth review of the Merit Rating Board (MRB), the division within the RMV that maintains and updates driving records. The Transportation Unit initiated its review, at the Board's request, in 2019 after a fatal traffic accident revealed the RMV had not been updating driving records in a timely manner.¹⁴

In 2020, the Transportation Unit found that the MRB would benefit from job-specific training for the RMV's new electronic records system, ATLAS. Specifically, when the RMV transitioned from its 30-year-old electronic records system to ATLAS in 2018, MRB employees received the same customer-service-oriented training as all other RMV employees. This training did not include the steps for processing motor vehicle citations or infractions, both of which are crucial for updating driving records.

The Transportation Unit also found that during the transition to ATLAS, MRB's former management eliminated employee goals that measured productivity and accuracy in order to reduce pressure while the staff learned the new records system. However, the lack of goals led to a decrease in productivity, accuracy and staff morale.

The Transportation Unit recommended that the MRB prioritize ATLAS training for its staff, including providing necessary retraining for current staff and creating an ATLAS training program for new hires. In response, the MRB completed training and developed individual coaching sessions to improve employees' proficiency with ATLAS. The MRB continues to develop comprehensive standard operating procedures for all its units in order to standardize and document its processes. The Transportation Unit also recommended that the MRB reinstitute performance metrics. The MRB is in the process of implementing these recommendations.

The Transportation Unit also analyzed the MRB's statutory duties, regulations, historical responsibilities and legal authority, as well as the statutes and regulations governing the RMV's duty to maintain driving records. The Transportation Unit's objective was to better understand the MRB's role within the RMV and to evaluate whether the MRB is fulfilling its statutory obligations. The review included researching the legislative history of these statutes and regulations throughout changes to the MRB's placement within the Executive Branch. The Transportation Unit presented its detailed findings to the MRB's Board in December 2020.

Finally, the Transportation Unit reviewed the MRB's budget and spending. In fiscal year 2021, the MRB's budget was \$10,968,209. The budget analysis will help determine whether the MRB expends funds

¹⁴ Confusingly, the statute that created the Merit Rating Board provides that it is governed by a board, which is also named "Merit Rating Board." To avoid confusion, the Office refers to the unit as the "MRB" and its governing board as the "Board."

in accordance with its statutory mandate and only pays for costs related to operating the MRB. The Transportation Unit will finalize this review in 2021.

C. Disadvantaged Business Enterprise

Following a hotline tip, the Transportation Unit investigated whether a MassDOT-certified disadvantaged business enterprise (DBE) qualified for the federal DBE program.¹⁵ The company has worked on MassDOT projects as a subcontractor and supplier for decades. Since 2001, for example, the company has received \$229 million on 228 MassDOT projects.

The Transportation Unit found that the company's success as a construction subcontractor and supplier allowed its owner to "accumulate substantial wealth."¹⁶ Consequently, the company was no longer qualified to participate in the DBE program.¹⁷ The Transportation Unit based its conclusion on an in-depth analysis of the business owner's overall financial condition, including her ownership of other businesses, vast real estate portfolio, access to credit and lavish spending on both personal and business accounts.

Following its review, the Transportation Unit referred the matter to MassDOT to evaluate the firm's DBE certification. As of this report, there has been no final decision on the business's DBE certification.

D. Park and Ride Lots

The Transportation Unit conducted a high-level review to evaluate revenue-generating agreements on MassDOT-owned property, including Park and Ride lots. The Transportation Unit found that MassDOT generally does not have long-term, written lease agreements with private bus and retail vendors that require the companies to pay MassDOT for using the publicly owned parking lots. In addition, the private companies do not share the cost of snow removal or other lot maintenance. The Transportation Unit also found that private companies had scaled back their use of MassDOT's parking lots in response to the COVID-19 pandemic.

MassDOT has already begun researching possible revenue from private bus and retail vendors. The Transportation Unit recommended that MassDOT take preliminary steps now so that it is ready to enter into appropriate revenue-generating or cost-sharing agreements when the lots enter post-pandemic operations. The Transportation Unit plans to revisit this review after commuting returns to pre-pandemic levels.

¹⁵ The U.S. Department of Transportation (USDOT) created the DBE program to increase the number of minority-owned and women-owned businesses that work on federally funded transportation projects. In addition to setting DBE-participation goals for federally funded projects, MassDOT must verify that firms qualify as a disadvantaged business enterprise.

¹⁶ 49 C.F.R. § 26.67(b)(1)(ii)(A).

¹⁷ 49 C.F.R. § 26.67(b).

E. The MBTA's Privatization of Services

In 2015, the legislature passed a law giving the MBTA a three-year exemption from the Act Providing for the Delivery of State Services in a Fiscally Responsible Manner.¹⁸ The 2015 law requires this Office to review all privatization contracts that the MBTA enters into pursuant to this exemption. The review includes assessing the procurement process, the quality of the privatized services provided, the expected and actual cost of the contract, and the actual cost compared to the benefits derived from the contract.

The Transportation Unit followed up on its 2019 review of the MBTA's privatization of its warehouse operations. The Transportation Unit's preliminary review focused on the MBTA's contract, Mancon's compliance with the contract and the MBTA's oversight of Mancon's performance. The Transportation Unit identified opportunities for the MBTA to improve its oversight of the vendor, and it also recommended that the MBTA hold the vendor accountable for failing to provide a viable inventory system according to the terms of the contract.

In 2020, the Transportation Unit found that the MBTA is continuing to improve its oversight of the vendor. However, the MBTA has not held the vendor accountable for failing to provide a complete inventory system.

F. Equipment Misuse

Keolis Commuter Services (Keolis) operates the MBTA's commuter rail system. As part of its contract with Keolis, the MBTA provides the company with certain equipment, tools, machines and vehicles. Keolis uses the property – which ranges from snow blowers and tractors to vehicles and heavy rail equipment – to repair and maintain the commuter rail network. Keolis is responsible for storing, tracking and maintaining the property.

Following a hotline complaint, the Transportation Unit determined that a Keolis employee took an MBTA loader home to use on personal construction projects.¹⁹ The Transportation Unit also found that Keolis maintains and manages the inventory of MBTA-owned property with little agency oversight. Further, at the time of the Transportation Unit's review, Keolis' employee policies prohibited employees from using MBTA vehicles for personal purposes, but the policies did not explicitly address other MBTA property, such as the loader that the employee removed and used.

The Office referred the personnel matter to Keolis. The Office also concluded that both the MBTA and Keolis would benefit from clearer policies, increased oversight and better recordkeeping for MBTA-

¹⁸ See 2015 Mass. Acts c. 46.

¹⁹ A loader is a small construction vehicle that can be used for a variety of tasks, including moving material during construction and landscaping.

owned equipment. The Office recommended, for example, that the MBTA require all contractors, including Keolis, to adopt and enforce an acceptable use policy for MBTA-owned resources.

G. Commuter Rail Fare Collection

The MBTA, with approval from its Fiscal and Management Control Board, sets the fare structure for traveling on the MBTA's subways, trolleys, ferries, buses and commuter rail (collectively, the MBTA system). The MBTA allows on-duty police officers and fire department personnel to ride throughout the MBTA system free-of-charge.

In 2020, the Transportation Unit reviewed a complaint about commuter rail conductors allowing court officers to ride for free. The Transportation Unit determined that the MBTA's fare structure did not permit court officers to ride for free. The Transportation Unit recommended that the MBTA update its fare structure to explicitly exclude court officers from that privilege. In September 2020, the MBTA adopted this recommendation and Keolis has begun collecting fares from trial court officers.

H. Town of Eastham

In 2020, the Transportation Unit reviewed the town of Eastham's oversight of a roadway improvement project funded through the state's Chapter 90 program. The [review](#), initiated from a hotline tip, focused on an overpayment to All States Asphalt, Inc. (All States Asphalt) in 2017. The Transportation Unit found that weak town oversight and financial controls led Eastham to overpay the contractor \$13,672. Although the overpayment was relatively small, the review highlighted the importance of contract management and vendor oversight.

Created by the Massachusetts legislature in 1973, the Chapter 90 program provides annual funding to municipalities for transportation infrastructure projects on municipal ways, including roads and bridges.²⁰ Under Chapter 90, cities and towns receive 100% reimbursement from the state on approved projects. MassDOT oversees the program, approves projects and handles reimbursement.

In response to learning of the weak project oversight, the town administrator made staffing changes, notably hiring a new superintendent of public works, who recovered the entire overpayment from All States Asphalt. Town officials also worked with MassDOT to identify an appropriate method for returning the overpayment, concluding that MassDOT would deduct \$13,672 from the reimbursement on a future Chapter 90 project.

Following its review, the Transportation Unit recommended that the town enhance its contract administration and vendor oversight to ensure that the town only pays for the materials and services that

²⁰ While commonly referred to as "Chapter 90," since the program was originally created by Section 34 of Chapter 90 of the Massachusetts General Laws, the statutory authority for the program is now codified as Section 4 of Chapter 6C of the Massachusetts General Laws. Typically, funding for the program is authorized annually through bond bills, which are adopted as Acts of the Massachusetts legislature. Each municipality's Chapter 90 apportionment is based on a formula that takes into account the city's or town's total road mileage, population and employment.

it receives. The Transportation Unit stressed that all town officials must actively oversee vendor work, including confirming that work is completed satisfactorily and according to the contract. In Chapter 90 projects, this includes measuring the quantity of material used to ensure that the town only pays for the supplies used on the project. Best practices also include only approving invoices that are detailed and provide sufficient information. Additionally, the Transportation Unit recommended that all town employees involved in procurement, project oversight or payment processes take the Office's free, online training, Contract Administration for Public Employees.

Since issuing its report, the Transportation Unit, with MassDOT's community grants program, developed a training called "Project Management for Municipal Construction and Chapter 90 Projects." The Office offered this training through its MCPPO program. Training topics included an overview of Chapter 90, contract administration, common construction fraud schemes, case studies and prohibited conduct on municipal roadway projects. The Transportation Unit and MassDOT used lessons learned from the town of Eastham to develop this training.

I. Town Roadway Project

The Transportation Unit also evaluated a complaint that a town's Select Board had improperly applied for a MassDOT grant without seeking approval from town residents. The Transportation Unit found that the town's Select Board was authorized to apply for grant money without a Town Meeting vote, and that in any event, the town had voted in 2017, and again in 2020, to allow the town to apply for state and federal grants.

In March 2021, MassDOT's highway division published a comprehensive guide for municipalities receiving grant funding for local roadway improvements. The guide, "Complete Streets Funding Program Guidance," outlines the importance of community engagement at all stages of a project and provides practical examples of how to solicit community input.

J. Other Reviews and Referrals

During 2020, the Transportation Unit referred several complaints to MassDOT and the MBTA. Transportation Unit staff also worked collaboratively with MassDOT and the MBTA to resolve many issues and inquiries. The various reviews, referrals and collaborations included topics such as land development deals, equipment operation and efficiencies, faulty maintenance equipment, subcontractor overbilling, and time and attendance abuse.

II. Fraud Prevention Training

In furtherance of its mission to prevent fraud, waste and abuse of transportation funds, the Transportation Unit developed and delivered fraud prevention training at the request of MassDOT and the MBTA. In March 2020, the Transportation Unit team led two training sessions for MBTA project managers. In September 2020, the Transportation Unit trained MassDOT highway field staff who oversee

maintenance and construction contracts. The MassDOT and MBTA training sessions outlined common fraud schemes, fraud prevention techniques and red flags for vendor fraud.

Also, in 2020, the Transportation Unit developed and taught a class entitled *Financial Statement Fraud* for the Office's Massachusetts Certified Public Purchasing Official program. Using case studies, the class focused on the basics of fraud awareness, red flags and analytic strategies to detect fraud on financial statements.

III. Hotlines

The Transportation Unit maintains two hotlines for members of the public to confidentially report suspected fraud, waste or abuse in the expenditure of MassDOT funds; the hotlines are available on the Office's, MassDOT's and the MBTA's websites. The Transportation Unit also maintains employee hotlines on MassDOT's and the MBTA's intranets.

The Transportation Unit evaluates each complaint received to determine whether it falls within its jurisdiction and whether it merits action. Some complaints lead to extensive investigations, some are referred to other agencies and others are closed if a preliminary inquiry fails to substantiate the allegations. Additionally, the Transportation Unit sometimes refers complaints to MassDOT or the MBTA if it determines that action would be best handled directly by the appropriate division. During 2020, the Transportation Unit received 212 complaints from private citizens and public employees. Figure 7 details the sources of the complaints and Figure 8 outlines the Transportation Unit's action by receipt method.²¹

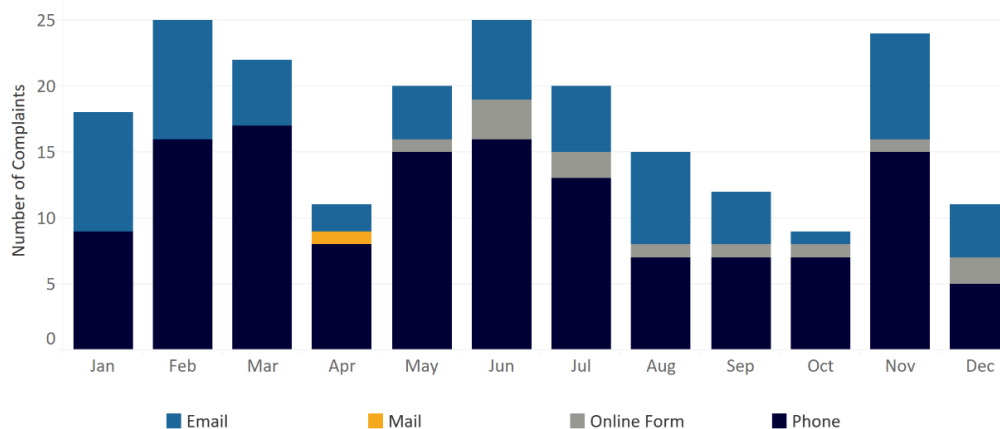


Figure 7. Intake Source by Month (2020).

²¹ In Figure 8, "Referral" means the Transportation Unit reviewed the complaint, deemed the complaint legitimate and referred it to the appropriate agency, usually MassDOT or the MBTA. "Directed Complainant to the Appropriate Agency" means that the Transportation Unit determined that the matter was outside of the Transportation Unit's jurisdiction; however, the Transportation Unit provided the complainant with the appropriate source for handling their complaint.

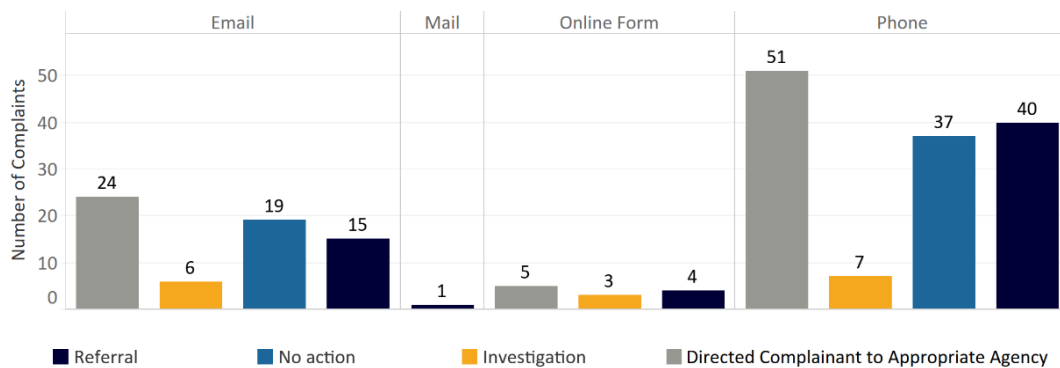


Figure 8. Transportation Unit Actions on Complaints Received in 2020.

The Transportation Unit also monitors the RMV's disability parking placard abuse hotline and receives reports of suspected placard abuse from the public. The RMV's Medical Affairs Bureau processes this information for further investigation. In 2020, the Transportation Unit received 42 reports of alleged placard abuse.

LEGAL DIVISION

The Legal Division provides essential legal advice to the Office and manages legal strategy in all Office litigation. Attorneys in the Legal Division represent the Office in state and federal court, draft and review legislation, teach procurement law, and provide guidance on state and local public procurement matters. Attorneys in the Legal Division also support the Office on investigations, audits and reviews by assisting during formal interviews; analyzing evidence; conducting legal research; coordinating responses to and enforcing summonses; and liaising with state, municipal and private entities. The Legal Division also plays a key role in compliance and internal controls within the Office, including on-boarding new employees and regularly providing in-house training on topics such as confidentiality, ethics and conflicts of interest.

Legal Division

- Provides Legal Advice
 - Represents the Office in Court
 - Pursues Civil Actions to Recover Public Funds
-

Since March 2020, the Legal Division's Justice Geraldine S. Hines Diversity Fellow has participated in assignments for all divisions in the Office and has quickly become an integral part of the Legal Division and the Office as a whole.

The Legal Division has also devoted its efforts to supporting the Office during the COVID-19 pandemic. While continuing with its existing responsibilities, the Legal Division has interpreted and implemented new statutory requirements and handled issues arising from the pandemic, including the creation of new policies and procedures related to the Office's remote workplace.

I. Summary of the Methodology for the Investigation of the Drug Laboratory at the William A. Hinton State Laboratory Institute

During the past year, the Legal Division oversaw the Office's continued work related to the William A. Hinton State Laboratory Institute (Hinton Drug Lab). In 2012, the Office undertook an investigation of the Hinton Drug Lab. The Office issued its report in March 2014 (Hinton Report). In February 2016, the Office issued a supplemental report that described the results of the Office's retesting of drug samples (Supplemental Report).

After the OIG issued its Hinton Report and Supplemental Report, the Supreme Judicial Court in 2017 dismissed over 21,000 drug convictions because of former chemist Annie Dookhan's malfeasance at the Hinton Drug Lab between 2003 and 2011. In 2018, the Supreme Judicial Court dismissed an additional 16,000 drug convictions because of former chemist Sonja Farak's malfeasance at the State Laboratory Institute in Amherst (Amherst Drug Lab) between 2004 and 2013. Because Ms. Farak had been a chemist

at the Hinton Drug Lab from 2003 to 2004, her misconduct at the Amherst Drug Lab brought additional scrutiny to her time at the Hinton Drug Lab.

In 2020, the Office continued to work collaboratively with district attorneys' offices that were seeking more information about the Office's Hinton investigation in response to post-conviction litigation of Hinton Drug Lab-related cases. As a part of this effort, in April 2021, the Office issued a summary of the methodology the Office used for its investigation of the Hinton Drug Lab. The summary described how the Office conducted the investigation and included information about how the Office's investigation methodology encompassed Ms. Farak and the other chemists at the lab. It did not recap the full background of the Hinton Drug Lab crisis or the extensive findings from the Office's investigation. That information is contained in the Office's [Hinton Report](#) and [Supplemental Report](#), which detailed the Office's comprehensive review of the lab over the course of thirty-nine months.

II. Civil Recovery Unit

The Legal Division's Civil Recovery Unit (CRU) has continued its charge of investigating and pursuing civil actions to recover money on behalf of the Commonwealth and local governments. The CRU investigates and develops matters for potential civil recovery, in partnership with other Office divisions and the Massachusetts Attorney General's Office. In the past year, the CRU has recovered over \$1.6 million in collaboration with the Attorney General's Office.

Below are highlights of the CRU's work over the past year.

A. Telemarketing Operation Settlement

The CRU investigated allegations that Pioneer Products Inc. (Pioneer) and Noble Industrial Supply Corp. (Noble), and their owners and presidents, Richard Weber and Benno Schubert, used high-pressure techniques and misleading statements to induce municipalities to spend large amounts on supplies that they did not order. Pioneer and Noble did business across the state; they sold cleaning supplies, specialty products for fire departments and other chemical products to local governments.

The CRU's investigation found that Pioneer and Noble employed a common scheme for over 10 years, targeting scores of municipalities. After a customer's initial order, a salesperson would call back and say that they were sending the next order, even though the municipality had not agreed to additional purchases. If the municipality disputed the order, the Pioneer or Noble employee engaged in misleading and intimidating sales methods to compel the municipality to accept additional shipments. Through these misleading calls, the companies caused municipalities to pay for merchandise that they had not ordered.

**\$850k settlement
recovered from
high-pressure
misleading
telemarketing
scheme**

In June 2020, Pioneer and Noble agreed to discontinue their business in Massachusetts for one year and to pay \$850,000 to settle the allegations of misleading, deceptive business practices. Under the settlement that CRU negotiated in collaboration with the Attorney General's Office, the companies were also required to implement new policies and practices and to retrain their employees. As a result of the settlement, the Office and Attorney General's Office returned nearly \$400,000 to 43 cities and towns victimized by Pioneer and Noble. In addition, the municipalities kept all merchandise that the companies had shipped. The Office and the Attorney General's Office recouped the cost of the investigation and the balance of the settlement went to the Commonwealth's General Fund.

B. Settlement with Statewide Bridge Contractor

The Office's Internal Special Audit Unit (Transportation Unit) and the CRU investigated allegations that NEL Corporation (NEL), a Massachusetts-based bridge contractor, overbilled MassDOT. As a result of the investigation, the Transportation Unit and the CRU found that NEL overbilled MassDOT under contracts to repair and maintain bridges throughout the state. Specifically, NEL charged MassDOT for items that NEL was required to provide at its own expense under the contracts, including certain tools, equipment, sanitary facilities and personal protective equipment.

In March 2021, NEL agreed to a \$700,000 settlement with the Office and the Attorney General's Office. As part of the settlement, NEL agreed to implement measures to prevent future overbilling, including designating a contract manager to ensure that the company only bills MassDOT for work, supplies and equipment allowed under the contract. In addition, NEL agreed to hire an outside auditor to review NEL's billing on all open MassDOT contracts annually and provide a copy of the audit to the Transportation Unit. These measures will remain in effect for five years.

C. Civil Recoveries from Former State Troopers

The CRU worked with the Office's Division of State Police Oversight (State Police Division) and the Attorney General's Office to investigate and resolve civil claims arising out of the overtime abuse scandal at the Massachusetts State Police (MSP) Troop E.²² The MSP had determined that several members of Troop E were paid for overtime hours they falsely reported working. Following the MSP's investigation, the CRU and the State Police Division investigated further and developed civil recovery actions against members of Troop E.

In April 2021, the CRU settled civil claims with two former troopers related to their overtime pay. As alleged in complaints filed in Suffolk Superior Court, Kevin O'Brien and Robert Freniere submitted for overtime hours they did not work. The troopers had been assigned special overtime shifts intended to reduce accidents, crashes and injuries on state highways. The troopers were supposed to be highly visible and on patrol, targeting aggressive and speeding drivers.

²² For more information about Troop E and the overtime abuse scandal, see page 32 of the report.

The MSP and the State Police Division found that Mr. O'Brien falsely claimed to have worked more than 1,056 hours across 480 shifts between 2015 and 2017, and that Mr. Freniere falsely claimed to have worked more than 369 hours across 136 shifts between 2015 and 2016. Under consent judgments filed in Suffolk Superior Court, Mr. O'Brien and Mr. Freniere repaid the Commonwealth \$80,000 and \$30,000, respectively. Mr. O'Brien and Mr. Freniere neither admit nor deny the allegations in the complaints.

POLICY AND GOVERNMENT DIVISION

The Policy and Government Division (Policy Division) oversees the Office’s policy, healthcare and legislative initiatives. The Policy Division also reviews programs and practices in state and local agencies to identify system-wide vulnerabilities and opportunities for improvement.

Policy and Government Division

- Reviews Healthcare Programs
 - Proposes New Laws and Policies
 - Monitors Legislation to Safeguard Public Funds
-

I. Healthcare Reviews

Each fiscal year, the state budget includes language requiring the Office to review the Health Safety Net (HSN) and Medicaid programs, which are administered by the Office of Medicaid (MassHealth).²³ This may include reviewing eligibility requirements, utilization, claims administration and compliance with federal mandates. The budget language requires the Office to produce a [report](#) each March. Below are highlights from the Office’s reviews.

A. Adult Foster Care

Adult foster care allows MassHealth members to live with a caregiver who provides medically necessary assistance with activities of daily living (ADLs) and instrumental activities of daily living (IADLs).²⁴ ADLs are physical skills like eating, dressing and bathing. IADLs are life management tasks like paying bills, shopping and preparing meals.

MassHealth members may also receive assistance with ADLs from home health aides. However, regulations prohibit MassHealth from paying for a member to receive adult foster care on the same day they receive home health aide services. Furthermore, adult foster care is billed at a per diem rate. Therefore, providers should not bill – and MassHealth should not pay – multiple claims for service provided to the same member on the same day.

The Office reviewed approximately \$349 million in adult foster care claims that MassHealth paid between May 1, 2018, and April 30, 2019. The Office found that MassHealth allows providers to bill for multiple days on a single claim. Furthermore, rather than identifying the specific dates that the member

²³ The federal government created the national Medicaid program in 1965 to provide medical assistance to low-income individuals, particularly children, through a shared state-federal commitment. The Massachusetts legislature created the Health Safety Net to pay for medically necessary services that acute care hospitals and community health centers provide to eligible low-income uninsured and underinsured patients.

²⁴ This report refers to Individuals who utilize the Medicaid program as “MassHealth members.”

received care, providers can list a date range for the services. While this practice is permissible, it impedes oversight because it can be difficult or impossible to determine the specific dates the services were provided. It also makes it more difficult to identify when a member has received overlapping services.

The Office also found (1) MassHealth paid \$664,165 in adult foster care claims on days a member also received home health aide services; (2) 5,168 instances when a provider submitted two adult foster care claims for a single day; and (3) 604 instances when a provider billed for a month of service – 30 or 31 days – but only listed a single date of service on the claim.

The Office recommended that MassHealth implement edits in its claims adjudication system to proactively prevent paying for adult foster care services that members received on the same day they received home health aide services. MassHealth should also consider requiring providers to bill for adult foster care one day at a time. Finally, MassHealth should consider whether it is appropriate for providers to bill for a month of service but only list a single date of service on the claim.

B. Sleep Studies

MassHealth pays for members to undergo medically necessary sleep studies to diagnose sleep disorders, including obstructive sleep apnea. Obstructive sleep apnea occurs when breathing stops temporarily during sleep due to narrowed or constricted airways. A provider may conduct a sleep study at a sleep clinic, at a hospital or in a member's home. Each sleep study requires equipment, supplies and a technician to set up the test, as well as a physician or similar healthcare professional to interpret the sleep study. Providers can either bill MassHealth for the entire process as a single combined service or submit two separate claims: one for the technical component, covering the test itself, and another for the professional component, covering the interpretation.

The Office reviewed 57,987 claims for sleep studies conducted between January 1, 2015, and December 31, 2019 for a total cost of \$25,203,501 for 22,569 members. The Office found 1,286 claims, totaling \$557,103, for the technical component of a sleep study that did not have a corresponding professional component. Since the technical component is medically useless without professional interpretation, billing for only half the procedure presents three possibilities: providers are wasting public funds by performing the technical component unnecessarily; providers are defrauding MassHealth by billing for sleep studies they did not perform; or providers are performing full sleep studies but failing to bill MassHealth for the professional component. Two providers accounted for 548, or 50%, of these claims. The Office forwarded information about these providers to MassHealth.

The Office recommended that MassHealth evaluate its claims edits and program integrity processes to ensure that the agency only pays for completed sleep studies that include both the technical and the professional components.

C. Positive Airway Pressure Devices

Patients use positive airway pressure (PAP) devices, a type of durable medical equipment, to treat sleep disorders, including obstructive sleep apnea. MassHealth regulations allow the agency to pay for PAP device rentals for a maximum of 13 months, at which point the member owns the device. MassHealth also will pay for certain parts of each PAP device to be replaced at regular intervals. For instance, MassHealth will pay for a new PAP mask every three months.

The Office reviewed 170,792 PAP device claims for calendar years 2015 through 2019 and found that, overall, MassHealth has strong program integrity for PAP devices. The Office identified three areas that may benefit from additional oversight. First, the Office found that MassHealth paid a small number of duplicate claims for PAP device rentals. Second, the Office saw a low occurrence of rentals that exceeded 13 consecutive months. Third, the Office found that MassHealth sometimes paid for replacement parts more frequently than the regulations allow.

The Office recommended MassHealth evaluate its claims edits periodically to ensure that it continues to identify and deny duplicate claims as well as too-frequent replacements of durable medical equipment and parts. MassHealth should also continue to monitor its payment system to ensure that it is reimbursing claims appropriately.

D. Personal Care Attendants

The Office followed up with MassHealth regarding the personal care attendant (PCA) program, which was the focus of the Office's annual report on the Medicaid and Health Safety Net programs in 2020. In that [report](#), the Office identified several issues that limited MassHealth's ability to provide meaningful oversight of the PCA program.

The Office found MassHealth did not have accurate information about the identities of the PCAs who provide services to members. As a result, MassHealth could not ensure adequate program integrity or determine whether the PCA program was working within its regulatory framework. For example, MassHealth could not determine whether each PCA was following regulations that, among other things, prohibit a PCA from caring for a family member and from working more than 50 hours a week.

In response to this finding, MassHealth now requires the fiscal intermediaries (FIs), which help administer the PCA program, to provide MassHealth with identifying information for all PCAs – including each PCA's name. Under a new contract that begins in 2022, moreover, MassHealth will require that every claim for PCA services include a unique PCA identification number. The Office strongly supports this requirement because it will provide a direct link between the PCA, the claim for payment and the MassHealth member(s) for whom the PCA provides services.

In 2019, the Office also reviewed de-identified criminal offender record information (CORI) and sex offender registry information (SORI) of PCAs and found substantial numbers of PCAs had previous involvement with the criminal justice system. MassHealth allows members to select their own PCAs and

decide whether to request CORI and SORI checks. Over the past year, MassHealth has solicited feedback from members and stakeholders about how to increase the number of PCAs who undergo background checks.

Finally, the Office reviewed PCA travel claims, which are claims for PCAs to travel from one member's home to another member's home. The Office found inconsistent and incomplete data, making it impossible for MassHealth or its vendors to conduct rigorous program integrity reviews. The Office also found that MassHealth was reimbursing PCAs for traveling significant distances to care for members, which raises concerns about good business practices and program integrity.

In response to the Office's findings, MassHealth began taking steps to identify inaccurate travel claims and to recoup improperly paid claims. For example, MassHealth created an algorithm to flag PCA travel claims that require further review. It began using the algorithm in January 2021.

The Office continues to recommend that MassHealth conduct a full audit of all travel claims. This audit should look for red flags of fraud, waste or abuse, including why some PCAs appear to finish one shift and start a second shift simultaneously, even though they are caring for members who live at different addresses. The audit should also include a review of consistently high work and travel claims to identify program integrity issues.

II. Public Design and Construction

Since its inception, the Office has helped develop policies and procedures related to the Commonwealth's public design and construction laws. In 2020, the Office worked with the Department of Capital Asset Management and Maintenance (DCAMM), the Massachusetts Department of Transportation, the Massachusetts Port Authority, the Massachusetts School Building Authority, the Massachusetts Attorney General's Office and other state and local entities to establish best practices in public construction.

A. Alternative Construction Methods

Pursuant to Chapter 149A of the Massachusetts General Laws, the Office reviews applications to use alternative delivery methods, including the construction management at-risk (CM at-risk) and design-build methods.²⁵ In addition, before certain state agencies and authorities may use alternative delivery methods on construction projects, the legislature has charged the Office with reviewing and approving the procedures for utilizing those delivery methods. Consequently, the Office reviews and approves certain procedures for DCAMM, the Massachusetts Port Authority, the Massachusetts Department of Transportation, the Massachusetts Bay Transportation Authority, the Massachusetts Water Resources

²⁵ "Alternative delivery method" means a delivery method other than the traditional design-bid-build sequential method of construction required in M.G.L. c. 149 (building construction projects) and M.G.L. c. 30, § 39M (public works construction projects).

Authority, the Massachusetts State College Building Authority and the University of Massachusetts Building Authority.

In 2020, the Office received 18 applications to use the CM at-risk delivery method, totaling over \$1.6 billion in estimated project costs. The projects included 10 public schools, one public charter school, one affordable housing development, three public safety buildings, one town hall renovation, one recreation facility and one police station. Applicants included the cities of Boston, Gloucester, Lawrence, Quincy, Salem and Worcester, as well as and the towns of Andover, Ashland, Brookline, Dedham, Oak Bluffs, Shrewsbury, Stoughton, Wakefield and Wellesley. Additional applicants included the Cambridge Housing Authority and the Springfield Preparatory Charter School.

In 2020, the Office received one design-build application from the Springfield Water and Sewer Commission for a water infrastructure project. In July, the Office approved the Commission's application to use the design-build alternative for the \$21-million project. This was the first design-build application received from a local jurisdiction in ten years.

B. Owner's Project Manager Review Panel

Staff from the Office represent the Office at the Massachusetts School Building Authority's (MSBA) Owner's Project Manager Review Panel (Review Panel). When a school district receives state funding to build a new school, it must use an owner's project manager (OPM) to oversee the building project. The Review Panel, led by the MSBA, reviews each school district's selection of an OPM, including the evaluation process the school district used.

As members of the Review Panel, Office staff review each district's process and evaluation of its OPM applicants. This review entails examining both the school district's needs and the OPM's qualifications, including the OPM's project experience, managerial experience, backlog of other ongoing work, and financial viability. Staff then participate in the Review Panel's meeting, listening to school district presentations. After considering the presentations and reviewing the materials, the Review Panel may either agree with the school district's selection of an OPM or recommend further review and consideration.

III. Real Estate Transactions

Each year, the Office reviews a variety of real property transactions involving public property, including dispositions, acquisitions and long-term leases, to ensure that the public's interests are protected. In addition, the legislature frequently mandates that the Office reviews and approves independent appraisals of real property that the Commonwealth, counties and municipalities propose to convey or acquire. The Office's appraisal reviewers evaluate whether the analyses, opinions and conclusions in the appraisal are appropriate and reasonable. As mandated, the Office provides a report on each appraisal to the Commissioner of DCAMM for submission to the House and Senate Committees on Ways and Means and the Joint Committee on State Administration and Regulatory Oversight.

Below are examples of transactions that the Office reviewed in 2020.

A. Lowell District Courthouse

Chapter 304 of the Acts of 2008 (Chapter 304) authorized the sale of the Lowell District Courthouse. Chapter 304 also required DCAMM to obtain an appraisal of the property and the Office to review that appraisal. In 2020, the Office reviewed the appraisal and the methodology used to value the property. The Office found that the appraiser provided two opinions of value. First, the appraiser analyzed the site for a multifamily development use. The appraiser also completed a valuation of the land for municipal use. The appraiser's valuations considered that the courthouse would be demolished. The Office concluded that the opinions of value of the land for a multifamily development and municipal use were supported.

B. MIT Boathouses

DCAMM, in consultation with the Department of Conservation and Recreation (DCR), is authorized to lease certain land and appurtenances to boating organizations. In 2020, the Massachusetts Institute of Technology (MIT) proposed two formal leases with DCAMM: one for its Harold W. Pierce Boathouse and one for its Wood Sailing Pavilion. DCAMM provided the Office with a draft lease for the Pierce Boathouse, using a template DCAMM also used for the Sailing Pavilion. During the term of the 30-year lease, which included an option to extend for five additional years, MIT will pay monetary rent for the land and water sheet area. MIT constructed and owns the buildings on the premises. Therefore, DCAMM did not require MIT to make capital improvements to the buildings but did require reasonable maintenance and upkeep of the premises. In addition, MIT must make restrooms available to the public, maintain a boat for buoy maintenance and water sampling, host certain events for the public and offer other in-kind considerations. Based on the Office's review, DCAMM's lease for the Pierce Boathouse was consistent with the terms and conditions of the authorizing legislation and it therefore approved the form of the lease.

C. Easements

Pursuant to legislation, the Office reviewed appraisals of permanent and temporary easements in the Milton and Quincy sections of the Blue Hills Reservation; in Bellingham for the installation and maintenance of a water main; in Grafton for utility purposes; and in New Salem for the purposes of installing, operating, maintaining and repairing utility poles and associated overhead wires to provide broadband service. In the separate reviews of each easement area, the Office found that DCAMM's appraisers used appropriate methodologies to support the valuations and appropriately analyzed the property rights associated with the grant of the easements. The Office therefore approved the appraisal methodologies and opinions of value.

IV. Legislative Initiatives

Since it was established in 1981, the Office has reviewed and commented on proposed legislation during each legislative session. In addition, the Office regularly provides feedback to individual legislators who are developing both legislation specific to the districts they represent and legislation that affects the general operations of state and local government. The Office also responds to requests from the Governor's Office to review legislation that the legislature has passed and is awaiting the Governor's signature.

The Office continued to provide these important services throughout 2020. For instance, the Office reviewed and commented on more than 100 pieces of legislation for the 2019-2020 legislative session. In 2020, the Inspector General and his staff also provided testimony and guidance to legislative committees on issues related to real estate transactions, fraud controls, employee leave time policies, post-retirement work policies, and the procurement of public supplies and services. In all cases, the Office stressed the importance of transparency in government and the need for safeguards to ensure the appropriate oversight of public funds.

V. Proposed Legislation: 2020-2021 Session

Chapter 30 of the Massachusetts General Laws permits the Office to file legislation in the November of even years for the upcoming legislative session. In November 2020, the Office filed the following bills for the 2020-2021 legislative session.

A. [House 4](#), An Act Relative to Chapter 12A

House 4 would amend the Office's enabling statute in order to increase the Office's ability to prevent and detect fraud, waste and abuse. Modeled after the federal Inspector General Empowerment Act of 2016, the proposal clarifies that the Office has access to all records of a public body unless the General Court expressly limits that access.

The proposal would also allow the Office to refer a potential criminal matter to a district attorney in the same manner that it refers cases to the U.S. Attorney and the Attorney General. Further, the proposal would allow a member or designee of the Inspector General Council to attend a private session where testimony is given under oath at the request of the Inspector General, but it removes the attendance requirement. The role of the Inspector General Council otherwise would remain the same, including approving summonses to take testimony under oath. Finally, the proposal would extend whistleblower protections to private employees. Any person who violates these whistleblower protections would be subject to a fine and liable for damages. The bill was referred to the Joint Committee on State Administration and Regulatory Oversight.

B. [House 5](#), An Act Relative to Inspector General Annual Report

House 5 would consolidate the Office's annual reports into one, comprehensive report. Specifically, the proposal would modify the requirement that two embedded units in the Office, the Internal Special Audit Unit and the Division of State Police Oversight, submit separate annual reports to the legislature. Instead, these reports would be included as part of the Office's annual report required under Section 12 of Chapter 12A. The Office would also be required to submit its annual report to both the Joint Committee on Transportation and the Joint Committee on Public Safety and Homeland Security, as is currently done by the Internal Special Audit Unit and the Division of State Police Oversight. The bill was referred to the Joint Committee on State Administration and Regulatory Oversight.

C. [House 6](#), An Act Relative to Chapter 30B

House 6 would increase the fine for causing someone or conspiring with someone to solicit or award a contract in violation of the Uniform Procurement Act, Chapter 30B of the Massachusetts General Laws (Chapter 30B). Based on the Office's investigations and reviews, those who conspire to violate Chapter 30B can receive hundreds of thousands of dollars as a result of their misconduct while depriving the municipality of needed goods or services. Consequently, the current fine – \$2,000 – is an insufficient deterrent to violating Chapter 30B. Raising the fine to \$10,000 – as the Office proposes – would have a far greater deterrent effect. This proposal also would update Chapter 30B to include the correct statutory references to other recently amended statutes. The bill would also strike a section of Chapter 30B that is duplicative. The bill was referred to the Joint Committee on State Administration and Regulatory Oversight.

D. [House 7](#), An Act Revising Chapter 30B

House 7 would augment certain sections of Chapter 30B to promote best practices, fair competition and transparency. The proposal defines certain terms, clarifies areas where the statute's intent is often questioned or silent and enhances the process an awarding authority must use when soliciting quotations. Under the proposed revisions, awarding authorities would be able to use requests for proposals for procurements in the \$10,000 to \$50,000 range. The proposal also clarifies that an awarding authority cannot allow a vendor to modify quotations for goods and services after they are received. Further, awarding authorities that do not have written procedures for the disposal of surplus supplies would be required to use sound business practices to dispose of surplus supplies valued at less than \$10,000. The proposal also would require contractors to notify the Office when they have credible evidence of criminal conduct, civil violations or overpayments. In addition, a procurement officer may cancel a solicitation for supplies or services if it is in the best interest of the awarding authority and the procurement officer documents the reason for cancellation. Finally, the Office would be permitted to promulgate regulations related to the interpretation and enforcement of Chapter 30B.

House 7 would strengthen Chapter 30B and provide local jurisdictions greater guidance and flexibility in selecting which procurement method to use without sacrificing the principles of good governance and accountability. The bill was referred to the Joint Committee on State Administration and Regulatory Oversight.

E. [House 8](#), An Act Relative to Public Employee False Claims

House 8 would protect municipalities, counties and the state when public employees knowingly submit false or fraudulent claims for hours not worked. Under the proposal, public employees would be liable for treble damages for any false or fraudulent claims of hours worked. The bill was referred to the Joint Committee on the Judiciary.

REGULATORY AND COMPLIANCE DIVISION

The Office's Regulatory and Compliance Division (R&C Division) provides extensive educational and technical assistance to state and local government officials and employees regarding Massachusetts' public purchasing laws, fraud awareness and prevention, and public governance. Among other activities, the R&C Division operates the Office's training programs, publishes educational materials and offers a technical assistance hotline to respond to inquiries and complaints about public procurement, fraud prevention and good governance. The R&C Division also interprets and formulates policies for the Uniform Procurement Act, Chapter 30B of the Massachusetts General Laws (Chapter 30B), which governs the purchase and disposal of supplies, services, equipment and real property by cities, towns and other governmental bodies.

Regulatory and Compliance Division

- Educates Government Employees and the Public
 - Provides Advice to Cities and Towns on Public Purchasing
-

I. Training and Professional Development

The Office established the [Massachusetts Certified Public Purchasing Official](#) (MCPPO) program 24 years ago, in 1997. The Office created the training program to promote excellence in public procurement by ensuring that public purchasing officials and employees have the tools necessary to operate effectively and in accordance with procurement laws. Since then, the MCPPO program has expanded to include a broad range of classes on government, internal controls, cybersecurity, board governance, contract administration, prevailing wage, emergency procurement and fraud prevention.

In the last year, the R&C Division transitioned from live in-person and videoconferencing classes to a fully online program in response to the COVID-19 health emergency. This transition allowed the program to continue reaching the widest audience possible while following COVID-19 health guidelines. The MCPPO program also understands that students have a variety of training needs, availability and budgets for professional development. In response, the Office introduced brief 60-to-90-minute webinars, added more educational videos to the Office's YouTube Channel, developed asynchronous online trainings that can be completed over several of weeks, and added trainings in the evening and on weekends.

Since 1997, more than 30,000 students have attended MCPPO classes and outside speaking engagements. In 2020 alone, the Office provided training to 5,046 students.

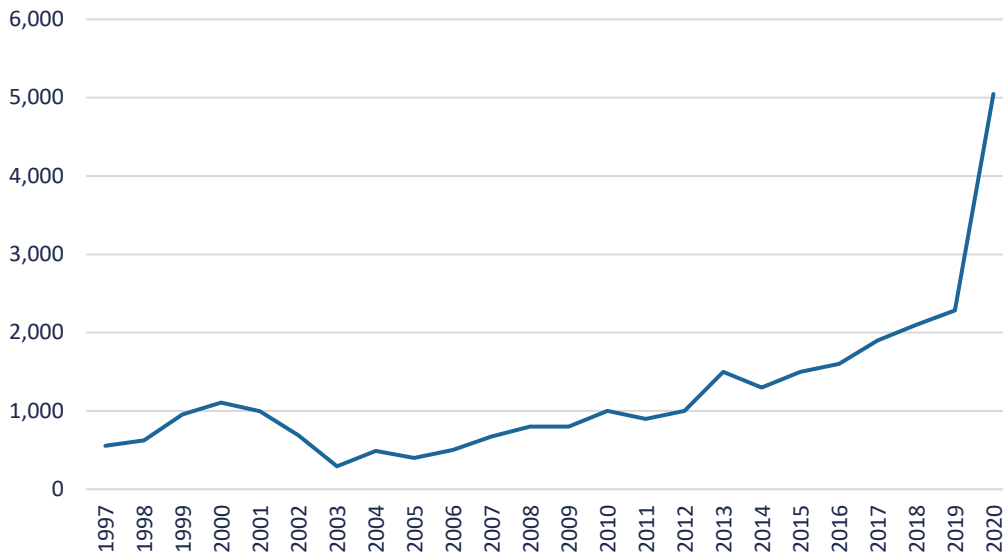


Figure 9. MCPPO Class Attendance by Year.

In 2020, the R&C Division held 88 classes, including videoconference classes at Berkshire Community College in Pittsfield and Bristol Community College in Fall River. In addition to the videoconferences, the R&C Division held live in-person classes at Ana Maria College, COMM Fire District, College of the Holy Cross, North Attleborough Police Facility, Timothy Grammar School (Methuen), UMass Lowell, Webster Town Library and Westfield State University. It also participated in 33 – mostly virtual – outside speaking engagements. The R&C Division thanks the staff at the jurisdictions that hosted its trainings.

II. MCPPO Online Classes

In 2019, the R&C Division began working with the University of Massachusetts' Donahue Institute (UMDI) to create online versions of some of its core classes. In 2020, the R&C Division launched two self-paced classes: *Supplies and Services Contracting* and *Real Property Transactions under Chapter 30B*. These self-paced classes combine online learning modules with instructor-led discussions, knowledge checks and homework assignments. These classes allow students to learn at their own pace while also providing opportunities to engage with their teachers and peers.

In response to the pandemic in March 2020, the R&C Division worked with UMDI to transition all classes to an online platform. These interactive live classes are similar to the R&C Division's live in-person classes. Students have the ability to ask questions and engage with peers and instructors both during and outside of class.

III. Outside Speaking Engagements

Education is essential to preventing the misuse of public money and property. Throughout 2020, Office staff presented on various topics, including public procurement, fraud prevention, board governance, public administration, bid posting and the Office's mission, accomplishments and investigations. The audiences included government agencies, universities and professional associations.



Figure 10. 2020 Speaking Engagements.

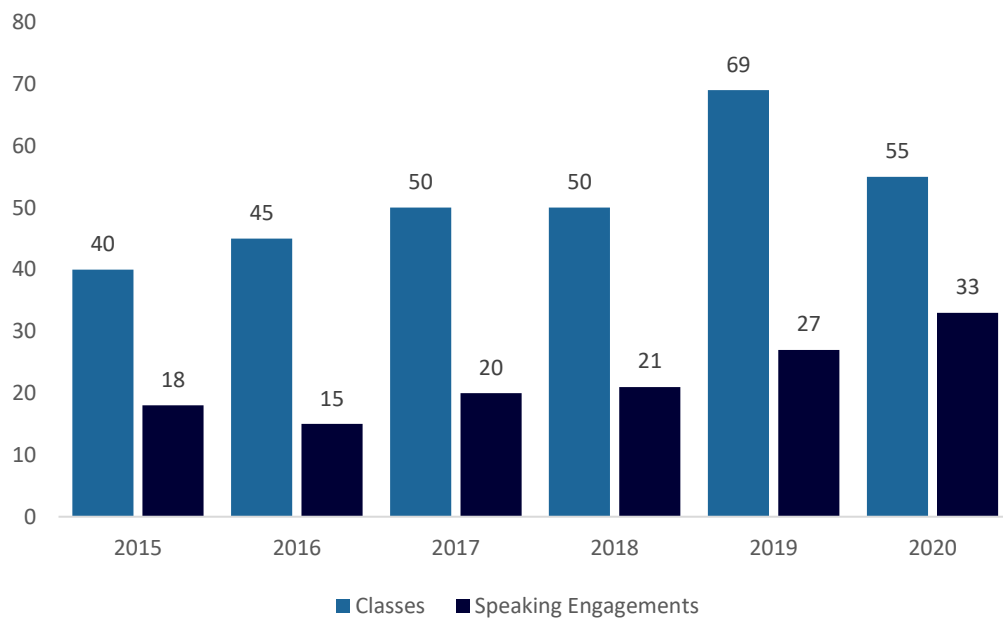


Figure 11. MCPPO Classes by Calendar Year (2020).

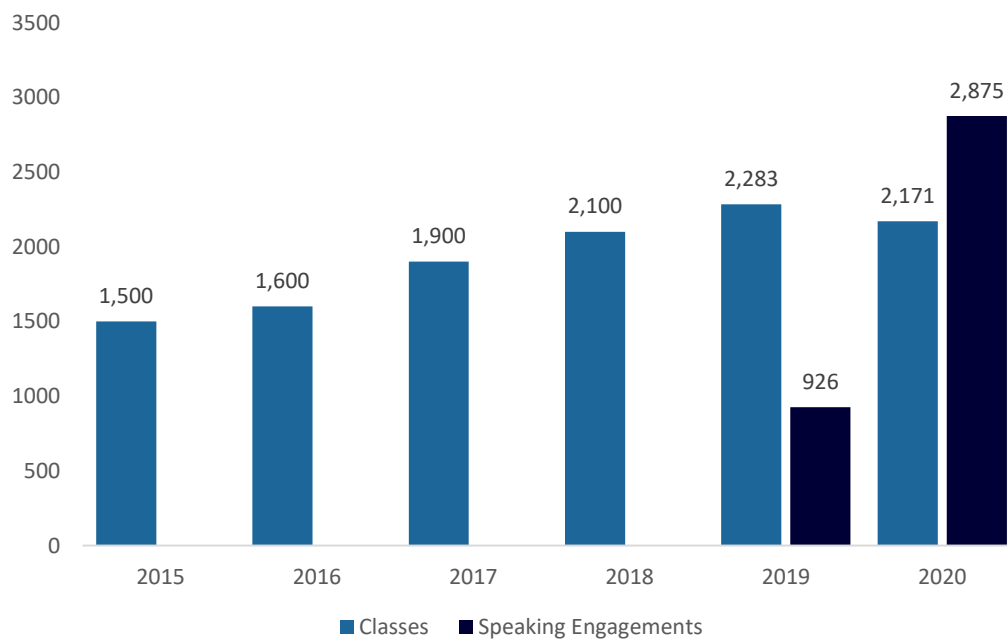


Figure 12. MCPPO Participants by Calendar Year.

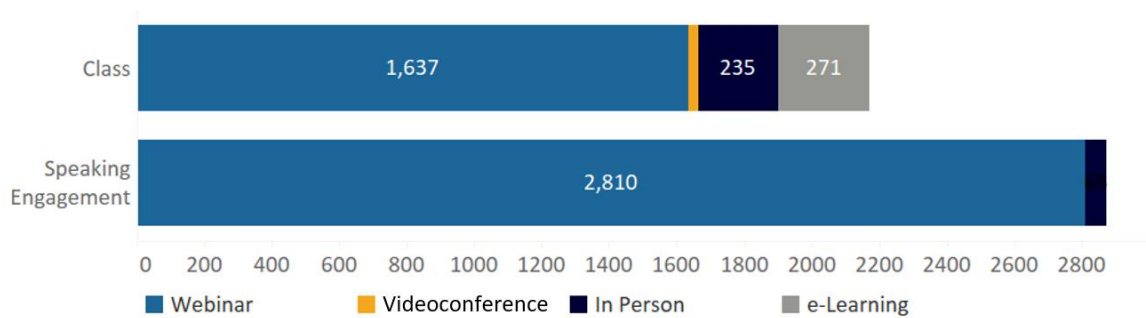


Figure 13. MCPPO Participants Per Class Type (2020).

IV. MCPPO Designation and Certifications

The MCPPO program continues to offer its three core classes required for those interested in obtaining an MCPPO designation: (1) *Public Contracting Overview*, an introductory class that provides an overview of Massachusetts' procurement laws; (2) *Supplies and Services Contracting*, a more in-depth review of Chapter 30B; and (3) *Design and Construction Contracting*, providing in-depth instruction on the procurement laws governing public design and construction in Massachusetts.

The R&C Division also offers specialized classes, such as a four-day *Certification for School Project Designers and Owner's Project Managers* class. The Office created this class in response to a Massachusetts School Building Authority (MSBA) regulation that requires public school designers and owner's project managers to earn a certification to work on MSBA-funded school projects. The R&C Division also continued to offer a two-day *Charter School Procurement* class in response to a statutory mandate requiring charter school procurement staff to obtain a certification.

V. Collaborations

The R&C Division partnered with the Department of Higher Education (DHE) to implement a statutorily mandated training for all trustees of public colleges and universities in the Commonwealth. This Office proposed and advocated for this training, which the legislature included in a broad higher education stability bill enacted in 2019. Since passage, the Office has worked closely with DHE and the other agencies included in the legislation to develop and deliver the training.

The R&C Division also continued to work with the Massachusetts Attorney General's Office to train public officials and employees on the prevailing wage law. During the fall of 2020, the Attorney General's Office presented a 75-minute segment on *Workforce Diversity Requirements in the Massachusetts Public Construction Workforce* as part of its commitment to promote the inclusion of minority-owned and women-owned businesses in public contracts. In addition to incorporating prevailing

wage topics in a number of classes, the Office again offered a full-day class presented by the Attorney General's Office called *Prevailing Wisdom — Confronting Potential Pitfalls and Applying Solutions on Prevailing Wage and Public Construction*. This free class focused on applying practical prevailing wage principals to public procurement and project management.

In collaboration with the MSBA, the R&C Division again offered a *Story of a School Building* at the Goodnow Brothers Elementary school in Marlborough. This one-day class is typically offered in a recently renovated or constructed public school. In 2020, the R&C Division held this class virtually and used video footage to provide a virtual tour of both the construction and the completed building.

The R&C Division also worked with the cities of Lowell and Boston to create specialized training series for their employees. Lastly, the division collaborated with the Commonwealth's Affirmative Marketing Program (AMP) to promote opportunities for minority-owned businesses (MBE) and women-owned businesses (WBE). The goal of providing the AMP presentation is to assist municipalities to increase the participation of MBE and WBE in public building design and construction projects managed by the Division of Capital Asset Management and Maintenance, other large state-funded municipal projects and projects undertaken by other public entities.

VI. MCPPO Training Webinars

Financial Statement Fraud, *Winter-Related Procurement* and *Emergency Procurement* are new training webinars the R&C Division offered in 2020. These webinars focused on current topics such as identifying fraud indicators, emergency procurement of supplies and services and the challenges of winter weather-related procurements. The R&C Division will offer further training webinars on a variety of topics in 2021.

VII. Online Training Videos

In 2020, the R&C Division produced five short videos, which are available on the Office's YouTube channel. The topics of these short videos range from an overview of the Office and its hotlines to whistleblower protections and the Office's Civil Recovery Unit. These videos and other web-based informational materials are part of the Office's commitment to proactive outreach to the general public, government employees and companies that do business with the government.

VIII. "Ask the Instructor" Help Line

As the MCPPO program began transitioning all classes to an online platform, the program introduced the Ask-the-OIG-Instructor@mass.gov help line to give participants the opportunity to ask class-related questions to MCPPO instructors both during and after class. In 2020, the program received

996 inquiries. The “Ask the Instructor” help line operates every workday and ensures that a student’s education continues beyond the formal class sessions.

IX. Chapter 30B Hotline

As discussed earlier (see page 12), the R&C Division offers a technical assistance hotline to respond to questions concerning Chapter 30B, public construction bidding laws, local purchasing requirements, fraud prevention and internal controls. The hotline operates every workday. Individuals can email the hotline or leave voice messages 24 hours a day. In 2020, the Office responded to 1,196 inquiries and questions.

In response to the pandemic, the R&C Division also began offering virtual meetings and provided 30-minute trainings for municipal staff that may have been placed in a procurement role because of the pandemic. The division offered these sessions so procurement staff could ask multiple questions and receive a Chapter 30B tutorial. Routine calls to the Chapter 30B hotline would not have provided the same level of information.

X. MCPPO Training Email and Information Line

The MCPPO program introduced a telephone information line to supplement the existing MCPPO program’s email. In 2020, the program received 3,640 emails and 590 calls. The MCPPO information line and training email operate every workday. Participants can leave voice messages or send an email 24 hours a day and an MCPPO member will respond as soon as possible.

XI. Publications

The R&C Division publishes a wide range of materials to educate and inform public employees, vendors and members of the public. The R&C Division continues to publish advisories, Frequently Asked Questions (FAQs) and other related articles and announcements in the *OIG Bulletin*.

XII. John William Ward Performance Recognition Award

In 2020, the R&C Division became the first ever recipient of the Office’s John William Ward Recognition Award. The award is named after John William Ward, a former president of Amherst College and the chair of the Ward Commission, which investigated public corruption in Massachusetts in the late 1970s and which recommended the creation of the Office of the Inspector General.

The R&C Division received the award for its response to the pandemic, which included quickly moving all of its classes online, creating programming focused on COVID-19, and expanding the technical assistance it provides to cities and towns to ensure that local governments can continue to safeguard funds during the public health emergency.



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The John W. Ward Recognition Award 2020 goes to our Regulatory and Compliance team for its outstanding contributions and unfailing dedication to fulfilling the Office's mission to prevent and detect fraud, waste and abuse of public funds. Congratulations!



Figure 14. R&C Division Receives the 2020 John William Ward Recognition Award.

REPORTS, LETTERS AND PUBLICATIONS

When the Office completes an investigation, review or other project, it may issue a report, letter or case update. The Office also publishes manuals, advisories, guides and a quarterly *OIG Bulletin*. The following documents related to the Office's 2020 activities are available on the Office's website, www.mass.gov/ig.

I. Reports, Letters and Case Updates

- [Case Update](#): Fall River Co-Defendant Pleaded Guilty
- [Report](#): Leadership Failures in Methuen Police Contracts
- [Case Update](#): Former Manager of Non-Profit Housing Agency Pleads Guilty
- [Case Update](#): Former Director of the State's Print Shop Enters Plea on Charges of Receiving Unwarranted Privileges; Ordered to Pay Restitution
- [Letter](#) to Town of Eastham Officials regarding Proper Oversight of Chapter 90 Funds
- [Letter](#) to Hingham Housing Authority regarding its Former Executive Director, Sharon Napier
- [Case Update](#): Investigation Leads to Probation and Restitution Order for Former DDS Group Home Manager
- [Case Update](#): Telemarketing Operation Paid \$850,000 to Settle Investigation of Misleading Sales Practices Targeting Cities and Towns across Commonwealth
- [Case Update](#): Former Accountant for Three Massachusetts Towns Indicted for Stealing \$729,000
- [Letter](#) to Commonwealth Officials Regarding Procurement Measures During the COVID-19 Pandemic
- [Letter](#) to West Newbury regarding Selectman Kemper and Money Owed to Town
- [Report](#): Internal Special Audit Unit 2019 Annual Report
- [Letter](#) to Plymouth County Commissioners Office regarding CARES Act Funds
- [Letter](#) to the Boston Retirement Board regarding Linda Nathan's Violation of Post-Retirement Earnings Limits
- [Report](#): Division of State Police Oversight 2019 Annual Report
- [Report](#): MassHealth and Health Safety Net Annual Report

II. Publications

- [*OIG Bulletin*](#), Vol. 1, Issue #4 (November 2020)
- [*OIG Bulletin*](#), Vol. 1, Issue #3 (August 2020)
- [*OIG Bulletin*](#), Vol. 1, Issue #2 (May 2020)
- [*OIG Bulletin*](#), Vol. 1, Issue #1 (February 2020)