FISCAL YEAR 2010 ANNUAL REPORT ATTORNEY GENERAL MARTHA COAKLEY

PUBLIC DOCUMENT NO 12

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

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

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INSURANCE AND HEALTH CARE CONSUMER HELPLINE Phone: (888) 830-6277

INSURANCE FRAUD TIPLINE

Phone: (617) 573-5330 The Insurance Fraud Tipline (accepting calls 24 hours) is intended for calls pertaining to fraud in any of the following: workers' compensation, motor vehicle insurance, disability, health care billing, and unemployment insurance.

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A Message from Attorney General Martha Coakley



The preparation of this 4th Annual Report marks an opportunity to reflect not only on the past year but also on my first term as your Attorney General. In my first message to readers of this Report, I said that my goal was "to make this office as effective and responsive as it can be, and to use the skills, talent and energy of the staff to bring positive change to the lives and futures of all who call the Commonwealth home."

Over these past four years, I am proud to say that the Attorney General's Office has successfully stood up for the consumers and taxpayers of the Commonwealth, recovering more than a billion dollars during that time. In fact, for every one dollar in our office's budget, we recover five dollars for the people of the Commonwealth. As the state's chief law enforcement office, we also have worked to make our communities safer through investigations and prosecutions as well as proactive prevention efforts.

Of course, one of the great challenges that we faced during these four years was the economic crisis that has affected us all. We responded to that crisis aggressively by filing groundbreaking actions against companies that contributed to the foreclosure crisis, recovering hundreds of millions of dollars for taxpayers and helping to keep more than 15,000 people in their homes.

We've worked to keep energy rates down for families and businesses, and stood up for consumers in the face of unfairness. We've prosecuted cases of fraud and corruption, and

leveled the playing field for businesses by taking on companies that mistreated workers. We've taken on those who abused our seniors, violated people's civil rights, or sought to prey on our kids online.

This report is just a snapshot of the work that we do each day. We have highlighted priorities, cases, and issues that we hope will give you the opportunity to better understand the breadth of the work of this office.

I am grateful for this opportunity to serve as your Attorney General and look forward to continuing to fight on your behalf over the next four years.

Cordially,

Martin Coahley

Martha Coakley Massachusetts Attorney General



Protecting Taxpayers

This year the AGO returned money to the Commonwealth's General Fund and to the state's Medicaid program, protecting the investment that we all make as taxpayers and aggressively going after the fraudulent use of taxpayer funds.

Of the \$35.7 million recovered by the AGO in its capacity as the Medicaid Fraud enforcement authority, over \$18 million was returned to the Massachusetts Medicaid program. These funds were recovered as a result of indictments of laboratories for a variety of fraudulent acts (including taking kickbacks) and other litigation which addressed off-label marketing of drugs. In addition to the significant funds returned to the Commonwealth, in parallel consumer protection matters, the AGO obtained restitution and compensation to consumers who were defrauded. Other Medicaid fraud actions involved cases of unnecessary medical or dental services or, in at least one case, the diversion of drugs paid for by Medicaid and were hallmarks of AGO efforts to save taxpayers money.

RECOVERIES FROM WALL STREET

The AGO continued its strong leadership in holding big banks and Wall Street accountable for their role in the economic crisis. In FY 2010, through numerous landmark cases, the office recovered more than \$20 million in taxpayer money for the Commonwealth. (A more complete outline of the office's work in response to the economic crisis is outlined later in this report.)

FALSE CLAIMS ACTIONS

During FY10, the AGO entered into agreements with two major supermarket chains in Massachusetts after an investigation unveiled that the companies were overcharging public entities for various prescription drugs under the workers compensation insurance system, violating the Massachusetts False Claims Act. Together the companies paid \$246,127 to the Commonwealth and \$94,463 to certain cities and towns in Massachusetts.

Saving Money for the Commonwealth

The AGO continued to look at the anticompetitive effects of the pharmaceutical industry's efforts to undermine the ready availability of generic drugs. In a case against pharmaceuticals manufacturer Abbott Labs /TriCor, the AGO recovered more than \$750,000 (as part of a nationwide settlement of \$22.5 million) for Massachusetts agencies.

Also, the AGO's work in the field of anti-trust has had international impact as in the case against manufacturers of Dynamic Random Access Memory ("DRAM"). AGO staff litigated a multistate price fixing case on behalf of Massachusetts government purchasers of electronic equipment containing DRAM computer chips and obtained settlements with seven international manufacturers for their role in the conspiracy. Compensation will be paid to the Commonwealth in an amount to be determined.

The AGO defends state agencies, and as such had an important role in FY10 in the implementation of pension reform, ensuring that only eligible residents receive state services. When the validity of fees or, in some cases, an Agency's authority to levy taxes was challenged, the AGO defended the relevant agencies. Of particular significance was the AGO work in support of consolidation in the Department of Transportation and the defense of the State Retirement Board. In addition, the AGO's defense of the insurance commissioner's order rejecting proposed health insurance rate increases resulted in significant taxpayer savings.

In defense of various agencies, the zealous advocacy of AGO staff yielded savings that can be quantified mostly by what the Commonwealth did not have to pay in damages as a result of claims of negligible merit. In one case, the AGO saved \$2.7 million in damages claimed by a plaintiff arguing that its factory was damaged due to an inadequate culvert on Interstate 1-95. In another case, staff defended state agencies in cases where the court or, in some cases a jury, ultimately found no valid claim. The AGO also beat back overzealous efforts by plaintiffs to attach government funds in situations where there was no right – these are often matters in which swift analysis and action by AGO staff also saved plaintiffs' legal fees by narrowing the issues to be tried.

The AGO has been a national leader in civil consumer protection actions against pharmaceutical companies including Merck, Eli Lilly, and Pfizer, Inc. AGO attorneys successfully led the nation with complex investigations into pharmaceutical and medical device company conduct resulting in a \$33



million national settlement with Pfizer Inc. to resolve allegations of improper marketing of the antipsychotic drug, Geodon.

Recognizing the significant cuts to the vital local programs that serve Massachusetts residents, the AGO has delivered over \$3.5 million in grant funding, all obtained through judgments and settlements, throughout our communities. The Prescription Drug Assistance Grant provided over \$1 million to 14 community health centers to help defray the cost of drugs and/or the copays for some of Massachusetts' most vulnerable residents.

In FY10, the AGO secured over \$769,000 in restitution orders to the Commonwealth and private insurers. These recoveries helped to protect consumers and the integrity of the insurance system, including the unemployment and workers' compensation systems. The cases were extremely varied: In one case, a man was convicted of filing twentyone (21) fake injury reports with insurance companies for the same tooth and ordered by the Court to pay over \$36,000 in restitution; in another matter, the owner of a roofing company plead guilty to failing to pay over \$119,000 in workers' compensation insurance premiums; finally, in a third case, the Court sentenced a Revere man to State Prison and ordered him to pay over \$164,000 in restitution for fraudulently using others' identities to collect unemployment benefits.

PROTECTI TAXPAYE

Protecting Consumers

UTILITY RATEPAYERS

The AGO serves as the Ratepayer Advocate working on behalf of individual and corporate citizens for whom the cost of electricity and natural gas is often a significant part of their bottom line. In FY10, the AGO's work resulted in \$136 million in savings for ratepayers. In one major case, the work of the office resulted in a reduction by the Department of Public Utilities in a National Grid's rate request from \$111 million to \$43 million. In another case, a rate request from Bay State's rate was reduced from \$34 million to \$19 million and in another case, advocacy by the AGO resulted in the rejection by the Department of Public Utilities of NSTAR's request to recover \$33.5 million in a rate settlement incentive payment.

The AGO also works to address and to control the costs of proposed transmission projects. The AGO challenged the necessity of constructing a section of the Orrington-Maxsys transmission line in Maine at a 345 kV scale. As a result of the AGO's inquiry, the line was scaled down to a 115 kV line. The resulting savings to Massachusetts ratepayers will be \$18 million.

The Consumer Liaison Group (CLG) was created with leadership of theAGO in response to a Federal Energy Regulatory Commission ("FERC") order to increase the responsiveness of Regional Transmission Operators to stakeholder interests. The CLG provides electric consumers with a forum and an opportunity for input on the region's electric markets and transmission planning and construction process.

MOTORCYCLE OWNERS

After receiving a complaint from a single consumer, AGO staff began a comprehensive investigation and found widespread insurer overcharging of motorcyclists. The investigation, still ongoing, resulted in filings against six insurers and provided over \$20.7 million of restitution to tens of thousands of Massachusetts motorcycle riders during FY10.

CONSUMER PROTECTION ACTIONS

The AGO uses the tools of enforcement investigation and actions (litigation) on behalf of consumers to protect them from fraud and deception. In FY10, the AGO investigated and settled incidents involving false and misleading advertising practices in the automobile sales industry. Agreements prohibited the use of "asterisk pricing" and required payments for local consumer aid programs and civil penalties. The AGO also obtained injunctive relief against companies and individuals making false promises to repair consumers' credit in violation of state and federal law.

The AGO filed enforcement actions and obtained injunctions against travel companies who sold worthless travel club memberships to consumers



as well as against individuals who failed to provide consumers with timeshares or made false promises that they would obtain timeshare deeds for consumers. In addition, the AGO brought enforcement actions against various home improvement contractors who failed to provide services paid for or who were not licensed to perform contracting work in Massachusetts.

AGO The also addressed overcharges in premiums paid by consumers after finding that some insurance companies were failing to abide by the 2009 Board of Appeal statute. Under that law, insurance companies must report and use Board of Appeal determinations in setting consumers' premiums. The AGO entered into settlements with eight companies this fiscal year. The settling insurers were required to correct the at-fault determinations that they reported to the Comprehensive Loss Underwriting Exchange (C.L.U.E.), a privately operated database used to evaluate customers' driving histories, and

make payments to those former customers who were overcharged by other insurance companies.

In December of 2009, the AGO released a comprehensive report on the impact of managed competition in the auto insurance market in Massachusetts. The report provides a detailed accounting of how the market is currently operating and how consumers are being impacted.

AGO undertook a blend of statespecific and multi-state tobacco enforcement initiatives to ensure that entities within the tobacco distribution chain not only complied with their statutory obligations but also prohibited underage youth from purchasing or otherwise accessing tobacco products.

The AGO was active in the development and passage of laws that added safeguards to the prescription drug monitoring program which allowed the AGO to have access to information that helps prevent diversion of controlled substances.

HEALTH CARE

In the case of the deceptive marketing of medical discount plans, often labeled as health insurance, the AGO effectively used its broad consumer protection authority to pursue a multi-pronged approach. Through consumer protection regulations (effective January 22, 2010), the AGO has required organizations marketing health discount plans in Massachusetts to communicate clearly with potential customers about how their plans work. The AGO also filed litigation against several companies enjoining them from engaging in deceptive promotion of discount health plans in Massachusetts. To help consumers protect their own interests, the AGO also issued consumer advisories to assist residents to understand the costs and benefits of a medical discount card.

In addition to the significant recoveries for the Massachusetts Medicaid program, the AGO addressed the consumer protection elements of fraud and deception in the marketing of pharmaceuticals. In one case, the AGO obtained \$1.35 million consent judgment with Stryker Biotech to resolve allegations that it marketed certain orthopedic products for uses that had not been reviewed and approved by the U.S. Food & Drug Administration (FDA).

CONSUMER MEDIATION

The AGO supports an expansive voluntary mediation program designed to help consumers outside of the formal court process. In FY10, the AGO funded 13 Face-to-Face Mediation Programs, operating in many of the District Courts. These programs mediated 3,205 cases and helped consumers recover almost \$2.9 million.

Informal mediation of consumer complaints, usually over the telephone, is handled both by staff at the AGO and through a group of 19 Local Consumer Programs who, like the Face-to-Face Mediation Programs, are funded by the AGO. Staff at the AGO and at the Local Consumer Programs successfully resolved 6,198 consumer complaints, resulting in \$4,056,930.86 being returned or credited to consumers.

Health care consumers are supported by a dedicated staff of experts who accepted over 5,000 calls to the hotline, handled 916 mediations and recovered over \$261,000 to health care consumers. The Insurance and Financial Services Mediation program fielded 2,629 phone calls, opened 639 complaints and recovered over \$701,000 in savings and refunds on behalf of Massachusetts consumers.





Building Stronger and Safer Communities

The Attorney General is the chief law enforcement officer in Massachusetts. She is responsible for the prosecution of significant matters, especially in the areas of public corruption and fraud, and in addressing a variety of issues that cross jurisdictional boundaries and are therefore beyond the purview of one of the 11 District Attorneys in Massachusetts.

FY10 saw the vigorous prosecution organizations criminal of and perpetrators of violent crime. Work of the AGO resulted in the disruption and dismantling of major narcotics trafficking organizations. These cases focused on trafficking in cocaine, oxycodone, and marijuana trafficking and distribution, assault and battery with a dangerous weapon, unlawful gaming, the making of usurious loans, and other crimes with a significant impact on public safety.

PUBLIC CORRUPTION

In FY10, the AGO was active in the development and passage of a comprehensive set of ethics reforms which enacted broad bans on gifts to public officials, strengthened the Ethics Commission and authorized the AGO to convene a statewide grand jury.

In FY10, the AGO continued to focus on the protection of public funds through the prosecution of public corruption matters. AGO efforts to address the fallout of the financial crisis included the vigorous prosecution of criminal fraud in mortgage transactions and protecting investors, consumers and other private victims of financial crimes. Working with financial investigators, prosecutors secured almost \$8 million in restitution for government, individual and charitable/non-profit victims. The AGO has successfully prosecuted individuals who SAVING MONEY

PROTECTING CONSUMERS

ADDRESSING

defrauded the Commonwealth by accepting kickbacks, filing false sales tax returns and underreporting sales, of almost \$4 million. The AGO also indicted individuals for falsifying teaching certificates, accepting bribes in connection with food stamps and stealing money from regional transit authorities.

NEIGHBORHOOD REVITALIZATION

One of many continuing effects of the financial crisis is the deterioration of housing stock due to properties having been foreclosed and abandoned. Each individual property is also a part of the fabric of a neighborhood so the reclamation of these properties is a key to neighborhood stabilization and community safety. In FY10, the Abandoned Housing Initiative (AHI) expanded its coverage through the Neighborhood Stabilization Plan (NSP) grant from the Department of Housing and Community Development (DHCD), using the receivership statute in the State Sanitary Code to target abandoned and foreclosed homes in all regions.

In FY10, the AGO implemented protocols for identifying clusters of abandoned and foreclosed homes in NSP eligible communities, taking enforcement action under the sanitary code that resulted in banks taking responsibility for repairs or having receivers appointed to rehabilitate homes, resulting in a positive impact on neighborhoods particularly hard hit by foreclosures.

As a pilot project, in fewer than eight months the AGO worked with the City of Lawrence in targeting 12 homes in and around one Lawrence neighborhood. The AHI is addressing neighborhood blight by either owner intervention or receivership. Throughout the Commonwealth, over 100 abandoned homes have been identified and over 30 abandoned homes have been, or are in the process of rehabilitation, as a result of the AHI's actions. Receivership projects have enabled local contractors to keep crews employed during the economic downturn. The AHI has provided

legal and technical support to smaller NSP eligible communities to develop receivership strategies, including cross-bureau initiatives to do title searches, finding eligible receivers and introducing communities and receivers to untapped funding sources through DHCD and related agencies.

CYBER CRIME

Attorney General Coakley took a leadership role in at the beginning of her first term, by establishing the Cyber Crime Initiative and has developed a state-of-the art forensics lab. The lab performs a huge number of forensic examinations for the AGO as a whole, and for various law enforcement agencies across the Commonwealth.

The AGO's role in addressing risks associated with technology includes having addressed over 575 reported data breaches and demanded compliance with the Massachusetts Data Breach Notification Law from organizations that failed to provide proper notice to consumers.



The AGO has undertaken a comprehensive review of the role of websites in facilitating human trafficking and the illegal sex trade and works in collaboration with federal and local agencies as part of the Boston's Human Trafficking Task Force.

investigated Prosecutors and litigated a wide variety of cyber including auction crime cases child exploitation, child fraud, luring, consumer protection, child pornography, copyright, credit card fraud, cyberbullying, data breach, employment scams, gaming, hacking/unauthorized access, identification fraud, internet fraud, and larceny.

AGO staff trained over 2,000 law enforcement officers in FY10 and worked together to begin the effort to comprehensively address the use of computers in the criminal sexual exploitation of women and men in the Commonwealth. Finally, the Division is in the process of establishing the Massachusetts Digital Evidence Consortium. This group will work to provide information sharing, standards, training, and tool certification to computer forensic experts across the Commonwealth. This will not only increase the effectiveness of existing law enforcement efforts, thereby saving taxpayer money, it will also improve the quality of evidence available to prosecutors. Improved forensic evidence helps to build stronger and safer communities.

CIVIL RIGHTS

FY10 saw an unprecedented level of civil rights enforcement in the areas of housing discrimination, hate crimes, and notably in the landmark victory in the constitutional case in federal district court striking down the Defense of Marriage Act ('DOMA") that denied federal benefits and protections to married same-sex couples and their families

Civil Rights enforcement saw its share of work generated by the increasing reliance in business and commerce on technology and, especially the internet. A sweep of listings on the popular website

ECONOMIC DEVELOPMENT

craigslist.org, yielded a statewide enforcement effort against landlords and real estate companies who posted discriminatory rental housing advertisements on the web. This sweep resulted in over 40 judgments and settlements. The judgments and settlements included payment of money damages and strong injunctive relief, often requiring fair housing training for employees, adoption of fair housing policies and procedures, affirmative advertising, and as appropriate, requiring property owners to clean up lead hazards to make safer housing for children.

The AGO obtained a record number of civil rights injunctions against people who committed hate crimes based on the victim's race, national origin, sexual orientation and/or religion. Since the beginning of the Coakley administration in January 2007, the office has secured forty-one MCRA injunctions, including ten in FY10.

2010 saw the 20th anniversary of the passage of the Americans with

Disabilities Act, however, continued vigilance is necessary. In FY10, the AGO secured groundbreaking settlement agreements with the nation's three largest movie theater chains to make theaters accessible to people who are blind and deaf by using advanced technologies.

KEEPING PEOPLE SAFE AND HEALTHY

In FY 10, the AGO was instrumental in the passage of a comprehensive bullying prevention law that was passed by the Legislature and signed into law by Governor Patrick in May 2010. By statute, Attorney General Coakley is leading a Commission on Bullying Prevention which is charged with reviewing the Massachusetts General Laws and considering whether any laws need to be amended in order to more effectively address bullying and cyber-bullying.

AGO staff continue to conduct extensive outreach and training in the area of bullying prevention, and in FY10, hosted a conference for law enforcement and school administrators on cyber bullying.

In its defense of state agencies, the AGO has an important impact on community safety, protecting the right of agencies to deny gun permits, defending the suspension and revocation of drivers' licenses who are convicted of driving under the influence and protecting consumers by defending administrative discipline against licensed professionals, contractors and tradespeople. Finally the office regularly defended determinations by the Department of Children and Families relative to child abuse and neglect and successfully defended on appeal the state buffer zone law to ensure that patients and staff members are protected at reproductive health facilities.

Recognizing that the health and wellness of the Commonwealth's youth is central to its community safety, the AGO elected to direct over \$1.5 million in proceeds from judgments and settlements toward grants to 16 organizations in 12







communities to provide jobs for over 230 youth. The jobs focused on wellness to develop the next generation of leaders with a commitment to important principles of health and safety.

PROSECUTING CASES OF ELDER ABUSE

AGO authority over prosecutions Medicaid fraud of extends beyond returning money to the Commonwealth. Its authority includes prosecution of cases of physical and sexual abuse or neglect, and of diversion of medication by home health aides and others caring for our neighbors and family members. The AGO successfully prosecuted individuals who were paid, through Medicaid, as personal care attendants (PCAs) but violated the trust and confidence of some of the most vulnerable of Massachusetts' residents - the elderly and the disabled.

In one case a dentist was indicted for allegedly using paperclips as dental posts, but billing Medicaid for the cost of the actual medical device.

PROTECTING THE ENVIRONMENT

The AGO is responsible for enforcement of civil and criminal laws governing environmental protection. In FY10, the AGO facilitated the redevelopment and productive use of contaminated sites including Hamilton Mills in Lowell, AVX, the former Aerovox facility on the harbor in New Bedford, the 6.7 acre Handy & Harmon site in North Attleborough, and Quantum Properties, the 15 acre site of former papermills in Holyoke.

Efforts by the office protected the public water supply in tributaries to the Quabbin Reservoir. AGO efforts resulted in an order compelling ExxonMobil to install a new system to reduce its emissions at bulk gas facilities in Everett and Springfield, and AGO staff took action against automobile inspection stations that conducted fraudulent inspections of automobile emissions control systems

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On the criminal side, the AGO successfully investigated and prosecuted two people for tampering with public drinking water samples and with falsifying the results of safety testing for public drinking water, individuals and companies for failing to report oil spills or for improper storage and disposal of medical waste or other hazardous waste, 12 individuals and companies for illegally removing asbestos and exposing workers and others to the risks of asbestos inhalation, and eight individuals and companies for fabricating environmental reports.

The AGO played an effective role as an advocate for stronger national standards relating to smog, mercury, and cancer causing particulates, and for vigorous action to reduce emissions of greenhouse gases.

SUPPORTING VICTIMS OF CRIME

The passage of H.B. 1587 necessitated revisions of 940 CMR 14.00, Compensation of Victims of Violent Crimes. The AGO filed the revised regulations on October 29th, 2010 with the Secretary of State's Office and they were published in the Register on November 13th.

Our revisions expand the assistance options available to victims of violent crime without raising the existing cap on victim compensation. Specifically the changes eliminate the minimum loss requirement for the victim, increase the funeral allowance, allow for crime scene clean-up and security measures reimbursement, and expand mental health benefits for non-offending parents of minor victims. The modifications also adjust the timeline for requesting reconsideration, giving notice of a decision, and requesting judicial review in district court to reflect the time involved with reviewing such requests.

In FY10, the Victim Compensation and Assistance Division received 1,585 new claims, an increase of 166 over FY09. Of those, 200 were homicide claims, including 29 homicides related to domestic

violence, an increase in the domestic violence homicide claims received in FY09. The total new domestic violence-related claims was 200 and driving under the influence claims totaled 12. Of the claims made eligible during FY10, 133 victims were under the age of 17, and 23 victims were over the age of 65. Under the Forensic Sexual Assault Exam protocol, the Division received 134 new claims for compensation and awarded \$34,299.50 in exam expenses. During FY10, the Division opened 915 new claims and 540 supplemental claims, awarding compensation to victims totaling \$3,577,957.58 out of its state and federal monies.

CRIMINAL APPEALS

During FY10, work of the AGO resulted in 22 published decisions from the United States Court of Appeals for the First Circuit, seven published decisions from the Supreme Judicial Court, 25 published and unpublished decisions from the Massachusetts Appeals Court, and more than 50 decisions from



the United States District Court. Some of these cases involved novel issues of law, such as the application of the Commonwealth's drug distribution laws to physicians who write illegal prescriptions, corporate criminal liability for involuntary manslaughter based on the collective conduct and knowledge of multiple employees, and whether a police officer "deliberately elicits" a confession from a suspect by serving an arrest warrant on him in prison.

Many of the decisions issued in these cases will have a lasting and positive impact on the development of federal habeas law, as well as on state criminal law and procedure. In Clements v. Clarke, for instance, the First Circuit reaffirmed a significant aspect of habeas corpus law - specifically, when a state decision denying a prisoner's claim will be given deferential review by a federal court – in a manner that will benefit the Commonwealth in future cases. Similarly, in Foxworth v. Amand and Drew v. MacEachern, the Supreme Judicial Court and the First Circuit upheld important limitations on re-opening a conviction after it has been fully reviewed by the state's appellate courts.

During the past Fiscal Year, the AGO also expanded its amicus curiae ("friend of the court") practice. In the Supreme Judicial Court, the AGO drafted four amicus briefs on important questions of criminal justice and policy.

Addressing the financial crisis

In November 2007, Attorney General Coakley published *The American Dream Shattered: The Dream of Homeownership and the Reality of Predatory Lending*. The report documented comments made at public hearings surrounding the new consumer protection regulations governing mortgage lenders and brokers. The connection between the misdeeds and outright fraud perpetrated by mortgage brokers and others and the crisis of foreclosure was made apparent and addressed,

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in part by the passage of state laws and the development of a stricter regulatory framework within which home financing would operated in the future. However thousands of Massachusetts residents faced, and continue to face the loss of their homes and Massachusetts communities bear the scars of foreclosure. The AGO continued to address unfair and discriminatory lending practices in court and obtained broad and inclusive injunctive relief for thousands of homeowners that though challenged by the industry, was ultimately affirmed by the Massachusetts Appeals Court.

As the full scope of the financial crisis became apparent, Massachusetts consumers became familiar with terms like Auction Rate Security, and Collateralized Debt Obligation and the AGO began to unravel the complex web of financial transactions and the effects that the securitization and financing of Massachusetts subprime loans had on residents and on municipalities.

LANDMARK CASES

In FY10 the AGO, negotiated settlement landmark with а Countrywide Financial Corporation through its successor, Bank of America Corporation. The settlement, which addressed Countrywide's unfair and deceptive loan origination practices, implemented a comprehensive, first-in-the-nation loan modification program for distressed homeowners resulting in an estimated \$3 billion in mortgage loan relief nationwide. For Massachusetts homeowners, loan relief included principal reductions amounting to \$18 million, plus an additional \$4.1 million for foreclosure relief.

After an investigation by the AGO into its role in the securitization and financing of Massachusetts subprime loans, investment giant Morgan Stanley (Morgan) paid \$102 million to affected Massachusetts homeowners and the Commonwealth. Under the Assurance of Discontinuance, filed in Suffolk Superior Court, Morgan provided \$58 million in relief to more than 1,000 Massachusetts homeowners, \$23 million to the Massachusetts Pension Fund for investment losses, and \$19.5 million in taxpayer money to the Commonwealth's General Fund.

The AGO sued State Street and obtained \$10 million in penalties and restitution for approximately 270 investors harmed because State Street issued certain bond funds which included subprime mortgage debt that it did not disclose to the municipalities, charities, and others that invested in the funds. State Street then urged the investors to keep their money in the fund, even while State Street's own executive employee pension fund was bailing out.

FORECLOSURE RESCUE SCAMS

A whole new breed of scam was developed, one in which the desperation of the homeowner facing foreclosure was met with the offer of a so-called foreclosure rescue. Foreclosure rescue firms showed up almost overnight, many of them fly-by-night schemes designed



to make money off of already burdened homeowners. The AGO filed numerous enforcement actions against companies and individuals that solicited Massachusetts homeowners with misleading promises to save their homes from foreclosure, or who solicited and accepted illegal advance fees to seek loan modifications for homeowners. The AGO obtained injunctions prohibiting these companies and individuals from continuing their unlawful conduct in Massachusetts as well as consumer restitution and civil penalties.

The AGO obtained judgments against mortgage brokers, real estate brokers, closing attorneys and straw buyers who deceived homeowners into selling their homes under the false promise of avoiding foreclosure in order to obtain title to the homeowners' residences and strip most of the homes' equity. The judgments included permanent injunctions enjoining defendants from engaging in real estate closings and other business relating to the financing, purchase or sale of real estate as well as significant consumer restitution and civil penalties. Homeowners were not the only victims of the mortgage debacle – Massachusetts tenants often found out about foreclosures only when the sheriff showed up at the door. The AGO obtained injunctions against many loan servicers who unlawfully attempted to evict tenants from foreclosed properties.

In addition to its enforcement actions, the AGO defended state agencies in their efforts to address the fallout, in particular, in defense of the sanctions for advertising unregistered securities.

CRIMINAL MORTGAGE FRAUD

On the legislative and policy front, the AGO was active in the development, negotiation and passage of a new law (Chapter 258 of the Act of 2010) to address criminal mortgage fraud and to ensure that the law covers the full range of mortgage transactions. On the prosecution front, the AGO secured

a conviction and state prison time in a case in which, using forged deeds, forged powers of attorney, and a corrupt mortgage broker, an attorney orchestrated a scheme designed to steal equity from Worcester area homeowners in danger of foreclosure. The AGO obtained indictments and, in the completed matters, convictions against a group of defendants for fraudulently obtaining \$12.5 million in mortgage loans from 19 financial lending institutions and defrauding homebuyers in connection with the purchase of 26 multi-family homes in the Greater Boston area.

Recognizing the prevention, education and outreach are vital to protecting residents from predatory practices, in FY10, the AGO dedicated over \$1 million in funds secured in judgments and settlements with mortgage companies to provide grants to consumer and community programs that would provide consumer outreach, education and related services in the area of financial literacy and borrower protection initiatives, including legal representation by qualified legal services organizations of individuals who are at risk of losing their homes due to fraud, misrepresentation or otherwise in connection with unfair, deceptive or predatory lending practices. The AGO used a federal grant from the Neighborhood Stabilization Program to expand its efforts to address abandoned and foreclosed housing, providing program and legal support to municipalities to assist them in bringing the housing stock back to productive use. In addition, the AGO used funds secured from mortgage fraud matters to provide resources to municipalities and community based organizations to work toward additional restoration of abandoned housing in 11 Massachusetts communities and all of Worcester County.

Fostering Economic Development and a Level Playing Field for Business

From the beginning of the Coakley administration, the work of the AGO has been premised on the idea that reasonable government regulation and a vital business climate were not only compatible but could result in synergies. The AGO is committed to supporting a level playing field for all businesses through its civil, criminal, policy, legislative, and education efforts. By helping to ensure fairness for business, the AGO is better able to support fairness for workers, taxpayers and others in Massachusetts.

STREAMLINING REGULATIONS

In FY10, the office worked with the business community ensuring that when agencies promulgate regulations under the Massachusetts Consumer Protection Law, they now more thoroughly consider the impact of that regulation on small business.

ECONOMIC DEVELOPMENT



The AGO included business input in its work amending its existing debt collection regulations. This effort was focused on updating the AGO regulations in order to ensure streamlining of state and federal practice within the industry while at the same time, maintaining protection of both the consumer and creditor.

The AGO recognizes that the business community is constantly concerned about unduly burdensome regulations. That is why when implementing a new regulatory scheme, for example in the case of date security regulations, the AGO takes into account the risk of inadvertent harm to the marketplace when protecting the balances the interests of consumers rights, with making certain regulations do not inadvertently harm the marketplace. AGO staff worked extensively with the business community to address those concerns and to establish a coordinated review process for bylaws, legislation, regulations, and certain cases that focus largely on

commercial real estate development. In this way the AGO is uniquely positioned to zealously advocate on behalf of consumers and community safety and take an active role in protecting and fostering the economic vitality of our business and industry.

ENSURING A FAIR BUSINESS CLIMATE

Public construction in Massachusetts is a significant driver of the economic engine. The public construction bid laws provide the means for awarding authorities to obtain the lowest price that competition among qualified contractors can secure and serve to establish an open and honest procedure for fair competition among bidders for public construction contracts. To provide additional guidance and increased transparency to the public procurement arena, the Attorney General's Bid Unit issued General Guidelines Regarding Attorney General Bid Protests in November 2009 and updated the information on its website to make clear, concise and relevant information PROTECTIN TAXPAYERS

PROTECTING CONSUMERS

ADDRESSING FINANCIAL CRIS available to the industry and the public entities governed by the laws.

AGO casework zealously enforces public bidding laws. In FY10, the Supreme Judicial Court upheld the Attorney General's finding that UMass Lowell bypassed the public bidding laws by entering into a lease agreement with a private developer to build a dormitory the school would then lease. The residential housing project involved creation of a new building, adjacent to the university's campus and dependent on the use of the university's parking lot, which the university had the right to occupy for 30 years. The court agreed that such a project constituted construction of a building as contemplated by the public bidding laws.

On issues large and small, the AGO kept watch to protect the thriving competition necessary to ensure a vital business climate. In one case, AGO staff obtained an Assurance of Discontinuance and civil fine against the operator of a driving school who solicited an agreement among competing operators to raise the price

of driving school services in the Fall River area. In another case, yielding benefits to voters and to municipalities throughout Massachusetts, the AGO worked with other states and the Department of Justice in obtaining a divestiture of certain assets in connection with the Diebold/Election Systems & Software acquisition. This will help maintain competition in the market for voting and election machines in Massachusetts cities and towns, and elsewhere around the country. In another multi-state antitrust action, AGO staff were involved in the Ticket Master/Live Nation acquisition and worked with other states and the Department of Justice to obtain significant divestiture and other remedies to protect consumers.

PROTECTING WORKERS

The fallout of the financial crisis left many workers without jobs and thousands the victim of wage violations. The Attorney General's Office handled over 5,000 wage complaints, many involving multiple workers, and returned over \$9 million in restitution and penalties to workers and the Commonwealth, a record for the Office. The AGO continued its ongoing efforts to provide outreach to a wide range of stakeholders, including employer associations, unions, community organizations and schools.

The AGO received complaints from employees of Allied Waste that the company was not paying them properly for work performed at the Oak Bluffs/Tisbury Transfer Station public works project. After an investigation, the AGO determined that Allied Waste failed to properly pay certain employees the prevailing wage and overtime from October 2005 through December 2007. As part of an initial settlement agreement, Allied Wasted agreed to pay over \$404,000 in restitution to the workers and a \$50,000 penalty to the Commonwealth. In 2010, a supplemental audit revealed that approximately 350 employees were owed over \$1.3 million in restitution for miscalculated prevailing wage and overtime rates. Allied Waste agreed to pay in accordance with those findings.



The AGO began an investigation of Walmart following reports that workers were required to work through their meal breaks. The AGO secured a \$3 million dollar settlement to resolve allegations of widespread violations of the Massachusetts Meal Break Law.

As a result of complaints lodged with the Governor's Joint Enforcement Task Force on the Underground Economy and Employee Misclassification, the AGO launched an investigation of Labor Solutions/Tam Vuong. The owner and the staffing company were indicted and pled guilty to violation of the state's wage and hour laws and insurance and tax fraud. The AGO's investigation revealed many of those hired through Labor Solutions did not receive the minimum wage or mandatory overtime rates for a twoyear period beginning in September 2007. Many workers, who were paid in cash, were illegally charged \$2 to \$3 a day for transportation, thereby reducing their pay below the minimum wage. The Defendant was ordered to pay \$500,000 in restitution to victims.

OVERSIGHT OF MASSACHUSETTS CHARITIES

The Massachusetts nonprofit sector generates about \$87 billion in revenue annually, represents \$207 billion in assets and employs close to 450,000 workers. The non-profit sector is, therefore, a significant contributor to the Commonwealth's economic strength and its cultural heritage. A public charity is a organization nonprofit whose purpose is charitable and which collects, holds and expends funds for the benefit of the public. Examples include philanthropic organizations, as well as most nonprofit hospitals, independent schools, colleges and universities, social service providers and cultural organizations. Examples of non-profit organizations that are not public charities, and are not regulated by the AGO, include chambers of commerce, labor unions, social clubs, civic associations, and similar organizations that only benefit their members. The AGO works to safeguard the public's PROTECTING CONSUMERS

ADDRESSING

ECONOMIC DEVELOPMENT interest in these organizations, as well as ensure the proper solicitation and use of charitable funds raised from other sources.

In FY10, the Attorney General approved 1,679 initial public charity registrations, processed 22,071 annual financial reports, and approved 504 registrations for professional solicitors, fundraising counsel, and commercial co-venturers. Fees for these activities generated in excess of \$2,250,000 – for the Commonwealth.

As a party to the probate of all estates in which a charitable interest exists and in all judicial proceedings affecting charitable trusts, during FY08 the AGO: received and reviewed 772 new wills, 1,210 interim accounts, and 640 final accounts; assented to 43 petitions to sell real estate; and received and reviewed 550 miscellaneous complaints and filings with respect to these matters. The AGO also resolved 64 cases involving the misapplication of charitable bequests or excessive fees, which, in the aggregate, resulted in approximately \$606,000 recovered for charitable purposes.

In carrying out its responsibility to assure the proper use of charitable funds, the AGO reviews significant asset dispositions, changes in purposes of charitable funds, as well as proposed dissolutions by charitable corporations organized in Massachusetts to ensure that charitable assets are managed appropriately. During FY10, the AGO reviewed several hundred notices regarding significant transactions and approved the dissolution of 137 public charities.

In a significant piece of work, the AGO issued, in September 2009, its comprehensive report: *Examination of Executive and Director Compensation; Increased Oversight*.

In May, 2010, pursuant to the requirements of Massachusetts General Law Chapter 180, Section 8(A) (d), Caritas Christi Health Care System ("Caritas") filed formal notice of a proposed sale of the system's assets and operations to Steward Health Care System LLC an affiliate of Cerberus Capital Management, L.P. This filing commenced the AGOs formal review of the transaction which continued through FY10 and was finalized the following fiscal year in October, 2010.

In its continuing efforts to improve regulatory clarity and transparency, the AGO issued several new guidelines that address pertinent issues in the charitable community, including guidance as to the laws and regulations for raffles and other gaming activity and the provisions for handling mergers and consolidation of charitable corporations.

The AGO also tries to be responsive to current events. In the aftermath of the tragic earthquake in Haiti, the AGO provided regular guidance to residents about donating wisely to the hundreds of charities that purported to be assisting victims by raising funds.

The AGO's work, in addition to investigation and enforcement, can include analysis of how changes in the law affect Massachusetts residents. In the months and years following the implementation of managed



competition in the auto insurance industry, and in the aftermath of the landmark health insurance reform in Massachusetts, experts in the AGO have continued their analysis and are active players in helping to ensure fairness and effectiveness in these significant programs.

HEALTH CARE COST CONTAINMENT

In the spring of 2010, the AGO released a report outlining findings from the extensive investigation into the contracting practices between commercial health care insurers and health care providers (hospitals physicians), specifically and examining health care prices and how those prices are negotiated. The report identified and documented serious system-wide failings in the commercial health care marketplace that threaten access to affordable, quality healthcare. Specifically, the investigation found that the cost of care was not value based and that market leverage, the size of the organization and the strength it brings to its negotiations with payers, correlates to prices paid. The AGO did not find a correlation between different prices and the quality of care provided, sickness of the patients, or whether the provider served a large Medicaid population or was an academic medical center. The AGOs landmark health care report resulted from a year-long examination of the market that was authorized by the Massachusetts Legislature.

The AGO's report has had a profound effect upon the Massachusetts market and national discussions on health system reform. The AGO's recommendations to promote valuebased purchasing led directly to passage of Chapter 288 of the Acts of 2010 which instituted first in the nation standards for public reporting of health care information to promote market effectiveness.

Executive Bureau

COMMUNICATIONS DIVISION

The Communications Division serves as the liaison between the Attorney General's Office and the newsmedia.Inadditiontoresponding to all media inquiries and providing comment on behalf of the Attorney General's Office, the Division also writes and distributes press releases and holds press conferences in order to inform and educate the public about the office's work on behalf of residents of the Commonwealth. The Communications Division also works closely with other divisions throughout the office on a variety of projects aimed at providing information, consumer education, and resources to the public.

COMMUNITY INFORMATION AND EDUCATION

The Community Information and Education Division (CIED) serves as a clearinghouse for internal and external communication, public

protection, awareness, consumer education, and direct constituent services. CIED is responsible for the development and management of all grants related to consumer protection, public health and safety; oversight of Local Consumer Programs/ Face-to-Face Programs; facilitation of public awareness and education through website management and the development of collateral materials; and AGO sponsorship of public events, conferences, and trainings. In FY10, CIED managed grant programs \$4,827,873.15 that distributed throughout to communities Massachusetts

The Public Inquiry & Assistance Center (PIAC) provides central intake for the office's consumer complaint and constituent services operation. PIAC operates a consumer hotline receiving an average of 5,300 calls per month from consumers wishing to file a complaint or seeking information. A separate hotline focused solely on senior residents and staffed by volunteers similarly guides elder consumers with questions and complaints. PIAC offers a mediation program working with Local Consumer Programs as an informal way to resolve consumer disputes with businesses. In FY10, PIAC successfully resolved 6,198 complaints, resulting in \$4,056,930.86 being returned or credited to consumers.

INFORMATION TECHNOLOGY

In FY10, the Information Technology Division (IT) continued work on the multi-year initiative to modernize the computer systems, networks and applications utilized by AGO staff. The Division made significant progress in the implementation of a new Event Management application intended to standardize the way in which all divisions record, track and report their operations. This effort will improve both the information available to management for decision making as well as the productivity of staff. Staff continued work throughout the year to build secure, electronic interaction capability between residents and the AGO, implementing electronic



communication capabilities for web based resident communications. IT works to develop strategic information management plans in support of AGO business goals: planning and implementing computer hardware and software architecture in support of multiyear technology initiatives; delivering training programs for all employees to ensure full use of technology and to increase employee productivity; supporting technology use by AGO employees with contemporary help desk technology, methods and tools; and providing business systems analysis in support of the business needs of each of the AGO bureaus and divisions.

OFFICE OF THE GENERAL COUNSEL

Within the AGO, the Office of the General Counsel (GCO) provides legal advice on ethics, conflicts of interest, contracts, employment, and administrative and managerial issues. The GCO participates in AGO diversity efforts and provides officewide, in-house training programs for all staff through the AG Institute. To ensure that staff has access to the latest information and training available and in furtherance of their professional development, in FY10, the AG Institute offered 21 programs of continuing education to legal and non-legal staff on a variety of topics, and also sponsored a presentation by a distinguished lecturer. The GCO handled over 400 Public Records Requests office wide, coordinated and monitored the appointments of Special Assistant Attorneys General, and served as the point of contact to the National Association of Attorneys General on the review of approximately 56 multi-state amicus briefs and 30 other sign-on requests.

The GCO also coordinates the STOP FRAUD (Stimulus Oversight and Prevention of Fraud) Task Force for the Commonwealth of Massachusetts, which is primarily made up of representatives from federal and state oversight agencies.

POLICY & GOVERNMENT

The Policy & Government Division (P&G) works on the state level with the Legislature and state agencies, and also with members of the Commonwealth's federal delegation and with municipal leaders throughout Massachusetts. In FY10, P&G staff worked with members of the Legislature on the development of several major pieces of legislation, including a comprehensive anti-bullying law aimed at protecting children, a new law establishing criminal mortgage fraud, and important updates to our victim compensation and public charities laws. These new laws further protect the public and strengthen the AGO's ability to keep our communities safe. The AGO continued to work with the federal delegation on a number of proposals such as funding for low-income heating assistance, preemption concerns with the new federal consumer financial protection law, and effectively recovering from the mortgage foreclosure crisis. The Division also responds to the needs of municipalities by answering questions regarding general policy concerns, pending state and federal legislation, and referrals of constituent matters from municipal officials. P&G staff meet regularly with community stakeholders on broad policy matters such as energy and environmental concerns, criminal law proposals and consumer protection matters. Staff from the Division is available to provide legal analysis to legislative and administration staff on a broad range of policy matters.

VICTIM AND WITNESS SERVICES

The Victim and Witness Services Division provides comprehensive services to victims and witnesses involved in AGO cases. These services include referrals to other state and local agencies and helping victims to understand the court process and their role in it. Victim Witness Advocates (VWAs) worked on over 240 cases throughout the year serving victims and witnesses involved with Criminal, Civil, and post-disposition matters. In addition, staff members were active in numerous committees, outreach, and training activities including the Victim and Witness Assistance Board, the Sexual Assault Nurse Examiner (SANE) Advisory Board, the Governors Council to Address Domestic and Sexual Violence, and as faculty of the Massachusetts Victim Assistance Academy.

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



Criminal Bureau

The Criminal Bureau investigates and prosecutes a wide spectrum of criminal cases and also focuses on prevention and educational efforts to support public safety and quality of life for all Massachusetts residents. The office focuses on cases that reflect the statewide jurisdiction and areas of investigative and prosecutorial expertise not addressed by other law enforcement offices, particularly in the protection of taxpayer funds and the integrity of governmental agencies. In FY10, the Criminal Bureau included the following divisions: Appeals, Corruption and Fraud, Cyber Crime, Insurance and Unemployment Fraud, Environmental Crimes Strike Force, Enterprise and Major Crimes, and the State Police Detective Unit.

APPEALS DIVISION

The Appeals Division represents the Commonwealth on direct appeal in all criminal cases prosecuted by the Criminal Bureau; defends the Commonwealth in all state and federal habeas corpus proceedings filed by persons held in custody; represents state officials and agencies, including judges, clerks, probation officers, and prosecutors, sued or issued subpoenas in state or federal court proceedings arising from actions related to the criminal justice system; and defends the constitutionality and legality of state criminal statutes, rules, practices, and procedures in state and federal trial and appellate courts. The Appeals Division provides services to victims, family members and witnesses in connection with federal habeas proceedings and direct state criminal appeals. During this Fiscal Year, the Division provided outreach to approximately 80 victims, family members and witnesses, accompanied approximately and 30 victims and family members to proceedings in state and federal court.

CORRUPTION AND FRAUD DIVISION

The Corruption and Fraud Division investigates and prosecutes criminal misconduct involving corrupt individuals and entities, whether

STAFF ATTORNEYS public or private, and a broad array of financial crimes, including fiduciary embezzlement, complex financial frauds, and tax crimes. The Division focuses on cases that have an impact beyond the facts of the individual case, that involve particularly vulnerable victims, or that restore trust and confidence in institutions responsible to the public.

Division members were prosecutors or administrative staff until midway through FY10 when the Division subsumed the Financial Investigations Division adding seven civilian investigative professionals to the team. These investigative professionals work with Division prosecutors and State Police to gather, examine and report upon the prolific testimonial and documentary evidence vital to the Division's investigations and prosecutions. In FY10, the Corruption and Fraud division indicted 34 new defendants and resolved 38 cases.

CYBER CRIME DIVISION

The Cyber Crime Division investigates and prosecutes

crimes with a cyber component, including both crimes committed on a computer network and crimes involving electronic evidence. The Division handles investigations and cases in the areas of identity theft, child exploitation, and largescale financial fraud, which utilize modern technology and threaten all segments of society. In addition to investigation and prosecution, the Division continued its work on the six priority areas outlined in the 2007 Strategic Plan.

The division delivered training to over 2,000 law enforcement personnel at 40 separate events, increased the number of users of the Cyber Crime Web-Portal (www. maagocybercrime.org) four-fold, continued its focus on statewide digital forensic evidence processing requirements by overseeing the development of the Massachusetts Cyber Crime Initiative Model Policy Manual for Digital Evidence Analysts, and secured passage of administrative subpoena and search warrant amendments which will

facilitate more effective investigation while continuing to safeguard individual rights.

ENTERPRISE AND MAJOR CRIMES DIVISION

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

In FY10, Enterprise and Major Crimes Division disposed of nine (9) cases and opened twenty-one (21) cases for a wide variety of offenses, including Narcotics Trafficking (heroin, cocaine, Oxycodone and marijuana), Extortion, Assault and



Battery to Collect a Loan, Assault and Battery with a Dangerous Weapon, Breaking and Entering with Intent to Commit a Felony, Gaming, Usury, Unlawful Firearm Possession, and Larceny. Eight of those cases were resolved following jury trials in Suffolk and Hampden Counties. In addition, AAGs in the Division obtained 71 criminal indictments. There were 16 arrests. In addition, the Massachusetts State Police assigned to the Division opened 12 criminal investigations, and obtained via subpoena hundreds of financial records from banks, mortgage companies, and other agencies in furtherance of criminal investigations throughout the Bureau.

ENVIRONMENTAL CRIMES STRIKE FORCE

The mission of the Environmental Crimes Strike Force (ECSF) is to investigate and prosecute the most serious environmental violations in Massachusetts, and to establish precedents for environmental misconduct that will not be tolerated.

Through the cooperation of the Attorney General, the Department of Environmental Protection, and the Massachusetts Environmental Police, the ECSF brings together prosecutorial, technical and investigative expertise to identify environmental violations, evaluate their impact on public safety and the environment, and develop the evidence necessary to prosecute environmental crimes. The types of cases recently prosecuted by ECSF involved the illegal treatment and disposal of hazardous waste, the improper handling and removal of asbestos, the filing of false environmental compliance reports, and the failure to report releases of hazardous materials. ESCF handled 36 cases in FY10 and obtained \$299,500 in fines and restitution.

INSURANCE AND UNEMPLOYMENT FRAUD DIVISION

The Insurance and Unemployment Fraud Division (IUFD) investigates and prosecutes those who commit fraud against insurers (including:

STAFF

disability), the and against unemployment Commonwealth's insuranceand workers' compensation system. IUFD prosecutes these crimes to protect both Massachusetts consumers and the integrity of the insurance system thereby protecting taxpayers from higher premiums and taxes that result from fraud and assuring that those in need receive appropriate services. In FY10, IUFD obtained over \$750,000 in restitution orders in 69 matters. **STATE POLICE**

health

care,

and

DETECTIVE UNIT

automobile,

The State Police Detective Unit functions as an investigative branch of the Criminal Bureau and is involved in investigations throughout all of the Bureaus divisions. In FY10, the State Police assigned to the AGO had 93 criminal investigations pending, executed 47 search warrants and made 48 arrests.

Government Bureau

The Government Bureau represents the Commonwealth, its agencies and officials in many types of civil litigation, as well as defending Commonwealth employees from civil claims made against them resulting from the performance of their duties. The Bureau develops and maintains close working relationships with agency counsel and provides them with information and advice on matters of broad common interest, particularly where advance consultation may prevent unnecessary litigation.

The Government Bureau also initiates affirmative litigation on behalf of the Commonwealth when such litigation is in the public interest and has significant monetary value or raises legal or policy issues of concern to the public and the Commonwealth. The bureau has three divisions, Administrative Law, Trial and Open Government, as well as a Municipal Law Unit. In the course of FY010, Government Bureau attorneys opened 1,123 cases and closed 1,044 cases. At the end of FY10, the Government Bureau had 2,513 pending cases. These matters resulted in almost \$3 million in savings from the zealous defense of litigation against Commonwealth.

ADMINISTRATIVE LAW DIVISION

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





housing, environmental protection, education, health and human services, employment and retirement, professional licensing, taxation, and insurance.

TRIAL DIVISION

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

DIVISION OF OPEN GOVERNMENT

As part of the 2009 Ethics Reform Bill, the Open Meeting Law was revised and now centralizes responsibility for state-wide enforcement in the AGO. To prepare for the July 1, 2010 effective date of the revised law, the Attorney General created the Division of Open Government. Focusing on its mandate to educate public officials, the media and members of the public on the revised law's requirements, the Division created training materials, including a comprehensive Open Meeting Law Guide, and conducted training sessions throughout the Commonwealth.

drafted The Division also regulations implement the to revised law. Among other things, the regulations detailed a straightforward complaint process to investigate and resolve alleged Open Meeting Law violations. In addition, the Division created a website, providing access to a broad range of Open Meeting Law material, including the law itself, the GOVERNMENT BUREAU

BUSINESS & LAB BUREAU

STAFF ATTORNEYS regulations, training materials, the complaint form and frequently asked questions.

MUNICIPAL LAW UNIT

The Municipal Law Unit reviews and approves municipal by laws and by-law amendments from the 351 cities and towns in the Commonwealth. The Attorney General exercises a limited power to disapprove local legislative action if the proposed amendment is found to be inconsistent with the laws or the Constitution of the Commonwealth and Home Rule Charter amendments must be reviewed by the Attorney During FY010, General, the Municipal Law Unit reviewed 934 zoning by-laws, 695 general by-laws and 45 charter amendments,

In addition, the AGO offers voluntary, informal review of proposed town by law amendments, and—even though not subject to review by the Attorney General proposed city ordinances. During FY10, the number of calls from local public officials and members of the general public, many of which related to anticipated changes in local laws and charters, continued to be significant.

The Municipal Law Unit has also worked with municipalities and the Department of Energy resources in the development of alternative energy (primarily wind and solar) zoning by-laws which impose reasonable regulations on the siting of alternative energy projects. Certain of the bylaws reviewed and approved by the Municipal Law Unit include as-ofright siting for such projects, which is required for communities to qualify as Green Communities under the Green Communities Act of July 2008. These by-laws assist municipalities to save energy costs for public buildings and satisfy some of their energy needs from alternative sources.

During FY10, the Municipal Law Unit worked closely with town clerks and other municipal officials regarding the revised Open Meeting Law, particularly as the new requirements relate to the process of zoning bylaw adoption and amendments.

Public Protection and Advocacy Bureau

The Public Protection and Advocacy Bureau (PPAB) uses investigation, analysis, affirmative litigation, and other advocacy to advance the Attorney General's statutory and constitutional responsibility to enforce laws protecting the public. The bureau focuses on a wide range of issues, including equality and civil liberties for all, clean air, land and water, fair and competitive business practices in the areas of consumer protection, antitrust, and financial services and insurance, and access for all to affordable, high-quality health care. The PPAB includes the following divisions: Antitrust, Civil Rights, Consumer Protection, Environmental Protection, Health Care, Insurance and Financial Services, and Investigations.

ANTITRUST DIVISION

The Antitrust Division protects the people, state agencies, and businesses of Massachusetts from anticompetitive practices and helps maintain and



encourage a competitive and vibrant economy through fair and effective enforcement of antitrust laws. The Division investigates and challenges anticompetitive mergers, price-fixing agreements, and other illegal practices by companies, both local and national, that harm both Massachusetts consumers and important state interests. The Division also advocates for effective competition policy at the state and national levels by filing legal briefs in important antitrust cases, engaging in policy initiatives, and promoting pro-competitive legislation.

CIVIL RIGHTS DIVISION

The Civil Rights Division enforces laws protecting and securing for all Massachusetts residents an equal opportunity to participate in civic society in areas such as education, health care, housing, financial services, public accommodation, employment, civil marriage, and voting, and the enjoyment of individual rights, autonomy, and privacy, under state and federal law. The Division brings enforcement actions, advocates in support of proposed legislation to better address civil rights issues, and works with community and advocacy groups to promote needed civil rights for all. The Division litigates housing discrimination cases under the Massachusetts Anti-Discrimination statute (M.G.L. c. 151B), investigates and litigates hate crime cases under the Massachusetts Civil Rights Act (M.G.L. c. 12, s. 11H), and performs education, outreach and enforcement work in the area of disability rights through the efforts of the Division's Disability Rights Project. The AGO currently has 117 open cases, proceeding in the Massachusetts courts.

CONSUMER PROTECTION DIVISION

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

ENVIRONMENTAL PROTECTION DIVISION

The Environmental Protection Division pursues three main types of work: (1) prosecuting civil enforcement and cost recovery cases, seeking to produce the greatest results in terms of compliance and environmental deterrence, and public health benefits, and financial recovery; (2) handling defensive cases, seeking to provide effective representation to support the policy choices made by state agencies and officials in implementing our environmental protection laws; and (3) undertaking affirmative, nonenforcement work to develop and pursue innovative ways to further environmental protection exercising the Attorney General's role as the Commonwealth's chief law officer. This last area includes: bringing "impact litigation" (typically against the federal government); participating as an amicus to help develop the law in a way that will further the Commonwealth's interests; developing or supporting legislative or other policy proposals; intervening, where appropriate, in siting disputes; and entering into Brownfields liability agreements to further the clean-up and redevelopment of contaminated sites.

HEALTH CARE DIVISION

The Health Care Division (HCD) advocates and brings enforcement actions to increase access to health insurance, control health care quality and costs, promote public health, reduce disparities, and protect consumers. The Division investigates and litigates consumer protection cases involving health insurers, health providers, and pharmaceutical companies, and assists state entities, including the Commonwealth Health Insurance Connector and the Health Care Quality and Cost Council, in developing sound policies and practices. In FY10, the Division's staff addressed consumer complaints relating to health insurance and health care and took over 5,200 phone calls, opened 916 complaints for mediation, and recovered over \$261,192 for consumers. In FY10, the HCD had 11 matters open and obtained almost \$1 million in judgments or settlements on behalf of Massachusetts consumers.

INSURANCE AND FINANCIAL SERVICES DIVISION

The Insurance and Financial Services Division (IFSD) represents the interests of consumers and the public in matters involving the insurance, securities and commercial banking industries. The Division investigates and litigates consumer protection and False Claims Act cases and participates in insurance rate proceedings before the Division of Insurance. The Division also assists consumers by mediating insurance, banking and investment disputes that do not rise to the level of unfair practices, and by advocating for statutory and regulatory reforms. In FY10, staff recovered over \$701,000 in savings and refunds on behalf of consumers, opened 639 complaints and fielded over 2,600 phone calls. In FY10, IFSD had 103 open cases resulting in \$82 million in consumer savings, over \$320 million



in restitution to Massachusetts consumers and more than \$13 million in payments to the Commonwealth.

INVESTIGATIONS DIVISION

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

Business and Labor Bureau

Through the Business and Labor Bureau (BLB), the AGO protects the public interest through fair, firm and transparent investigation, reporting and enforcement actions while providing certainty and equality in the market place. In so doing, the AGO takes the long view of promoting a healthy economy and aims to balance regulatory enforcement and review with advocacy for ratepayers, consumers and workers. The bureau also plays an important role by focusing on fraudulent acts and practices that occur in the context of commercial relationships. The bureau works to preventrising government costs caused by fraud involving business or medical services provided to or regulated by the government and to level the playing field so that no company can gain an unfair advantage by breaking the rules. BLB includes the following divisions: Business, Technology and Economic Development; Energy and Telecommunications; Fair Labor; Medicaid Fraud; and Non-Profit Organizations/Public Charities.

BUSINESS, TECHNOLOGY AND ECONOMIC DEVELOPMENT DIVISION

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

ENERGY AND TELECOMMUNICATIONS DIVISION

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

The Division works to ensure that businesses and residents have access to reliable, safe and affordable energy. The Division litigates its cases before state and federal courts, as well as administrative regulatory bodies such as the Massachusetts Department of Public Utilities, the Federal Energy Regulatory Commission, the and Federal Communications Commission. In many of these matters, particularly public utility rate cases, the Attorney General is the only active participant advocating on behalf of Massachusetts consumers. The Division is funded through an assessment on the gas, electric and telecommunications companies doing business in the Commonwealth. In FY10, there were approximately 187 cases pending before state and federal bodies. Matters that were finalized in FY10 yielded approximately \$136 million in

savings, some of which is based upon the lifetime of a particular project.

FAIR LABOR DIVISION

The Fair Labor Division enforces various laws that protect workers, including the prevailing wage, minimum wage, payment of wages, overtime, tip pooling, child labor, Sunday and holiday premium pay laws, and the arbitration of related public construction bid disputes. The Division has broad powers to investigate and enforce violations of these laws through criminal and civil enforcement actions. The Division uses this authority to protect employees from exploitation by an employer, prosecute employers who are failing to follow the Commonwealth's wage and hour laws, and set a level playing field with clear rules that the Commonwealth's employers can follow, ensuring that strong economic growth and fairness for workers go hand-in-hand. In FY10, the Division recovered over \$9 million in restitution and penalties on behalf of the Commonwealth's workers.





MEDICAID FRAUD DIVISION

The Medicaid Fraud Division (MFD) works to prevent and, if necessary, prosecute provider fraud and violations of state law pertaining to fraud in the administration of the Medicaid program. The Division executes search warrants and administrative document requests, negotiates settlements, obtains judgments and convictions, and recovers criminal and civil restitution, fines, penalties, and costs. In addition, the Division reviews complaints of resident abuse or neglect in nursing homes and other health care facilities. The Division serves as the Medicaid Fraud Control Unit for the Commonwealth of Massachusetts and is annually certified by the Secretary of the U.S. Department of Health and Human Services. In FY10, the MFD had 339 cases pending. Closed cases yielded almost \$36 million in recovery to the Commonwealth and Medicaid programs.

NON-PROFIT ORGANIZATIONS/ PUBLIC CHARITIES DIVISION

The Non-Profit Organizations/ Public Charities Division supervises public charities to safeguard the public's interest in these organizations and to ensure the proper solicitation and use of charitable funds raised. Non-profit charitable organizations, which range in size and scope, are major contributors to the Commonwealth's economic strength and its cultural heritage.

The Division reviews annual public charity filings, works with organizations to address and cure potential violations, and, when necessary, conducts civil investigations and litigation to enforce the law. In FY10, in the nonprofit context, the Attorney General approved 1,679 initial registrations, processed 22,071 annual financial reports, and approved 504 registrations for professional solicitors, fundraising counsel, and commercial co-venturers. Fees for these activities generated in excess of \$2,250,000 for the Commonwealth.

The Division also provided guidance charitable organizations through several advisories including: 8A guidelines, Raffle guideline and mergers and consolidations guidelines.

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- Zarbo, Karla

In Memorium

Loretta Smith

1949 ~ 2009



Loretta Smith was the Chief of our Government Bureau and passed away suddenly in the summer of 2009. She graduated from Boston University Law School and was a law clerk for Associate Justice Robert Braucher of the Supreme Judicial Court, before becoming an associate in 1980 at Goodwin, Procter & Hoar. She was an Assistant Attorney General from 1996 to 1997 in the Administrative Law Division. In 2001 she was named an Assistant District Attorney in the Appeals Bureau of the Middlesex District Attorney's Office until joining the Attorney General's Office in 2007. Loretta served the Office of the Attorney General and the Commonwealth of Massachusetts with distinction, and we are grateful for her public service.

By The Numbers: Protecting Consumers and Taxpayers

In FY2010, the Attorney General's Office saved or recovered more than \$660 million for taxpayers and consumers, including:

\$333 million	recovered from financial services companies as restitution to victims and payments to the Commonwealth.
\$82 million	in savings to automobile and motorcycle insurance ratepayers
\$136 million	in savings to utility customers
\$35.7 million	in civil recovery for Medicaid fraud
\$18 million	in loan modification relief for Massachusetts consumers
\$7.18 million	in restitution, penalties and fees in consumer protection judgments
\$902, 980	recovered in Massachusetts as a result of AGO leadership in multi-state actions addressing improper marketing of pharmaceuticals.
\$764,000	recovered for Massachusetts as a result of multi-state enforcement to prevent anti-competitive behavior in the area of generic pharmaceuticals.
\$9.3 million	in restitution and civil and criminal penalties for violation of fair wage laws
\$4.9 million	in civil and criminal judgments arising from damage to the environment
\$3 million	in revenue saved or recovered through civil litigation on behalf of state agencies
\$4.05 million	returned to consumers through informal mediation plus \$261,000 to consumers of health insurance
\$701,000	recovered in saving and refunds through insurance and financial service meditation
\$3.465 million	in compensation to victims of violent crime
\$2.2 million	in fees generated for the regulation of charities and over \$600,000 recovered as the result of the misapplication of bequests and fees in Massachusetts estates.
\$7.8 million	in recovery from perpetrators of public corruption and fraud
\$769,748	in restitution ordered for victims of worker compensation and unemployment insurance fraud.
\$156,000	in monetary relief to victims of civil rights violation
\$14.4 million	in False Claims Act cases paid to the Commonwealth



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