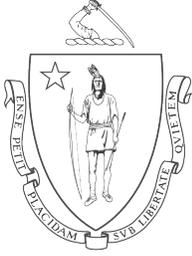


# Report of the Attorney General for Fiscal Year 2015



COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF ATTORNEY GENERAL  
MAURA HEALEY





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In accordance with the provisions of Section 11 of Chapter 12 of the Massachusetts General Laws, I hereby submit the Annual Report for the Office of the Attorney General. This annual Report covers the period from July 1, 2014 to June 30, 2015.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ma Healey".

Maura Healey  
Attorney General



# The Attorney General's Office

## The Executive Bureau

Budget Division  
Communications Division  
Community Engagement Division  
General Counsel's Office  
Human Resources Division  
Information Technology Division  
Law Library  
Operations and Support Services Division  
Policy & Government Division  
Public Inquiry & Assistance Center  
Victim/Witness Services Division

## The Criminal Bureau

Appeals Division  
Cyber Crime Division  
Enterprise and Major Crimes Division  
Fraud and Financial Crimes Division  
Financial Investigations Division  
Gaming Enforcement Division  
Human Trafficking Division  
Insurance and Unemployment Fraud Division  
Public Integrity Division  
State Police Detective Unit

## Energy and Environmental Bureau

Energy and Telecommunications Division  
Environmental Crimes Strike Force  
Environmental Protection Division

## Government Bureau

Abandoned Housing Initiative  
Administrative Law Division  
Municipal Law Unit  
Open Government Division  
Trial Division

## Health Care and Fair Competition Bureau

Antitrust Division  
False Claims Division  
Health Care Division  
Medicaid Fraud Division  
Non-Profit Organizations/Public Charities Division

## Public Protection and Advocacy Bureau

Civil Investigations  
Civil Rights Division  
Consumer Protection Division  
Fair Labor Division  
HomeCorps  
Insurance and Financial Services Division

## Regional Offices

Central Massachusetts (Worcester)  
Southeastern Massachusetts (New Bedford)  
Western Massachusetts (Springfield)

## Office of the State Solicitor



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## **EXECUTIVE BUREAU**

The Executive Bureau provides administration, public information, and policy development support for the Attorney General's Office (Attorney General's Office), as well as operational, information technology, human resources, and fiscal management services. Executive Bureau leadership includes the First Assistant Attorney General, Deputy Attorneys General, and the Chief of Staff. Divisions within the Executive Bureau include: General Counsel's Office; Policy and Government; Community Information and Education; Information Technology; Human Resources; Communications; Budget; Gaming Enforcement; the Public Inquiry and Assistance Center, the Law Library, and Victim Services.

### **Community Engagement Division**

The Attorney General's Community Engagement Division aims to fulfill the Office's mission to serve all people in the Commonwealth of Massachusetts in every one of its diverse communities. The Division works to establish a bridge between community members and organizations across the Commonwealth so that every resident has access to the Office's resources and educational materials. To this end, the Division works with all bureaus in the Office to develop and implement community engagement events that will strengthen the relationship between our office and partners across the Commonwealth and bring information and resources to individuals in the places where they live.

The Division launched its first ever Community Action Hours, a new program that brings the resources of the Office directly to communities at times and places that are more convenient for working people and their families. The goal of the Attorney General Community Action Hours (CAH) is to provide office hours and information sessions that are convenient and easily accessible, thereby addressing scheduling concerns that would normally prevent residents from utilizing the vast amount of resources that the Office can provide.

Immediately after filing the final regulations of the Earned Sick Time law on June 19, 2015, we fielded a high volume of questions from both employers and employees. We then started a series of informational trainings aimed at employers. We have executed 16 informational trainings, training almost 1,700 employers about the Earned Sick Time law. In 10 in-person and 6 online sessions, Attorney General's Office staff have reviewed the final regulations with employers, members of various chambers of commerce, and members of professional associations; the majority of time in these trainings was spent answering questions. In addition, we are offering multilingual trainings to low wage workers across the state on Workers' Rights, including Earned Sick Time and Domestic Workers regulations.

The Community Engagement Division is responsible for the management of grants awarded from the Attorney General's Office to non-profit organizations, municipalities and related entities. Grants are awarded to support efforts related to consumer protection, financial literacy, public health and safety, youth employment, mitigation of the foreclosure crisis and to support voluntary mediation services delivered by Local Consumer Programs and Face-to-Face Mediation Programs statewide.

The Attorney General's Office awarded over \$14.7 million in grants to 138 organizations in Fiscal Year 2015.

## General Counsel's Office

The General Counsel's Office's (GCO) reports to the Chief Legal Counsel. The GCO's primary responsibility is to provide legal assistance and operational support to the Attorney General, First Assistant, Deputy Attorney General, Executive Bureau, substantive bureaus, and non-legal Divisions, including the Human Resource Division, Information Technology Division, Operations Division, and Budget Office.

Specifically, the GCO provides legal assistance with employment, ethics, and conflicts of interest issues; assists in the development and implementation of office policies and procedures; ensures that all staff complies with G.L. c. 268A and fulfills annual distribution of conflicts of interest law summary and on-line training requirements; helps to represent the Attorney General's Office in matters before the Division of unemployment assistance or other agencies; manages the process through which Special Assistant Attorneys General (SAAG) are appointed and serve; approves contracts for legal services by the Attorney General's Office and state agencies; circulates Petitions and Notices from the Board of Bar Overseers and Notices of Tax Settlements; manages the Public Records processes (by supervising Attorney General's Office responses to Public Records Requests made by the public and press to the Attorney General's Office and interfacing with the Supervisor of Public Records); provides advice to the Executive and other Bureaus concerning the proper response to Public Records Requests; coordinates and trains public records officers within the Bureaus; works with the Divisions to ensure that Attorney General's Office complaints and other template forms contain consistent and appropriate language; manages the process through which members of state Boards and Commissions are appointed by the Attorney General; manages the Attorney General's Office's records retention processes; assists staff with ethics and conflicts of interest issues; and provides legal support regarding e-discovery, records retention, procurement and contracting, and other office-wide issues.

The GCO manages the National Association of Attorneys General (NAAG) sign on letter process. The Attorneys General often write and submit collectively letters to Congress or federal agencies which are then circulated by NAAG on behalf of the 50 states' Attorneys General as sign on requests. The GCO fields the inquiries, coordinates the Attorney General's Office recommendations, discusses the issue with the Chief Legal Counsel and with the Attorney General, and informs NAAG of the Attorney General's Office's position. The GCO documents and maintains these decisions in a database. The GCO also reviewed and coordinated the Attorney General's response to 14 requests from the National Association of Attorneys General to sign letters submitted to Congress or federal agencies representing the collective views of the Attorneys General.

The GCO is also responsible for providing administrative support to the Office of the State Solicitor by maintaining information about the Attorney General's Office's responses to requests to join multistate amicus briefs. In Fiscal Year 2015, the GCO reviewed and coordinated the Attorney General's response to 51 requests from other states and distributed through the National Association of Attorneys General to join multistate briefs to be filed in the federal courts, primarily in the United States Supreme Court.

One of the GCO's primary areas of responsibility is the management of the AG Institute, the in-house training Division of the Attorney General's Office. The AG Institute identifies training needs; creates and conducts in-house training programs on substantive legal issues and professional development; works with in-house and outside presenters and consultants; coordinates out of office training requests; and ensures that staff complete an internal CLE requirement. In Fiscal Year 2015, the AG Institute conducted 73 informal programs for AAsG, filling approximately 1,231 seats.

In Fiscal Year 2015, the Attorney General's Office received 390 public records requests., from the press and individuals, seeking documents generated by or in the possession of the Attorney General's Office. Of those, 132 were handled through the GCO (33.8%). Of those 132 handled by the GCO, 53 were from the press.

## Policy & Government Division

The Policy & Government Division works with the Attorney General's Office's bureaus and Divisions to develop and articulate the Office's legislative and policy priorities. The Division also works closely with the Executive Branch, the Legislature, the Commonwealth's federal delegation, municipal officials, and other stakeholders across a broad range of areas, including energy and the environment, health care, fair labor, criminal law, civil rights, and consumer protection.

In Fiscal Year 2015, the Division assisted with a variety of policy and legislative initiatives. In the area of labor and employment, Policy & Government staff helped the Attorney General's Office's Fair Labor Division implement both the earned sick time and domestic worker laws, including drafting regulations, conducting public hearings, and answering questions from legislators, businesses, and workers. The earned sick time law, approved by the voters in November 2014, requires employers in the Commonwealth to allow employees to earn and use up to 40 hours of sick time in a year. The domestic worker law provides robust protections for nannies, housekeepers, and other workers who provide services in households.

In the health care space, the Division helped draft and introduce Attorney General Healey's first piece of legislation, a bill that addresses rising health care costs, advocated for confidentiality for patients receiving sensitive health care services, and helped promote the Health Care Division's work around equal access to mental and behavioral health care.

On the consumer protection front, the Division helped promulgate regulations to ban the sale of e-cigarettes to minors, advocated for protections for communities struggling with high rates of foreclosure, urged Congress to support strong federal data breach notification and security standards, and pushed the U.S. Department of Education to provide loan debt relief for students harmed by the unfair and deceptive practices of for-profit schools.

In the area of civil rights, the Division coordinated the Attorney General's Office's advocacy to the Legislature in a number of areas, including expanded opportunities for women in the workplace and protections for transgender individuals in places of public accommodation.

The Division has also partnered with the Energy and Environment Bureau to support solar programs and net metering, to stand behind the EPA's Clean Power Plan, to protect Massachusetts fishing communities, and to press lawmakers for reform of the Toxic Substances Control Act, which sets federal restrictions on the manufacture and use of chemicals that present an unacceptable risk of harm to public health and the environment.

Working with the Attorney General's Office's Criminal Bureau, the Division advocated for important reforms to our criminal justice system, including ending the automatic suspension of driver's licenses for drug convictions, coordinated with leaders in the Legislature to reinstitute the statewide grand jury, and helped increase protections for victims of domestic violence and human trafficking.

The Division was also responsible for a number of special initiatives. Starting in January 2015, for example, the Division has coordinated the work of the Attorney General's Office's cross-bureau Opiate Task Force. As part of that work, the Division collaborated with leaders in the Legislature to establish a fund for first responders to more affordably buy Narcan, the overdose reversal drug. The Division also helped reach a \$325,000 settlement with Amphastar, Narcan's manufacturer, which will be paid into the fund. Members of the Division also represented the Attorney General's Office on Governor Baker's Opioid Addiction Working Group and worked with the Department of Public Health to improve the state's Prescription Monitoring Program and to increase awareness of the Commonwealth's Good Samaritan Law, which protects those who witness an overdose and call 911 from prosecution for drug possession.

## **Public Inquiry & Assistance Center**

In an effort to resolve matters between consumers and merchants outside of court, the Attorney General's Office offers a free, voluntary mediation service with the goal of reaching a mutual resolution for both of the parties involved in a dispute. We handle these mediation services in our Public Inquiry and Assistance Center (PIAC). PIAC serves as a great source of information and assistance for the residents of the Commonwealth in the area of consumer protection. PIAC serves as one of the central intakes sources for the Office. We have both a Consumer and Elder hotline operating weekdays from 10 a.m. to 4 p.m. with trained information specialists that assist callers in addressing a wide range of questions and concerns. In Fiscal Year 2015, the both hotlines and constituent services staff answered over 45,000 calls last year as well as processed and responded to 24,000 pieces of correspondence. In addition, the PIAC staff may direct consumers that call into the hotline to areas of the Attorney General's Office website for further in-depth information; we offer referrals to appropriate organizations or other government agencies; direct consumers to file a written complaint if they believe they have been a victim of an unfair or deceptive practice; and, if the complaint is deemed appropriate, provide information on the consumer complaint and mediation processes conducted by the Division as well as our community-based local consumer mediation programs.

In order to expedite the processing and resolution of a consumer's complaint, PIAC may refer a complaint to one of these community based Local Consumer Program (LCP) or a Face-to-Face Program (FTF) near the consumer's residence. For Fiscal Year 2015, PIAC and the LCPs performed over 9,672 mediations and recovered or saved close to \$3,311,096 million on behalf of Massachusetts consumers. These programs receive grant funding by and work in cooperation with our office, providing the same free, voluntary mediation services.

These services save consumers and businesses money, relieve the burden on courts, foster confidence in government, keep the public safe, and help ensure fairness in the marketplace. The PIAC staff is available to conduct educational outreach programs and trainings on a wide range of subject matters, such as auto repairs, preventing identity theft and teaching financial literacy.

Educating the public in order to prevent scams and fraud is a vital part of the mission of the Attorney General's Office and the LCPs. This past year, PIAC performed approximately fifty educational outreach events on these topics and educated over 4,000 consumers. PIAC provides information to help consumers make informed decisions and to offer tips to assist in avoiding deception and fraud.

## **Victim Witness Services**

Victim Witness Services at the Office of the Attorney General is comprised of two Divisions: The Victim Witness & Assistance Division and the Victim Compensation & Assistance Division.

### Victim Witness & Assistance Division

The Office of Attorney General serves victims and witnesses in a variety of ways. Victim Witness & Assistance Division advocates are assigned to work with victims throughout the investigations and prosecutions we pursue. In criminal matters, we are mandated to inform victims of the rights afforded to them under the Victim Rights Law, M.G.L. c. 258B, and work to fulfill them. In all of our matters, we keep victims and witnesses informed about the case involving them and give them a voice in the process. We routinely assist victims and their families in accessing all available resources, both internally and externally, to meet their individual needs.

The Victim Witness & Assistance Division provides comprehensive services to victims and witnesses involved in Attorney General Office cases. Victim Witness Advocates handled over 152 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 over 30 training activities including the MA Office of Victim Assistance Board, the Sexual Assault Nurse Examiners Advisory Board, and Governor's Council to Address Domestic Violence and Sexual Violence, and the Massachusetts Victim Assistance Academy.

### Significant Cases

**Commonwealth vs. Punyamurtula Kishore:** The Kishore case involved Dr. Kishore and his company, Preventative Medicine Associates, who were convicted of multiple counts of Medicaid False Claim, Medicaid Kickbacks and Larceny Over \$250. Kishore was sentenced to 360 days in the House of Correction, 11 months to serve, balance suspended for 10 years. Additionally, the defendants were ordered to pay restitution in the amount of \$9.3 Million.

**Commonwealth vs. Linnehan:** Child pornography and data breach case by a Springfield College Employee. Linnehan was sentenced to 8-10 years in State Prison to be followed by 5 years' probation with conditions including: sex offender registration, GPS monitoring, no unsupervised contact with children under 18, no non-work related use of the internet and no contact with the victims of child pornography and victims of unauthorized access. He was ordered to pay \$3,900 in restitution to an identified victim of child pornography.

**Commonwealth vs. Leventhal:** Dealt with a Rent-to-own scheme which negatively impacted more than 60, already financially vulnerable, victims. Leventhal was sentenced to 2 years in the House of Correction, with 10 months to serve, the balance suspended for 10 years, during which time he will be on probation. Leventhal was ordered to pay restitution in the full amount of \$112,000 to the 60 victims defrauded through his scheme.

**Tim McGuigan vs. Joseph Early et al.:** Tim McGuigan, Plaintiff, sued the Commonwealth of Massachusetts claiming he was entitled to the \$100,000 reward monies in the Molly Bish case. Civil Trial in Worcester Superior Court, case was directed out.

**Susan Gillis:** Extensive scheme involving the production and sale of millions of dollars' worth of illegal MBTA monthly passes. Gillis plead Guilty to Receiving Stolen Property over \$250 (3 counts) and was sentenced to two-and-a-half years in the House of Correction, with one year to serve and the balance suspended for a probationary period of three years

### Important Numbers and Statistics

Total number of case: 152

Convictions/Pleas: 21

Trainings/Webinars attended: 34

- National Crimes against Women Conference
- Massachusetts Victim Rights Conference

- Massachusetts Office of Victim Assistance Academy
- 31st International Symposium on Child Abuse
- Attorney General's Office Labor trafficking training

#### Training Provided:

- Human Trafficking: Recognizing, Responding, and Investigating the Commercial Sexual Exploitation of Children
- Human Trafficking: How to Build a Child Sex Trafficking Investigation
- Human Trafficking: A Multidisciplinary Approach to Investigations, 2015 National Cyber Crime Conference
- First Circuit Regional Meeting, hosted by Attorney General's Office and NAGTRI: Habeas Corpus Training-Procedural Issues: Victim Notification
- Federal Habeas Corpus Program/Western Massachusetts Lecture Series: Victims' Rights in Habeas Corpus Proceedings

#### Hotline statistics:

Victim Witness Services was assigned and responded to 88 open and closed intakes. These intakes involved requests for assistance regarding domestic violence, sexual assault, child abuse, housing, and civil rights. The staff provided resources and appropriate referrals both internally and externally to victim service providers, community agencies, and local, state, and federal partners.

### Victim Compensation & Assistance Division

Through the Victim Compensation & Assistance Division, the Attorney General's Office is often able to provide financial assistance to eligible victims of violent crime for medical and dental care, mental health counseling, funeral and burial costs, crime scene clean up services, and security measures. Our Division uses funds obtained from perpetrators, and can assist with expenses up to a maximum of \$25,000 per crime or up to maximum of \$50,000 per crime for cases where the victim sustained catastrophic injuries. Experienced staff within the Division will assist victims in understanding their rights as a crime victim, determining what expenses may be eligible for compensation, and assessing what other resources are available to assist them.

#### Significant Cases

There are several statistics that highlight the effectiveness and impact of the Division in responding to the needs of victims of violent crime. In the Fiscal Year 2015, the Victim Compensation and Assistance Division received 1,661 new applications. These new claims represent the numbers of individuals who are impacted by violent crimes in the state of Massachusetts. In Fiscal Year 2015, the Division responded to and made 1,356 claims eligible. By the end of the fiscal year, the Division paid out a total of \$3,570,330.54 in crime-related expenses using federal and state monies. Of the 1040 claims that were paid out during Fiscal Year 2015, 204 claims were related to domestic violence incidents which depict an increase from FY13 and FY14. In the year 2015, almost 84% of all claims that the Division paid out were related to crimes of assault, homicide, and sexual assault. Half of the claims that were paid out fell

in the crime category of assault. The top three expense categories paid out by the Division in Fiscal Year 2015 were economic support, medical/dental and funeral/burial expenses. The Division paid out a total of \$1,151,706 in economic support, \$1,009,488 in medical/dental expenses, and \$694,277 in funeral related expenses.

Through a collaborative effort with the Executive Office of Public Safety and Security's Office of Grants & Research, Massachusetts Department of Public Health, and Massachusetts Hospital Association, the Victim Compensation & Assistance Division is working to develop a protocol to ensure that the Commonwealth is in compliance with the 2013 amendments to Violence Against Women Act for expenses associated with the performance of forensic sexual assault exams for sexual assault survivors. In Fiscal Year 2015, the Division received 284 applications for services associated with the performance of a forensic sexual assault exam kit in hospitals across the Commonwealth.

The Division provides support to constituents of the Commonwealth through the Office Service Desk Express. During Fiscal Year 2015, the Division responded to 88 open and closed intakes. These intakes involved requests for assistance with issues regarding bullying, domestic violence, sexual assault, child abuse, and stalking.

Finally, in Fiscal Year 2015, the Victim Compensation and Assistance Division visited all corners of the Commonwealth to attend events and present at over 30 trainings for agencies throughout Massachusetts. This year, the Division established important connections with agencies that work with victims of violent crimes and make referrals for our program. Some of the agencies that we presented trainings include: Our Deaf Survivors Center in Framingham, which provides advocacy to deaf individuals who have been victimized, and the Louis D. Brown Peace Institute, which works closely with families in the aftermath of a homicide. In addition to conducting trainings about our program, the Division also provided resources at table events throughout the state to interact with the public and increase the awareness about the help offered by the Office of the Attorney General. One of these table events, the Together We Can Event, was an awareness event about human trafficking and showcased valuable information and local resources available to trafficking victims. The Division also had a presence at the Resiliency Forums held by the Massachusetts Resiliency Center and continued to provide support to the victims of the Boston Marathon bombing.

The Victim Compensation and Assistance Division also offered educational opportunities inside the office as well. In October 2014, the Division sponsored a Domestic Violence Awareness Day. The awareness event provided education around the new domestic violence laws and also brought in two survivor speakers to share their stories. In March 2015, the Division held its annual White Ribbon Day in the Ashburton Café in the office building where much of the Attorney General's Office is located. Members of the team interacted with visitors to the cafeteria and offered individuals an opportunity to sign a pledge to end violence against women and wear a ribbon to show their support. As a result, the Victim Compensation Division has been successful in their efforts to meet their mission this past fiscal year.

## CRIMINAL BUREAU

The Criminal Bureau works to protect the public by investigating and prosecuting a wide range of criminal cases. These include public corruption, financial fraud, and other violations of the public trust, organized crime, major narcotic offenses, appellate issues, insurance and unemployment fraud, environmental crimes, internet and online crimes, and more. The Criminal Bureau's investigations are supported by a team of State Police detectives.

### **Appeals Division**

The Appeals Division defends Massachusetts convictions, criminal justice officials, and criminal laws and practices, in federal and state courts. Specifically, the Division strives to uphold convictions secured by the Attorney General's Office when they are challenged in the Massachusetts Trial Court, Appeals Court, and Supreme Judicial Court. It also responds to all challenges in federal court to convictions obtained by the Attorney General's Office and District Attorney's Offices. The Division is thus the sole unit of Massachusetts government to defend against habeas corpus actions in the United States District Court, Court of Appeals for the First Circuit, and Supreme Court, and to respond to direct criminal appeals in the Supreme Court. The Division's role in the development of federal habeas law is considerable, as over 90% of the First Circuit's published decisions concerning habeas challenges to state convictions involve Massachusetts prisoners and thus Division attorneys. The Division additionally represents Massachusetts agencies and officials in federal and state civil suits arising from actions undertaken within the criminal justice system. Such officials include judges, court clerks, probation officers, prosecutors, public defenders, state troopers, and others. Division clients may be named as defendants, or subpoenaed to provide documents or testimony. In its civil litigation, like its criminal cases, the Division is often required to defend the constitutionality of statutes, rules, procedures, and practices related to criminal adjudication and punishment.

### Significant Cases

In Fiscal Year 2015, the Appeals Division successfully defended numerous convictions against habeas corpus challenges in federal trial and appellate courts. No Massachusetts conviction was set aside on habeas corpus review during Fiscal Year 2015. Many of these convictions arose from particularly disturbing crimes. For example, the Division secured decisions by the United States Court of Appeals for the First Circuit rejecting habeas challenges by: **Anthony Cooper**, who committed armed robbery in the home of a Hingham woman; **Robert M. Lee**, who was hired to shoot a man to death in Sterling; **Julian Castle Logan**, who was found guilty of living off or sharing the earnings of a minor prostitute, based on conduct observed in Everett; **Hector Montanez**, who invaded the home of an 89-year-old man in Chicopee; and **Keith Winfield**, who was found guilty of several child sexual abuse offenses stemming from allegations that he brutally assaulted his two-year-old niece in Melrose.

The Division prevailed on several occasions in the United States Supreme Court. In one case, the Court refused to review a First Circuit decision denying habeas relief to **Ryan Marshall**. (At the Division's urging, the First Circuit had reversed an order barring prosecutors from trying Marshall for his alleged participation in beating a man to death in New Bedford.) The Supreme Court also declined to review First Circuit decisions denying habeas relief to **Kevin Hensley**, who murdered his estranged wife by strangulation, and **Everett H. Connolly**, who trafficked in and distributed cocaine.

The Division also defended state judgments against other types of challenges. As a result of Division efforts, the Massachusetts Appeals Court affirmed **Edward Bettencourt's** conviction on 21 counts of unauthorized access to a computer system. Bettencourt had been a lieutenant in the Peabody Police

Department. That court also refused to disturb **Gerald Schena's** 224-count conviction on various crimes involving theft or deception. And it affirmed the revocation of parole for **Charles Doucette**, who was convicted of second-degree murder and other offenses and failed to comply with parole conditions. Moreover, both the Massachusetts Supreme Judicial Court and the United States Supreme Court declined to hear challenges by **Raymond Boshears** to his conviction of child pornography offenses. The rulings brought a close to Division efforts to reverse a decision granting him a new trial. The Supreme Court also denied direct review, after requesting formal briefing from the Division, of **Robert J. Morganti, Jr.'s** conviction for committing first-degree murder in Brockton.

In several cases, the decisions obtained by the Division refined federal or state precedent in ways that will prove beneficial to the Commonwealth and crime victims. For example, in **Winfield's** case, the First Circuit affirmed the importance of respecting determinations by jurors who heard the evidence at trial. Then, in a habeas appeal by **Aaron Powell**, that court rejected challenges to Massachusetts firearms laws and expansive interpretations of the Second Amendment. The SJC, meanwhile, denied **Jose A. Guzman's** challenge to a state statute requiring GPS monitoring as a probation condition for certain sex offenders, and affirmed the duty of judges to apply the statute's provisions. Guzman had pled guilty to child pornography-related offenses. In an appeal by **Wajahat Q. Malick**, the Massachusetts Appeals Court affirmed the power of judges to require victim restitution as a probation condition, and to revoke probation where a defendant fails to pay.

In all cases, Division members cooperated closely with the Attorney General's Office's Victim/Witness Assistance Division to ensure that affected citizens were notified of proceedings and developments.

### Other Significant Achievements

In addition to their Fiscal Year 2015 litigation activity, Appeals Division members continued to serve the Attorney General's Office in ways beyond their litigation work. In particular, they analyzed legislative proposals, working closely with other Office units; regularly advised the Attorney General's Office's Victim Compensation Division on matters within its charge, and defended its decisions; recruited, interviewed, and coordinated placement of Harvard Law School interns for the Attorney General's Office as a whole, and supervised several such interns within the Division; counseled Attorney General's Office Criminal Bureau members on interstate extradition matters; analyzed and made recommendations on whether the Attorney General's Office should join amicus curiae briefs to, or file petitions for review in, the United States Supreme Court and other courts; oversaw the activities of five Special Assistant Attorneys General; prepared updates on new criminal decisions for Criminal Bureau members; contributed to the process of revising the Massachusetts Rules of Criminal Procedure, Rules of Professional Conduct, and Supreme Judicial Court Rules; and consulted on dozens of matters being handled by other Attorney General's Office units.

Division attorneys further continued to represent the Attorney General's Office as members of or liaisons to various other governmental bodies. These included: the Massachusetts Criminal Records Review Board; the Massachusetts Firearms Licensing Review Board; the Interstate Compact for Adult Supervision State Advisory Council; the Supreme Judicial Court Standing Advisory Committees on the Rules of Criminal Procedure and on Eyewitness Identification; and the United States Department of State's Bureau of Consular Affairs. They also routinely advised and assisted other units of state government by reviewing briefs, helping attorneys prepare for oral arguments, and consulting on a wide range of criminal and civil matters.

Added to the above, attorneys in the Division delivered presentations to their colleagues on subjects such as Supreme Court practice, recent Court decisions on criminal law, federal habeas corpus litigation, appellate advocacy, collateral consequences of criminal convictions, subpoena practice, and obtaining digital evidence. Division members also spoke on panels sponsored by Massachusetts Continuing Legal Education regarding appellate advocacy, and by the SJC and Boston Bar Association regarding practicing with professionalism. And they contributed to the National Cyber Crime Conference by editing materials and serving as mock trial judges.

The Division further provided leadership among the jurisdictions of the federal First Circuit by inviting them to send attorneys and victim/witness advocates to a Regional Meeting on Habeas Corpus Law. The first of its kind, the meeting focused on new developments in habeas law, best practices in litigating habeas cases and working with victims, and strategies for handling novel and challenging issues. The Massachusetts delegates also proposed ideas for how the different jurisdictions can more effectively collaborate and reinforce each other's positions going forward. The Division obtained support from the AG Institute and the NAAGI, which viewed the meeting as a model to be replicated in other circuits nationwide.

Additionally, continuing its efforts to enhance information exchange among its own members and other state prosecutors, the Division took steps to improve its moot courts through a rotating designated-panelist system, and began circulating First Circuit Habeas Corpus Updates to District Attorney's Offices. The Division was also pleased to welcome a new attorney who had considerable experience litigating in appellate and trial courts, providing legal advice, and drafting regulations for the Sex Offender Registry Board.

### Important Statistics and Numbers

In Fiscal Year 2015, the Appeals Division opened about 250 new matters. A plurality of these were brought by prisoners seeking habeas corpus relief in the United States District Court, Court of Appeals, or Supreme Court. The remainder involved: direct appeals of Massachusetts convictions to the Supreme Court; direct appeals of criminal convictions in state appellate courts; other post-conviction challenges in state courts, and appeals from decisions thereon; proceedings under Chapter 211, Section 3 of the Massachusetts General Laws in the Supreme Judicial Court for Suffolk County; civil actions and appeals from judgments therein in federal courts; and civil actions and appeals from judgments therein in state courts. The Division's civil litigation efforts involved representing state actors as defendants and as subpoenaed third parties. Division members had around 100 court appearances, and their cases produced over 100 published and unpublished opinions by federal and state courts.

### **Cyber Crime Division**

The Cyber Crime Division investigates and prosecutes complex criminal cases involving digital evidence, consultation on criminal matters involving technology, and the forensic examination of digital evidence. The Division is focused on building stronger and safer communities, as well as developing shared training resources and collaboration between law enforcement agencies.

The Division also works to advance the comprehensive Cyber Crime Initiative, which includes the Massachusetts Digital Evidence Consortium, a working group of law enforcement digital evidence analysts who convene to standardize digital evidence analysis procedures and improve training and information

sharing efforts. The Cyber Crime Initiative is a product of the Massachusetts Strategic Plan for Cyber Crime. In 2007, the Attorney General convened a meeting of police officers and prosecutors from across the Commonwealth to identify challenges in the investigation and prosecution of cyber crime cases. Shortly thereafter, she published the Strategic Plan, identifying several solutions to these challenges. The Cyber Crime Initiative implements these solutions and has already achieved significant success. For example, the Cyber Crime Division has arranged or conducted training for more than 11,000 police officers and prosecutors in several cyber crime subjects. The Division also coordinates an online training portal for law enforcement.

The Cyber Crime Division also developed and manages a Digital Evidence Laboratory. Opened after new construction in July 2009, the Digital Evidence Laboratory services the Attorney General's Office as well as other local and state law enforcement agencies seeking assistance. The Laboratory houses a state-of-the-art training facility for law enforcement.

### Significant Cases

#### **Commonwealth v. David Linnehan:**

In 2013, Massachusetts State Police assigned to the AG's Office received information from federal authorities about an e-mail account linked to a residence in Granby, MA that they believed was involved in the trading of child pornography. After further investigations, it was revealed that Linnehan stored thousands of images and videos of child sexual abuse on computers and other media at home and at his workplace in addition to the files allegedly located within his email.

In January 2014, Linnehan was indicted by a Statewide Grand Jury and later arraigned in Hampshire Superior Court. As the investigation continued, it was learned that Linnehan allegedly encouraged an out-of-state woman to take and send him nude photographs of her young daughter. Linnehan also attempted to solicit self-produced, nude images of another minor over the Internet. Linnehan also distributed child pornography via email.

Further, forensic evidence revealed that Linnehan abused his position as an IT administrator at Springfield College to gain unauthorized access to students' computers, school email accounts, and, on at least one occasion, a personal Gmail account. Through this access, Linnehan copied and downloaded private, personal photographs without authorization and stored them on his own computers. The AG's Office worked with Springfield College to identify and notify all known students affected by this conduct.

Linnehan pleaded guilty in Hampshire Superior Court to the charges of Posing or Exhibiting a Child in a State of Nudity or Sexual Conduct (2 counts), Attempting to Pose or Exhibit a Child in a State of Nudity or Sexual Conduct, Dissemination of Child Pornography (8 counts), Possession of Child Pornography (11 counts), Unauthorized Access to Computer System (13 counts), Unlicensed Possession of a Firearm, and Unsecured Storage of a Firearm.

On February 24, 2015, Linnehan, was sentenced in Hampshire Superior Court to 8 to 10 years in state prison, with five years of probation to serve upon his release. As conditions of probation, Linnehan must stay away from the victims and various strict conditions on computer use and access to children, among others, were imposed.

## Other Significant Achievements

The Cyber Crime Division held its fourth annual National Cyber Crime Conference in April of 2015. There were a total of 625 attendees from 40 states. The Cyber Crime Division began coordinating the 2015 National Cyber Crime Conference in January of 2015. The conference was held in Norwood at the Four Points Sheraton. The conference consisted of 3 full-day of training followed by a one day State of the States meeting, in which 24 states took part. The conference featured some of the top names in the industry. There were multiple breakout sessions, totaling over 200 training sessions, in the field of cyber crimes and digital forensics. These breakout sessions were organized into 3 separate tracks of sessions; one for prosecutors, one for investigators, and one for digital evidence examiners.

## Important Statistics and Numbers

The Cyber Crime Initiative has points of contact that cover 99% of MA population (577 separate law enforcement agencies with over 2000+ points of contact). The points of contact include 435 local departments from 48 states and Washington DC; state and federal law enforcement; Sheriff's Departments; State Agencies; Military; and University and College Police Departments.

The Cyber Crime Initiative has held, attended or presented at over 350 separate events with over 15,000 registered attendees.

As part of the Cyber Crime Initiative, members of the Division lead and participate in the Massachusetts Digital Evidence Consortium ("MDEC"). In Fiscal Year 2015, MDEC finalized and taught at the 2015 National Cyber Crime Conference Module 2 and 4 of the MDEC Digital Evidence Certification Program. Subsequently, this guide was mailed to all 351 local police departments, and the Massachusetts State Police. Each department received enough guides to hand to each of their sworn officers.

In February of 2014, the Cyber Crime Division stepped-up their efforts in assisting the National Center for Missing and Exploited Children and the Internet Crimes Against Children Task Force with issuing subpoenas in response to the ever growing number of cyber-tips. In 2015, the Attorney General's Cyber Crime Division has received a total of 166 separate cyber-tip cases resulting in 250 subpoenas issued to numerous Internet Service Providers. Of those 166 cyber-tips cases, eight have gone on to become ongoing criminal investigations.

## **Digital Evidence Lab**

The Massachusetts Attorney General's Office operates one of the largest digital forensic labs in the Commonwealth. The Digital Evidence Laboratory (the "Lab") is staffed by 7 full-time, expert digital forensic analysts, a part time analyst, and support personnel. The state-of-the-art Lab facility is located on the fourth floor of One Ashburton Place in Boston and features the latest and most advanced forensic hardware and software. The Lab falls under the Criminal Bureau. Lab personnel assist with the cyber components, and digital evidence, encountered in the vast majority of Criminal Bureau cases. Additionally, the Lab frequently assists other local and State police agencies and Divisions as well as district attorneys offices with forensic examinations and technical consultations on pending criminal investigations. Upon request, Lab personnel perform forensic examinations in matters submitted by various civil Divisions within the Office of the Attorney General. Beyond case work, Lab personnel offer their experience, expertise, and specialized knowledge in many other ways. Lab personnel lead and contribute to the Massachusetts Digital Evidence Consortium. Lab personnel also conduct training and take part in speaking engagements for law enforcement and other groups on many topics related to digital forensics and cyber crime. This includes playing a major role in the organization of the Office's annual National Cyber Crime Conference.

## Significant Cases

During the fiscal year, the Lab performed forensic examinations in support of investigations and prosecutions of a wide range of civil and criminal offenses including murder, sexual assault, narcotics, human trafficking, hacking, public protection, larceny, insurance fraud, environmental, public corruption, child exploitation, Medicaid fraud, illegal gaming, stalking, harassment, robbery, and child rape. Some of these cases have already been detailed in the “Significant Cases” sections of respective Criminal Bureau Divisions. Below are a few highlights of significant cases.

**David Linnehan** - Lab personnel examined more than 10 terabytes of data during the course of the investigation of Linnehan. Linnehan pled guilty to 37 counts of computer-related charges in February of 2015 including possession and dissemination of child pornography, unauthorized access to a computer system, and posing a child in a state of nudity. The charges stemmed from a comprehensive investigation and forensic examination.

**Narcotics Case Support** - Lab personnel performed many examinations of mobile devices in support of EMCD narcotics cases during the fiscal year. The Lab is currently working on an initiative to upload this data for the purposes of identifying other suspects and criminal cases.

**Green Gravy** - Lab personnel organized the digital evidence seizure component of the Green Gravy Gaming investigation in May. Lab personnel assisted with the onsite collection and subsequent processing of mobile devices, computers, and media from more than 20 locations over two days.

## Other Significant Achievements

- Lab personnel took a significant role in the organization of the 2015 National Cyber Crime Conference
- Lab personnel are responsible for the ongoing organization of and contributions to the Massachusetts Digital Evidence Consortium
- Lab personnel have taken part in many priority Office programs including cyber security, the drug monitoring initiative, encryption, human trafficking, and law enforcement training
- Lab personnel support and take part in the Massachusetts Internet Crimes Against Children task force
- Lab personnel organized and ran the 2015 State of the States working group meeting at the 2015 National Cyber Crime Conference. The meeting was attended by approximately 30 cyber experts from across the country assembled to foster a discussion of cyber crime and digital evidence challenges and solutions.
- Lab personnel took part in the Office’s e-discovery committee to identify and implement a Office-wide e-discovery platform solution
- Lab personnel frequently assist other police departments, district attorneys’ offices, and other law enforcement agencies with cyber crime and digital evidence issues
- The Digital Evidence Laboratory maintains a comprehensive quality control program
- Lab personnel are assisting with the support of priority criminal investigations of human trafficking, opiate cases, gaming, and online child exploitation through training and data collection

## Enterprise and Major Crimes Division

The Enterprise and Major Crimes Division targets criminal enterprises and organizations using sophisticated investigative techniques and strategies in order to develop high-impact prosecutions. The Division includes prosecutors, support staff and State Police assigned to the Attorney General's Office who work closely with various federal, state, and local law enforcement authorities and agencies to target, investigate, prosecute and disrupt criminal organizations in order to promote and ensure public safety in communities throughout the Commonwealth. The Enterprise and Major Crimes Division investigates and prosecutes a wide variety of offenses, including narcotics trafficking, extortion, and others.

### Significant Cases

Two significant cases during Fiscal Year 2015 involved fentanyl-related charges. Fentanyl is a particularly dangerous opiate that has been becoming more and more prevalent in the Commonwealth, adding to the recent opiate crisis. The cases are:

**Commonwealth v. Jose Casellas:** A fast paced joint investigation by MSP TDU, MSP assigned to Attorney General's Office, EMCD, and DEA followed a drug related robbery in New Hampshire. This investigation lead to the identification of Casellas as a large scale heroin and fentanyl dealer based out of Lawrence. His stash house was identified at 89 Woodland Street, where one kilo of heroin, one kilo of fentanyl, and three firearms were located. Casellas is a repeat offender who has served significant state prison time for drug dealing in the past.

**Commonwealth v. Starling Guerrero:** This was another fast moving joint investigation by MSP TDU, MSP-Attorney General's Office, EMCD and DEA, on the heels of the Casellas case, investigators began an investigation into Guerrero. Guerrero was arrested while attempting to deliver 241 fingers of heroin, which turned out to be all fentanyl (over 2 kilos). The officers located a loaded firearm and \$32,000 in cash in a hide in his motor vehicle. They subsequently sought a Search Warrant for his residence in Woburn and located over 950 various pills (oxycodone and some morphine), a loaded large capacity firearm and over \$41,000 cash. This case will be indicted in FY2016.

With the above fentanyl prosecutions as backdrop, as well as other similar cases and investigations, the Enterprise & Major Crimes Division has been leading the charge on the criminal side against the Commonwealth's opiate epidemic, helping to disrupt the distribution and unlawful sale of these dangerous drugs. On the policy side, the Division has lent substantial support and assistance to the Attorney General's Office in crafting and introducing a fentanyl trafficking bill, currently being considered by the General Court. The legislation substantially increases the penalties for trafficking in large quantities of this dangerous drug, and prospects for passage are quite good.

## Financial Investigations

The Financial Investigations Division is a team of civilian criminal investigators who partner with Criminal Bureau prosecutors, State Police, victim witness advocates and support staff from the Fraud and Financial Crimes Division, the Public Integrity Division, the Enterprise and Major Crimes Division and the Human Trafficking Unit. The financial investigators provide extensive analysis and forensically examine evidence for allegations of criminal misconduct involving a broad array of complex financial crimes including larceny, embezzlement, identity theft, public corruption, money laundering and human trafficking. The financial investigators conduct interviews of victims, witnesses and targets and provide testimony in the Grand Jury

and at trial to the documentary evidence they gathered and examined, which is vital to the Criminal Bureau's investigations and prosecutions. The Financial Investigations Division also maintains an accounting and disbursement of the funds used in the undercover investigations of the State Police assigned to the office.

### Significant Cases

**Commonwealth v. Leonard Wasileski:** Financial Investigators tracked \$640,000 relating to three separate larceny schemes Wasileski perpetrated upon MGH where he sold scrap brass after use in radiation and kept the proceeds for himself, ordered hundreds of unauthorized tools and pieces of equipment through MGH for his personal use and directed payments for Massachusetts General Hospital invoices to his personal accounts. Wasileski pled guilty and was sentenced by a superior court judge to a term of one year to one year and six months in state prison, with 10 years of probation so be served upon his release.

**Commonwealth v. Dorothy Giard:** Financial Investigators tracked \$1.7 million dollars Giard stole from her employer using company funds and falsifying company books to pay her personal credit card bills. Giard was sentenced to serve six months in the House of Correction and 10 years of probation and repay the \$1.7 million dollars.

**Commonwealth v. Joshua Leventhal:** Financial Investigators tracked \$112,000 Leventhal stole from customers in a "Rent to Own" advance-fee scheme. Leventhal pled guilty and was sentenced to two years in the House of Correction, with 10 months to be served and the balance suspended for 10 years, during which time he will be on probation and have to pay full restitution of \$112,000.

**Commonwealth v. Robert Walmsley:** Financial Investigators tracked more than \$110,000 that Walmsley, a former employee of Framingham State University, stole by using the university-issued Procurement Card for personal purchases. Walmsley pled guilty and was sentenced to a two-and-a-half years in the House of Correction, with five years of probation to be served upon release.

**Commonwealth v. Steven King:** Financial Investigators tracked more than \$30,000 that King, a former employee of the Massachusetts Registry of Motor Vehicles, took from twelve inspection station owners using various schemes, one in which he allegedly threatened station owners with violations or with shutting down their inspection machines unless he paid them money. King's case was still pending in Superior Court at the end of Fiscal Year 2015.

**Commonwealth v. Casey Kolenda:** Financial Investigators tracked more than \$60,000 that Kolenda made by manufacturing and selling counterfeited MBTA passes. Kolenda distributed more than 3,000 counterfeit passes. Kolenda was sentenced to three years to three years and a day in state prison and will serve three years probation upon his release.

**Commonwealth v. Gregory Shea:** Financial Investigators tracked over \$20,000 that Shea, a former Hull Police Department sergeant and treasurer of the Hull Police Union and Hull Police Relief Association wrote in checks to himself, and used the association accounts he handled to make \$13,000 in mortgage payments and \$80,000 in credit card payments. Shea's case was still pending in Superior Court at the end of Fiscal Year 2015.

The Financial Investigators are also currently working on investigations regarding allegations of human trafficking, police corruption, and large scale embezzlement cases.

## Other Significant Achievements

The Financial Investigations Division has affiliations and memberships with the International Association of Financial Crimes Investigators, New England Fraud Investigators Association, the Check Fraud Subcommittee, National White Collar Crime Center and New England State Police Information Network.

The Director of the Financial Investigations Division regularly conducts trainings for the AG Institute for criminal investigators and prosecutors involved in criminal investigations. The presentations include: Planning and Conducting an Interview and Basic Report Writing and Understanding Bank Documentary Evidence and Testifying at Grand Jury and Trial. The financial investigators also regularly attend outside trainings presented by NAGTRI the United States Department of Justice regarding interviewing, report writing, money laundering, and human trafficking.

The Financial Investigations Division is also a Financial Review Task Force Member of the Massachusetts Bank Secrecy Act group that is comprised of local, state, and federal law enforcement who review Suspicious Activity Reports that may result in a referral of criminal financial crimes cases.

## **Fraud and Financial Crimes Division**

The Fraud and Financial Crimes Division investigates and prosecutes cases involving a broad array of financial crimes, including fiduciary embezzlement by lawyers, stockbrokers, accountants and other professionals who steal client funds; theft and fraudulent recordkeeping by employees; complex financial frauds such as pyramid schemes, telemarketing fraud, commercial bribery and mortgage fraud; large-scale consumer fraud schemes; identity theft, and tax fraud crimes by individuals and businesses. The Division's most significant cases are those that have a dramatic financial impact upon unsuspecting and vulnerable victims who trust is violated, and upon the community as a whole. The Division's prosecutors work closely with Criminal Bureau financial investigators, Massachusetts State Police troopers assigned to the Attorney General's Office, and local, state and federal investigative and enforcement agencies.

## Significant Dispositions

In Fiscal Year 2015 the following defendants were sentenced to committed time after pleading guilty to various charges on cases in which the Division collaborated.

**Jeffrey Cinelli** received two-and-a-half years in the House of Correction for stealing over \$1 million from his West Springfield employer, Massachusetts Fire Technologies, Inc. As a part-time bookkeeper, Cinelli hid the money he stole by manipulating the amounts in various MFT expense line items. He must also serve 10 years of probation after his release and repay the funds he stole.

**Dorothy Giard** was sentenced to serve six months in the House of Correction and 10 years of probation for a scheme in which she used funds from her employer, Diamond Ironworks in Lawrence, to pay for her personal expenses, such as domestic and international travel, luxury cars, spa services, a timeshare and high-end retail products. This included using the money to pay her credit card bills, making unauthorized charges to the company credit cards and making false entries in the company books to disguise her thefts. Giard, who was responsible for keeping the books and paying the bills for Diamond Ironworks, must also pay full restitution of over \$1.7 million.

**Joshua Leventhal**, who perpetrated a "Rent to Own" advance-fee scheme from his Easton home

targeting first-time homebuyers and others with poor credit, received 10 months to serve in the House of Correction and 10 years of probation following the sentence. Leventhal collected enrollment fees and, in some instances, additional deposits. In all, he stole \$112,000 from his customers, which he was ordered to repay.

**Leonard Wasileski**, former Massachusetts General Hospital machine shop manager, was sentenced to serve one year to one year and six months in state prison for a number of schemes to steal scrap materials and use hospital funds to buy equipment and pad his bank account. Wasileski stole over \$640,000 in total by selling scrap brass that was used in cancer patients' radiation, making unauthorized purchases of woodworking equipment and tools that he kept for himself, and redirecting to himself payments connected with work done by machine shop staff for an outside professor's research. Wasileski must also pay restitution to MGH.

**Gregory Andre, Khary James and Kenny Baron** all pled guilty and received committed time in connection with larceny and identity theft from a T-Mobile Wireless store in Brockton. Andre was sentenced to two years in the House of Correction with probation following release for Larceny, Identity Theft and Conspiracy. Baron received one year to serve in the House of Correction with two years of probation after pleading guilty to Larceny Over \$250 and Malicious Destruction of Property Over \$250. James was sentenced to three to four years in state prison for Larceny and Possession of a Firearm, and a suspended sentence and probation for Possession of Ammunition, MDP and Conspiracy.

#### *Sentencing Affirmed*

AAG Andrew Doherty successfully argued before the Appellate Division to uphold a 3-4 year state prison sentence for **Phillip Thompson**, a real estate attorney who was convicted in December 2014 for stealing over \$600,000 from several of his clients.

#### *New Cases*

The Division opened cases against five individuals during the fiscal year. Most of these cases are pending as of this writing. The case against **Dorothy Giard** was opened and resolved in this fiscal year.

**Richard Trott** was indicted on charges of Larceny Over \$250 by Continuous Scheme. He was previously indicted on a similar charge. As Commander of the Disabled American Veterans, Inc. of the Cape and Islands, Chapter 96, Trott transferred tens of thousands of dollars from that chapter to another veterans' organization account he also managed. In addition, he allegedly stole third party donations from estates and the community intended for the chapter. He allegedly used it all to pay for his vacations and travel, a boat, dining out and retail purchases. This case is set for trial on October 14, 2015.

**Susan Abbott**, a former life insurance agent with Prudential Financial, was indicted in November 2014 for stealing over \$275,000 from 49 customers, including elderly individuals. Abbott filed fraudulent requests to withdraw money from her customers' accounts, and later falsified additional records to cover up her theft. Abbott was charged with five counts of Larceny Over \$250, including three counts of Larceny Over \$250 from a Person Over 60, as well as Identify Fraud, Forgery and Uttering. The case is set for trial in February 2016.

**Teresa Goodsell** was charged with Larceny Over \$250 in Concord District Court in May 2015 for stealing funds from her employer, Wilmott Associates. Goodsell was later indicted and arraigned in Middlesex County in September 2015 for a broader set of charges that she embezzled over \$290,000 in funds from Wilmott as well as her subsequent employer, the Cambridge Institute.

**Laurieann Richard** was indicted in October 2014 on charges of Larceny Over \$250 and False Entries in Corporate Books for the theft of more than \$2.6 million from Dale Medical in Plainville, her former employer. Richard managed the company accounts payable processes and the disbursement, management and payment of corporate credit cards for Dale employees nationwide. Richard used Dale corporate credit cards to fuel an extensive gambling addiction and spent nearly a million dollars in Dale funds on personal, household and travel expenses for herself and her family, all while concealing her misuse of Dale funds through a variety of schemes. (Richard was sentenced to 3-4 years in state prison on August 26, 2015.)

## **Gaming Enforcement Division**

The mandate of the Gaming Enforcement Division is to investigate and prosecute criminal conduct related to expanded gaming in the Commonwealth, monitor the fairness and integrity of the gaming industry, provide assistance to the Gaming Commission in consideration and promulgation of rules and regulations, and participate in generating a list of persons to be excluded from licensed gaming facilities. The work of the Division is not strictly limited to gambling offenses or crimes committed within casinos, but includes activity that is gaming-related, such as financial crime, organized crime, corruption and money laundering. The Division works closely with the State Police Gaming Enforcement Unit, as well as other federal, state and local law enforcement entities. Members of the Division adhere to an enhanced code of ethics, as mandated by G.L. c. 11M(c).

### Significant Cases

During Fiscal Year 2015, the Division responded to dozens of intakes from constituents, private businesses and government entities.

In its most significant action, the Division indicted the owners of a parcel of land in Everett that was later designated as a site for a casino. This case is an example of the collaboration between the Division, the Massachusetts Gaming Commission and local, state and federal law enforcement partners that the Expanded Gaming Act envisioned.

The Division is also conducting other investigations that are still at the investigative stage that should not be referenced in the annual report.

## **Human Trafficking Division**

The Human Trafficking Division is a multidisciplinary team dedicated to prosecuting and preventing human trafficking through law enforcement efforts and policy development. Three AAGs, two victim witness advocates, a paralegal and four dedicated Massachusetts State Police troopers investigate and prosecute high impact human trafficking cases. All have received specialized training in human trafficking and sexual assault investigation. Staff members also conduct outreach and training for law enforcement and other community members statewide. The Division also has a staff member dedicated to policy and training development. This staff member, and others, works extensively with stakeholders on collaborative efforts towards prevention, service provision and data collection.

## Significant Cases

In Fiscal Year 2015, the Human Trafficking Division charged several people with human trafficking and related offenses. These arrests include:

**Steven Diaz and Marquis Campbell:** Diaz is charged with human trafficking, deriving support from prostitution and kidnapping. Campbell faces the same charges as well as two counts of rape. The Commonwealth alleges that these two defendants held a woman against her will, transported her to multiple area hotels and residences and coerced her into prostitution over a three day period. The defendants monitored the alleged victim closely, took all of the money she received in exchange for sex and Campbell forced her to have sex against her will.

**Alba Andino:** Andino is charged with sex trafficking and deriving support from prostitution in the city of Lowell. The Commonwealth alleges that Andino targeted young women with opiate addiction and lured them into prostitution. Andino posted advertisements on Backpage.com and allegedly provided these young women with drugs in exchange for the profits made in the exchange of sex for money.

**Derek Miranda:** The Human Trafficking Division is handling this case in conjunction with the United States Attorney's Office. Miranda is charged federally with minor sex trafficking, attempted minor sex trafficking and the transportation of minors in interstate commerce for the purpose of prostitution. Miranda is alleged to have driven from the city of Lowell to Brockton and, eventually, to Providence, RI with three teenage girls with the intention to induce them into prostitution and act as their pimp.

## Other Significant Achievements

In Fiscal Year 2015, the Human Trafficking Division conducted multiple trainings for law enforcement and prosecutors across the state. In addition, the Human Trafficking Division has partnered with the Department of Children and Families and other recipients of the Massachusetts Child Welfare Grant to provide training in child sex trafficking investigations for law enforcement in every county in the state. The first three of those trainings will be in the fall of 2015. These trainings are given in conjunction with training by the Suffolk County SEEN Coalition and My Life My Choice and will take place over a period of three years. The Human Trafficking Division staff members have also conducted trainings for college and law students as well as community groups.

The Human Trafficking Division has also worked closely with the Mayor of Boston, Casa Myrna Vasquez and the Eva Center in the Development of a safe home for human trafficking victims. The Division has participated in task forces dedicated to human trafficking investigation, policy work and the response of health care workers to trafficking. We have also formed an intra-office working group dedicated to labor trafficking prosecution and prevention.

## **Insurance and Unemployment Fraud Division**

The Insurance and Unemployment Fraud Division investigates and prosecutes those who commit fraud against insurers and against the Commonwealth's unemployment insurance and workers' compensation system. This includes automobile, health care, and disability fraud.

The Division prosecutes these crimes to protect both Massachusetts consumers and the integrity of the insurance system. These efforts help protect taxpayers from higher premiums and taxes that result from fraud and assuring that those in need receive appropriate services.

## Significant Cases

**Commonwealth v. Denise and Vincent Alessandrini:** The defendants pled guilty to multiple counts of Filing False Health Care Claims, Larceny Over \$250, and Conspiracy as a result of a scheme to fraudulently bill MassHealth and profiting more than \$1 million from private health insurers through the sale of medical products obtained through the filing of false health care claims. Denise Alessandrini and was sentenced to one year to one year and one day in state prison. She was also sentenced to five years of probation from and after her committed sentence. As a condition of probation, she was ordered to pay restitution in the amount of \$57,288.00 jointly and severally with Vincent Alessandrini. Vincent Alessandrini was sentenced to two years in the house of correction suspended for five years.

**Commonwealth v. Francis Harvey:** The defendant admitted to failing to pay over \$800,000 in unemployment tax contributions. His case was continued without a finding for 5 years and he was ordered to pay full restitution.

**Commonwealth v. Barbara Niggel:** The defendant admitted to failing to pay over \$250,000 in unemployment taxes. Her case was continued without a finding for 5 years and she was order to pay full restitution.

**Commonwealth v. Paul Mahan:** The defendant, a former corrections officer for the Suffolk County House of Correction, plead guilty to collecting over \$300,000 in workers' compensation benefits while working. He was sentenced to five years probation and ordered to pay full restitution.

**Commonwealth v. Peggy Soto:** The defendant pled guilty to collecting \$44,000 worth of unemployment benefits while working and attempting to file a false motor vehicle claim. She was sentenced to five years of probation and full payment of restitution.

## **Public Integrity Division**

The Public Integrity Division investigates and prosecutes cases of serious criminal misconduct by corrupt public employees and officials who engage in or conspire to commit larceny, fraud, bribery, gratuities and other crimes in which there is a hidden or unwarranted personal financial interest, crimes committed against or upon public agencies, and crimes that have a corrosive or harmful effect on public confidence in our government and other trusted institutions, including such crimes as perjury and obstruction of justice.

The Division's staff of experienced prosecutors partner with State Police, civilian financial investigators, computer forensics investigators, victim witness advocates, and other support personnel within the Attorney General's Office, as well as local, state and federal investigative and enforcement agencies. Collectively, the combined resources of these law enforcement partners are used to handle these challenging and complex cases.

## Significant Cases

Nine defendants pled guilty during the fiscal year, with four of them receiving jail time. One defendant was convicted, and another entered into a disposition agreement.

**Robert Walmsley**, who had worked in the Framingham State University Office of Development and Alumni Relations, was sentenced to two-and-a-half years in the House of Correction for making

\$110,000 in personal purchases with an FSU procurement card and attempting to hide the thefts by submitting falsified claims and expense reports. Walmsley was also sentenced to serve five years of probation after his release, including drug testing and treatment, as needed. Walmsley was also indicted during the fiscal year.

**Casey Kolenda** was sentenced to serve three years to three years and a day in state prison following a guilty plea for counterfeiting. Kolenda defrauded the MBTA by creating and distributing more than 3,000 fake monthly LinkPasses. He personally made over \$60,000 in profit, while the MBTA lost over \$225,000 in revenue. He must also serve three years of probation following his prison term.

In another MBTA case regarding the sale of illegal MBTA passes, **Susan Gillis** pled guilty and was sentenced to jail time for her role in the scheme, the largest fare evasion scheme in MBTA history. She received two-and-a-half years in the House of Correction, with one year to serve, and the remainder suspended for a probationary period of three years. Working with other defendants who previously pled guilty and received jail time, Gillis received and sold the passes at a discount to riders. Gillis and other defendants paid the ringleader thousands of dollars each month based on their individual sales, thus cheating the MBTA of millions in revenue.

**Stephen Gilpatric**, a former Middlesex Assistant District Attorney with an oxycodone addiction, pled guilty to providing his drug supplier sensitive and confidential criminal information in exchange for pills to feed his habit. He was sentenced to two-and-a-half years in the House of Correction; the sentence was suspended for five years of probation, during which time he will have random drug testing, evaluation and treatment. He will also be barred from employment with or for any law enforcement agency or personnel. In addition to trading information for oxycodone, Gilpatric unlawfully agreed to help a woman get her son's revoked commercial driver's license reinstated in exchange for \$1,500. This case was also indicted during the fiscal year.

The final three defendants in a case involving illegal awarding of state now and ice removal contracts by officials in the state's Department of Transportation Worcester office were sentenced for their roles in the scheme. **Anthony Gleason** pled guilty to procurement fraud and received one year in the House of Correction, suspended for two years, with probation during that period. His brother, **Dean Gleason**, and **Quang T. Do**, both admitted to sufficient facts; their cases were continued without a finding for 18 months and 12 months, respectively. The three worked with **Thomas Waruzila**, the ringleader and former MassDOT Worcester office director, convicted in June 2014, to buy equipment that allowed Waruzila to obtain the contracts instead of a more senior contractor and hide his financial interest in the plan.

**Steven Rigby and Christopher Yost**, two of the last defendants out of over 20 food stamp recipients prosecuted for fraudulently selling their SNAP (Supplemental Nutrition Assistance Program) benefits for cash, to be sentenced, pled guilty during this fiscal year. Rigby, already serving an 18-month sentence in another matter, was sentenced to two years in the House of Correction, concurrent with the first sentence. Yost's case was continued without a finding for one year, with \$500 in restitution or community service in lieu of restitution.

**Ann Berry**, a former teacher at the Roger L. Putnam Vocational Technical Academy in Springfield, was found guilty of larceny after her three-day trial for misappropriation of school funds. She received three years of probation plus 240 hours of community service. Berry stole thousands of dollars while she served as a teacher and advisor for the Academic Achievers' Club, which ran the school store. An audit discovered that she had been using her own credit card to buy store items, and then put any profits into her personal account.

A lobbying firm, the **Brennan Group** paid \$100,000 as part of joint disposition agreement to resolve allegations that they created a contract and collected an inappropriate contingency fee from the Franciscan Children's Hospital in Brighton in return for lobbying the Legislature about pediatric Medicaid funds and trust fund money. It was alleged that Brennan Group violated Massachusetts lobbying laws bar lobbyists from entering into contingency agreements with clients.

#### New Charges

The following cases were opened during the fiscal year and are pending.

**Michael Motyka**, a Worcester police officer, was arraigned in Worcester District Court on charges of Assault & Battery with a Dangerous Weapon, Assault & Battery and Assault & Battery to Intimidate. Motyka is accused of beating a handcuffed and shackled prisoner who was being held in a holding cell at the Worcester Police Department.

In a new food stamp fraud case, **Julio C. Rodriguez**, owner of a Springfield convenience store that is authorized to handle SNAP benefits, was charged with making over \$500,000 in illegal profits from fraudulent EBT transactions by perpetrating a scheme to traffic SNAP benefits in exchange for cash. Rodriguez was only authorized to accept the benefits for specific items in the store, but instead allegedly swiped the cards and entered false information showing that the customer actually bought eligible products. He then allegedly gave the customers cash for half the purchase amount and kept the rest for himself.

**Boston Fire Department Chief Edward Scigliano** was indicted and charged with procurement fraud and larceny for illegally directing vendors that did business with the Boston Fire Department to issue \$32,000 in checks to him personally and purchase a TV, grill, furniture, a workout machine and gift cards from purchase orders that he doctored.

Former Registry of Motor Vehicles (RMV) field inspector **Steve King** was indicted in three separate cases in two counties for the alleged extortion of multiple inspection station owners in communities in Norfolk and Plymouth counties, including Stoughton, Marshfield, Quincy, Milton, Canton, Randolph. As an inspector, King's job was to make sure that the inspection stations complied with RMV rules and regulations. He allegedly threatened to issue violations or shut down inspection equipment if owners did not pay him, or told them that they had to pay him for helping with inspection license applications. All three cases have been consolidated in Norfolk County.

In a new case involving attempts to defraud the One Fund Boston, **Amey Molloy** was charged with illegally collecting \$8,000 and filing a claim to collect \$12,000 more for injuries she lied about sustaining in the aftermath of the Boston Marathon bombings. Molloy submitted the claims and medical records for surgeries she never had.

**Gregory Shea**, a former Hull Police Department sergeant, was indicted for allegedly stealing funds from a police relief group that used charitable donations to pay death benefits and retirement stipends to officers and their families. Shea was the treasurer of the Hull Police Union and Hull Police Relief Association and was charged with larceny for writing over \$20,000 in checks to himself, and using the association accounts he handled to make \$13,000 in mortgage payments and \$80,000 in credit card payments.

Lobbyist **Richard McDonough** was indicted for defrauding the state of over \$96,000 in retirement benefits, claiming to be a full-time employee of the Merrimack Special Education Collaborative so that he could be eligible to collect a state pension. Although, he was on the Collaborative payroll and received a paycheck, an investigation alleged that McDonough never actually worked at the non-profit or produced work, but was actually making over \$1 million a year with his own government affairs lobbying business. McDonough started collecting a pension in 2009 after he submitted an application to the State Retirement Board. Those benefits were halted in 2012 when the alleged misconduct came to light.

## **ENERGY AND ENVIRONMENT BUREAU**

The Energy and Environment Bureau works to protect utility ratepayers and our environment, and to reduce the threat of climate change for the people and families of the Commonwealth. As the state's Ratepayer Advocate, the Bureau's Energy and Telecommunications Division represents consumers in matters involving the price and delivery of natural gas, electricity and telecommunication services before state and federal regulators. The Bureau's Environmental Protection Division and Environmental Crimes Strike Force enforce the laws that protect our air and water, preserve our lands and open space, require the clean-up of contaminated sites, and govern the use of pesticides and the handling and disposal of hazardous waste. The Bureau's integration of energy and environmental advocacy ensures that our office speaks with one voice in addressing the intertwined ratepayer and environmental protection matters that impact the Commonwealth and our residents.

### **Energy and Telecommunications Division**

Through the Energy and Telecommunications Division, the Attorney General serves as the statutory Ratepayer Advocate in administrative and judicial proceedings on behalf of consumers in matters involving the rates, charges, or tariffs of electric, gas, telephone, or water companies doing business in the Commonwealth. The Division works to ensure that businesses and residents have access to reliable, safe, and affordable energy. The Division litigates cases before state and federal courts, as well as administrative bodies, such as the Massachusetts Department of Public Utilities, the Massachusetts Department of Telecommunications and Cable, the Federal Energy Regulatory Commission, and the Federal Communications Commission. In many of these matters, the Attorney General is the only active participant advocating on behalf of Massachusetts consumers.

#### **Significant Cases**

**Competitive Energy Supplier Enforcement Case:** The Attorney General's Office was active in 2015 fighting against deceptive sales practices in the competitive electric supply market. On January 6, 2015, the Attorney General's Office announced that it had entered into an Assurance of Discontinuance with competitive supplier, Just Energy, for widespread, misleading conduct that lured consumers into costly contracts in the form of high electricity rates and termination fees. Under the terms of the Assurance of Discontinuance, Just Energy agreed to pay \$4 Million in restitution and payments to the Commonwealth. Just Energy also agreed to engage an independent monitor to ensure compliance and appropriate door-to-door sales operations in Massachusetts.

#### **Other Significant Achievements**

**Competitive Supply Regulations:** The Attorney General's Office, in addition to fighting against deceptive sales practices in the competitive electric supply market, has advocated for customers in the Department of Public Utilities' investigation into the competitive supply market. In that regulatory proceeding, the Attorney General's Office recommended that the Department provide additional oversight of competitive suppliers, require competitive suppliers to make more meaningful disclosures to their customers, and to implement rules that would result in a review of a competitive supplier's license to do business if it continues to engage in unfair and deceptive business practices. The Attorney General's Office has also published Frequently Asked Questions on its website for residential customers entering the competitive supply market at: [http://www.mass.gov/Attorney General's Office/doing-business-in-massachusetts/energy-and-utilities/competitive-electric-supply-faqs.html](http://www.mass.gov/Attorney%20General's%20Office/doing-business-in-massachusetts/energy-and-utilities/competitive-electric-supply-faqs.html).

**Grid Modernization:** On December 16, 2014, the Department of Public Utilities issued a final order that marked the conclusion of its investigations into grid modernization and time varying rates. During these proceedings, the Department issued a series of orders that set out its policy framework for modernization of the electric grid and for the establishment of time varying rates for all Basic Service customers in Massachusetts. Attorney General's Office participated in all aspects of these proceedings to advocate for the interests of customers. The Attorney General's Office made multiple filings to weigh in on the appropriate policy framework for grid modernization and time varying rates. The Attorney General's Office also participated in a stakeholders' grid modernization working group that met on a regular basis for an extended period of time.

**Solar Net Metering:** On August 6, 2014, Governor Patrick signed into law "An Act Relative to Credit for Thermal Energy Generated With Renewable Fuels" (See Chapter 251 of the Acts of 2014). This law established a special Net Metering Task Force to assess the existing Massachusetts net metering framework, and review the incentive programs encouraging net metering available in other states. The Attorney General's Office, as Ratepayer Advocate was a member of the Task Force. On April 30, 2015, the Net Metering Task Force submitted its Report to the Legislature with recommendations on incentives and programs to support the deployment of 1600 MW of Massachusetts-based solar generation facilities, and the continued expansion of solar generation in the Commonwealth. Following issuance of the Report, the Attorney General's Office continued to advocate for a long-term, balanced solar policy to ensure that non-solar customers are not disproportionately subsidizing expansion of solar, and that all the costs and benefits to the system and society are realized and accounted for fully and appropriately.

### Important Statistics and Numbers

In Fiscal Year 2015, the Division represented ratepayers and energy customers in 512 dockets pending before state and federal courts and regulatory bodies. Cases that were finalized in Fiscal Year 2015 yielded approximately \$322 million in savings to ratepayers and customers. The Division also participates in New England ISO stakeholder technical and governance issues and has a seat on the Massachusetts Energy Efficiency Council matters.

### **Environmental Crimes Strike Force**

The Environmental Crimes Strike Force investigates and prosecutes crimes that harm the state's air, land or water, or that pose a significant threat to human health. The Strike Force is an inter-agency unit that includes prosecutors from the Attorney General's Office, Environmental Police Officers assigned to the Attorney General's Office, and investigators, engineers and attorneys from the Massachusetts Department of Environmental Protection. Task Force partners meet regularly to evaluate whether enforcement against particular environmental violations should be done administratively, civilly or criminally. The most egregious violations are referred to the Division for criminal investigation and prosecution.

### Significant Cases

**Commonwealth v. Jose & Tommy Sostre.** In September 2014, the Suffolk County Grand Jury returned multi-count indictments against the co-defendants for making and issuing counterfeit motor vehicle inspection stickers out of their Dorchester auto service station as well as conspiring to make and issue counterfeit motor vehicle inspection stickers. The Defendants were alleged to have charged customers,

whose vehicles could not legitimately pass emissions testing, a price in excess of the standard inspection fee for fake “passing” stickers. In August 2015, Jose Sostre pleaded guilty to the charges against him and was sentenced to one year in the House of Correction, 90 days to serve and three years probation of which 90 days would be served on home confinement. Jose Sostre was also required by the terms of his sentence to surrender his motor vehicle inspector’s license; not to conduct any motor vehicle inspections for the term of his probation; and pay a \$5,000 fine. At the end of Fiscal Year 2015, Tommy Sostre was awaiting a trial on his pending charges.

**Commonwealth v. Dwayne Johnson.** In November 2014, the Hampden County Grand Jury indicted the Defendant on two counts of Uttering False or Forged Records. The Defendant was alleged to have submitted two falsified lead inspection compliance letters so that two Springfield properties he managed would be eligible to receive government-funded rental assistance payments. A licensed lead inspector purportedly signed both letters, but the Division’s investigation revealed the documents were forgeries. In September 2015, the Defendant pleaded guilty to charges and was sentenced to five years probation with the conditions that he not manage any properties built before 1978 unless they have been certified as lead free and that he pay restitution for any medical costs that may arise as a result of the exposure of a child who occupied one of the apartments for which he uttered a falsified lead inspection letter.

**United States v. Scott Paterson & Frederick Baker.** In February 2015, as a result of a joint federal-state criminal environmental investigation in which a Division AAG is serving as a Special Assistant United States Attorney, the United States Attorney’s Office for the District of Massachusetts filed informations and corresponding plea agreements in the United States District Court in Springfield. The informations alleged that the Defendants, former employees at Berkshire Power Plant in Agawam, MA, tampering with air pollution monitoring equipment required under the Clean Air Act, in order to save money, delay repairs, and avoid reporting to state and federal regulators that the plant was, at times, releasing pollutants in excess of regulatory limits. In March 2015, Paterson pleaded guilty to the charges against him, and is now awaiting sentencing. Baker is awaiting plea and sentencing.

**Commonwealth v. Paul Lukashuk.** After a three-day jury trial in March 2014, the Defendant was convicted of failing to report a release of a hazardous materials on a Massachusetts property he owned and operated and of conveying that property without filing a notice of the release with the registry of deeds. Among other things, the Court sentenced the Defendant to probation for five years, with the condition that the Defendant not handle or manage solid waste or hazardous materials. In September 2014, the Worcester Superior Court Probation Department alleged that the Defendant violated his probation by managing solid waste and hazardous materials on his property in Arkansas. After a two-day hearing in February/March 2015, the Court found the Defendant had violated his probation and sentenced him to serve 90 days in the House of Corrections.

## **Environmental Protection Division**

The Environmental Protection Division of the Attorney General’s Office enforces environmental laws that protect our air and water, preserve our wetlands, tidelands, and public open space, require the clean-up of contaminated sites, and govern the use of pesticides and the handling and disposal of solid and hazardous waste. Working in close coordination with state and federal environmental agencies, particularly the Massachusetts Department of Environmental Protection, the Environmental Protection Division pursues three main types of work:

- Prosecuting civil enforcement and cost recovery cases, seeking to produce the greatest results in terms of compliance and deterrence, environmental and public health benefits, and financial recovery;
- 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
- Undertaking affirmative, non-enforcement work to develop and pursue innovative ways to further environmental protection exercising the Attorney General's role as the Commonwealth's chief law officer. This includes bringing "impact litigation"; 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 covenant not to sue agreements to further the clean-up and redevelopment of contaminated sites.

### Significant Cases

EEB Chief Melissa Hoffer and AAG Turner Smith participated in a multi-state coalition of intervenor-respondents that successfully intervened in **challenges to EPA's proposed Clean Power Plan rules** regulating greenhouse gas emissions from existing power plants under Section 111(d) of the Clean Air Act. The D.C. Circuit agreed with our arguments in a June 2015 decision dismissing the challenges. In re Murray Energy Corp., 788 F.3d 330 (D.C. Cir. 2015). The rules, now finalized, will be challenged by the same petitioners in the D.C. Circuit in FY2016, and we are participating in a multi-state coalition to defend the final rules.

In **Commonwealth v. Shipyard Quarters Marina, LLC et al.**, AAGs Seth Schofield and Betsy Harper secured a consent judgment to settle this high profile enforcement case against the Shipyard Quarters Marina in Charlestown alleging violations of the Massachusetts Waterways Act, Chapter 91. EPD secured permanent injunctive relief to address deteriorating and unsafe conditions at the Marina and civil penalties totaling \$450,000, the largest penalty to date under Chapter 91.

In a pair of cases involving fraudulent practices by vehicle emission testing facilities (**Commonwealth v. Haider Five Enterprises, Inc. et al.** {Lynn} and **Commonwealth v. Emerald Auto Sales & Service, Inc. and Chaouki Sarkis** {North Attleboro}), EPD AAGs Peter Downing and Andy Goldberg each secured consent judgments to resolve allegations that several service stations and emissions inspectors falsified motor vehicle inspection stickers in violation of the Massachusetts Clean Air Act and the Massachusetts Consumer Protection Act. Both cases resulted in civil penalties and the suspension of the defendants' inspection licenses. These cases are part of a broader effort on the part of the Massachusetts Registry of Motor Vehicles and the Massachusetts Department of Environmental Protection to ensure accurate automobile emissions testing so that failing, polluting vehicles are fixed or taken off the road.

In **Commonwealth v. National Water Main Cleaning Co.**, AAGs Betsy Harper and Peter Downing secured a consent judgment against a Canton-based environmental services company, which agreed to pay more than \$650,000 in False Claim and other civil penalties to resolve allegations that it submitted false bills and records on multiple public contracts for sewer, storage tank and catch basin cleaning, maintenance and repair, and illegally discharged sewage and wastewater. National Water Main Cleaning Co. (NWMC) violated the Massachusetts False Claims Act in connection with contracts it held with Waltham, Framingham, and the Boston Water and Sewer Commission. NWMC also violated the Massachusetts Clean Waters Act by discharging sewage and wastewater into the waters of the Commonwealth without a valid permit.

In **Commonwealth v. Casella Waste Systems, Inc. & Southbridge Recycling and Disposal Park** (SRDP), AAG Matt Ireland secured a consent judgment in a major wetlands case totaling \$220,000 in penalties and requiring a supplemental environmental project. The case involved a landslide of soil stockpiled during SRDP landfill expansion work impacted an acre of vegetated wetlands (BVW) and 500 linear feet of a stream. The consent judgment included a \$200,000 civil penalty, \$50,000 of which was ultimately waived because the defendants properly and timely completed all stabilization and wetland restoration work required by the consent judgment. As part of the settlement, SRDP completed a supplemental environmental project by purchasing nearly \$20,000 worth of water testing and plotting equipment and donating it to Town of Charlton, to be used by the Town's Water Department and Conservation Commission, as well as by the Central Massachusetts Regional Storm Water Coalition. This equipment measures, records, and maps water and waterway resource data to help with storm water control, watershed management, and wetlands protection.

**Michigan v. EPA:** EEB Chief Melissa Hoffer and AAG Tracy Triplett continued to lead a coalition of state intervenor-respondents in defending against challenges to EPA's long overdue regulation of mercury air emissions from power plants. In FY2014, the D.C. Circuit agreed with our arguments and broadly upheld the rules; the Supreme Court granted certiorari to review the narrow question of whether EPA appropriately considered costs in its rulemaking. We joined with our coalition, numerous environmental NGOs, and energy companies supporting the rules to file a brief in the Supreme Court defending the rules' treatment of costs. In a 5-4 decision authored by Justice Scalia, the Supreme Court ultimately remanded the rules to the agencies for further analysis of costs. With the case's return to the D.C. Circuit, we continue to lead the coalition in opposing vacatur of the rule pending EPA activities on remand.

## GOVERNMENT BUREAU

The Government Bureau represents the Commonwealth, its agencies, and officials in many types of civil litigation, and defends Commonwealth employees from civil claims made against them resulting from the performance of their duties. The Bureau develops and maintains close working relationships with the agencies it represents, often providing them guidance and advice where advance legal consultation may prevent unnecessary and costly lawsuits. The Government Bureau initiates affirmative litigation in the public interest, on behalf of the Commonwealth and its residents. The Bureau also enforces the state's Open Meeting Law through its Division of Open Government, and reviews and approves town bylaws through its Municipal Law Unit.

### **Abandoned Housing Initiative**

Blighted properties, abandoned by their owners in residential areas, create safety hazards, attract crime and lower property values. The Abandoned Housing Initiative (AHI) uses the enforcement authority of the State Sanitary Code to turn these properties around. Working in close partnership with cities and towns, the Attorney General's Office seeks out delinquent owners of abandoned residential property and encourages them to voluntarily repair their properties and make them secure. If owners refuse, then Attorney General's Office attorneys will petition the relevant court to appoint a receiver to bring the property up to code.

#### Significant Cases

**36 Liberty Street, New Bedford:** 36 Liberty Street was identified as a receivership candidate through a collaborative effort between AHI and the City of New Bedford. This single family home was built around 1899 and is located next to the recently revitalized Harrington Park. A May 2014 inspection revealed numerous code violations including mold and ash on interior surfaces, deteriorating porch, debris throughout the property and yard, and overgrown vegetation. On August 1, 2014, The Resource, Inc. (TRI) was appointed as receiver. TRI used funding from NSLF, the AHI Receivership Fund, and from HUD's Home Investment Partnership Fund. The home will be sold to income-eligible first-time homebuyers.

#### Other Significant Achievements

**AHI Fund:** In an effort to increase the rehabilitation of distressed and abandoned properties in Massachusetts, AHI has continued targeted disbursement of the AHI Fund, a \$5 million grant program. Utilizing funds recovered through the nationwide state-federal settlement over unlawful foreclosures, the AHI Fund continues to assist local communities in mitigating the impacts of the foreclosure crisis. The goal of the AHI Fund is to increase the capacity of receivers to finance the rehabilitation of abandoned properties in the Commonwealth through AHI.

#### Important Statistics and Numbers:

During the Fiscal Year 2015, AHI was active in 73 municipalities, opened 262 new cases, and filed 72 petitions in court. Additionally, AHI closed 90 cases with successful outcomes. The remaining open cases are in some stage of litigation.

AHI's involvement in municipalities across the Commonwealth has continued to increase as attorneys and staff have held or participated in over 100 meetings and presentations statewide.

## Administrative Law Division

The Administrative Law Division represents state agencies and state officials in a broad range of civil litigation. The Division defends legal challenges to state statutes and regulations, suits that challenge state policies and programs, and suits that challenge the decisions of state administrative agencies. The Division also initiates litigation on behalf of state agencies to support their programs or assist their regulatory activities.

The Division protects the public interest by vigorously defending state agencies that provide essential services, programs and public benefits. The Division's cases are as diverse as the agencies it represents, and involve the regulation of insurance, banking, public utilities, renewable energy and telecommunications; state taxation; environmental permitting; affordable housing; transportation; education; human services and public assistance programs; public health and health-care finance; professional licensure and discipline; and public-sector labor and employment, among other things. The Division often defends lawsuits challenging important legislative initiatives such as health insurance reform, state pension reform, education reform, consolidation of transportation agencies and increased penalties for drunk driving in Melanie's Law. In many cases, the Division seeks to preserve both needed public programs and significant public funds.

### Relevant Fiscal Information

The Administrative Law Division handled the following significant cases in Fiscal Year 2015 that involved money saved, or losses avoided, by the Commonwealth.

**Service Employees International Union v. Department of Mental Health** (Supreme Judicial Court). The Service Employees International Union ("SEIU") challenged the Department of Mental Health's contracts for the provision of Community Based Flexible Supports ("CBFS") as unlawful privatization contracts under the Pacheco Law (G. L. c. 7, §§ 52-55). The union sought to invalidate portions of the contracts as well as reinstatement of and back pay for up to 100 former Department case managers who the union claims were laid off in 2009 as a result of allegedly unlawful contracts. The Department believes that the potential cost of rehiring the laid-off case managers would be \$10 million annually. In late August 2015, the Superior Court dismissed SEIU's complaint for lack of jurisdiction.

**Massachusetts Council of Human Service Providers, Inc., et al. v. Secretary of the Executive Office of Health and Human Services** (Superior Court). A coalition of providers of social services brought suit alleging that EOHHS has failed to promulgate new (higher) rates of reimbursement to them as required by Chapter 257 of the Acts of 2008. In their complaint, plaintiffs alleged that, if EOHHS were ordered promptly to set and pay according to all required rates, EOHHS would be liable for approximately \$52 million in higher rate payments in fiscal 2015. In January 2015, the court entered judgment for the plaintiffs but permitted the parties to negotiate a schedule for rate promulgation and implementation. Pursuant to an interim, agreed-upon resolution, the promulgation of new rates will be delayed up to two years but providers will benefit from interim supplemental payments representing a portion of the amounts plaintiffs sought.

**DIRECTV, Inc. v. Commonwealth of Massachusetts Department of Revenue** (Supreme Judicial Court). A petition for certiorari pending in the U.S. Supreme Court. Satellite-television providers DIRECTV and Dish Network claimed that the excise tax on the sale of direct broadcast satellite services to subscribers or customers in the Commonwealth unconstitutionally discriminates against them in

favor of cable television services. In February 2015, the Supreme Judicial Court affirmed the dismissal of the case. Had the tax been held invalid, the potential refund of taxes collected under the statute could be around \$12 million for each tax year, and a corresponding amount of annual revenue would be unavailable for collection in future tax years. The Department estimated the amount of potential loss as of September 2015 at around \$ 75 million.

**Allied Domecq Spirits & Wines USA, Inc. v. Commissioner of Revenue** (Appeals Court). In this case the plaintiff taxpayer challenged corporate excise taxes estimated at \$32.3 million. In June 2014 the Massachusetts Appeals Court upheld the tax assessment, in August 2014 the Supreme Judicial Court denied the taxpayer's request for further appellate review, and in early 2015 the United States Supreme Court denied Allied Domecq's petition for a writ of certiorari.

**John W. v. Department of Development Services** (Appeals Court). The court upheld the Department's proposal to transfer an intellectually-disabled individual from Fernald to another facility. After an administrative judge initially approved the transfer proposal, the Superior Court reversed, interpreting the governing statute to require DDS to present multiple alternative residential placements. After we appealed on behalf of DDS the court agreed that the plain language of the transfer statute required DDS to present only one residential transfer proposal that, in its clinical judgment, furthered the best interests of the resident. This was one of the last of a large number of cases that unsuccessfully challenged the transfer of individuals from Fernald to other DDS facilities. As a result of these outcomes, the Commonwealth was able to complete the long scheduled closure of the Fernald Development Center – a facility that was costing the Commonwealth \$11 million annually to operate at the start of FY '15, even though only 6 residents still lived there in May 2014. As of 2009, when the transfer process began, it cost about \$7.2 million more annually in staffing costs to care for residents at Fernald versus care at the next most expensive DDS facility (i.e. per capita costs per resident of \$259,000 at Fernald versus \$215,350 at Wrentham or Hogan, or as little as \$102,000 in a community-based setting).

### Significant Cases

**Hollister v. Architectural Access Board** (Supreme Judicial Court). The Court upheld a decision by the Architectural Access Board that required each of the three doorways on the retailer's front-façade to be accessible to persons with disabilities, including the main, stepped-up "porch" entrance. The Court also held that Hollister was not entitled to a variance from compliance with the accessibility regulations.

**Massachusetts Electric Company, et al. v. Department of Public Utilities.** In three consolidated cases the Court substantially affirmed administrative orders imposing monetary penalties on electric utilities for failing to "restore service to [their] customers in a safe and reasonably prompt manner" after electrical outages during Tropical Storm Irene on August 28, 2011, and a snowstorm two months later on October 29. The court held that the Department of Public Utilities (DPU) applied the appropriate standard in reaching its findings and that DPU's over-all findings regarding National Grid and WMEC were supported by substantial evidence, as were its findings regarding the deficiencies of NSTAR's communication with municipal officials and the general public, but that DPU's finding that NSTAR failed timely to respond to priority two and three wires-down calls was not supported by substantial evidence. In so ruling, the upheld the great majority of the penalties imposed.

**Stone-Ashe Realty Trust v. Department of Environmental Protection** (Appeals Court). The court affirmed the Department's decision upholding the public's right to use a walkway atop a seawall abutting Rockport's Old Harbor to access the harbor for the purposes of "fishing, fowling, and navigation."

**Downing, et al. v. Department of Public Health** (Superior Court). The court dismissed this case challenging a DPH regulation of “personal caregivers” under the 2012 law approving the medical use of marijuana. The lead plaintiff sought to grow and sell marijuana as the “personal caregiver” to over 1,000 “qualifying patients” and challenged DPH regulations that (i) prohibit individuals from serving as a personal caregiver for more than one qualifying patient at a time, and (ii) bar compensation for personal caregiver services (other than reimbursement for reasonable expenses).

**McCormack v. Department of State Police** (Appeals Court). The court upheld the dismissal of former Trooper McCormack’s claims for lost wages for a period of suspension from duty. The plaintiff challenged his suspension as based only on an indictment on drug charges that did not result in a conviction, but the court held that compensation was not due because McCormack’s suspension was independently based on a Department investigation of possible abuse of prescription drugs.

**Verizon New England, Inc. v. Executive Office of Labor & Workforce Development** (Appeals Court). The court upheld the award of unemployment benefits to thousands of Verizon workers for the period of a two-week strike. The court concluded that the strike was not a disqualifying “stoppage of work” under state law and rejected Verizon’s arguments that the statute was preempted by federal law.

**Caesars Massachusetts Mgmt. Co., LLC v. Stephen P. Crosby, et al.** (U.S. First Circuit). The Court (Souter, J., sitting by designation) affirmed the dismissal of Caesars’ civil-rights action for damages and injunctive relief against the Chair of the Gaming Commission and the Director of its Investigations and Enforcement Bureau (IEB). The Court rejected Caesar’s claims that the defendants violated constitutional due process and equal protection in the IEB’s investigation of the suitability of Caesars as the management company for an applicant for a casino license.

**Sirva Relocation et al. v. Massachusetts Commission Against Discrimination, et al.** (U.S. District Court). The court (Gorton, J.) granted MCAD’s motion to dismiss the plaintiff-employer’s action, which sought to enjoin MCAD from investigating and adjudicating a charge of disability discrimination. The employer had argued that the federal Employee Retirement Income Security Act (ERISA) preempts state law and precludes MCAD from investigating the long-term disability benefit plan at the heart of the employee’s charge of discrimination. The court found that it must abstain and allow the pending MCAD proceeding to go forward.

**NAACP, et al. v. Galvin, et al.** (U.S. District Court). The court (Casper, J.) dismissed this action with prejudice pursuant to the parties’ settlement agreement. The case was filed in May 2012 under the National Voter Registration Act of 1993, and alleged a failure by two public assistance agencies (DTA and MassHealth) to provide voter registration opportunities. Under the settlement agreement, the agencies commit to follow specific procedures for providing voter registration services and to periodically give plaintiffs information by which to monitor these activities.

## **Municipal Law Unit**

The Municipal Law Unit (“MLU”) performs the Attorney General’s statutory duty to determine whether all town by-laws, and all city and town charters, are consistent with the laws and Constitution of the Commonwealth. MLU also assists town counsel and city solicitors, upon request, regarding municipal law issues related to by-laws and charters.

During the time period July 1, 2014 to June 30, 2015 the MLU issued 427 decisions representing our review of 1218 by-laws and charters. A significant number of these decisions (97) related to medical marijuana.

The MLU also sponsored 4 regional trainings to assist town clerks, town counsel and town planners on the by-law approval process. MLU also attended 3 statewide city and town clerk conferences to present trainings on the by-law approval process and/or updates on MLU operations.

## **Division of Open Government**

State-wide enforcement of the Open Meeting Law, with respect to public bodies at all levels of Massachusetts government, is centralized in the Attorney General's Office and in particular in the Division of Open Government. The purpose of the Open Meeting Law is to ensure transparency in the deliberations on which public policy is based. Because the democratic process depends on the public having knowledge about the considerations underlying governmental action, the Open Meeting Law requires, with some exceptions, that meetings of public bodies be open to the public. It also seeks to balance the public's interest in witnessing the deliberations of public officials with the government's need to manage its operations efficiently. The Division provides training, responds to inquiries, investigates complaints and, when necessary, makes findings and orders remedial action to address violations of the law.

### Significant Cases

**Boston School Committee (OML 2015-84)** - The Division found that the Boston School Committee was permitted to enter into executive session to discuss outstanding obligations yet to be performed under settlement agreements with the United States Department of Justice and the United States Department of Education Office of Civil Rights (collectively, "the United States"). The United States asserted that the Boston Public Schools were not fully in compliance with the terms of those settlements, which concerned programs designed to assist English language learning students. We found that litigation was demonstrably likely, thus closed door discussion was allowed.

**Boston Zoning Board of Appeals (OML 2015-65)** - The Division found that the Boston Zoning Board of Appeals violated the Open Meeting Law by failing to create minutes that meet the requirements of the Open Meeting Law. Though we only found that the Board violated the law with respect to the three sets of minutes at issue in the complaint, we noted that the deficiencies appeared to be widespread, and strongly encouraged the Board to create minutes for all of its meetings dating back to July 1, 2010, if it has not done so already.

**Pittsfield Public Employee Committee (OML 2015-22)** - The Division held that Public Employee Committees (PECs) created pursuant to G.L. c. 32B, § 19 are not public bodies subject to the Open Meeting Law.

**Hinsdale Select Board (OML 2015-9)** - The Division found that the Board's failure to provide minutes within the required time frame following a request was an intentional violation of the Open Meeting Law. An intentional violation may be found where the public body has previously been advised that certain conduct violates the Open Meeting Law. Here, the Board had been previously advised by our office of the requirements for reviewing and responding to requests for executive session minutes. In fact, a determination outlining those requirements was received by the Board just weeks before the violations alleged in this complaint occurred. We therefore found this violation intentional and recommended a fine.

**Newton School Committee (OML 2014-150)** - In a complaint filed by the Newton TAB, The Division found that the School Committee violated the Open Meeting Law in connection with three executive session discussions about disciplining the superintendent following disclosure that he'd plagiarized portions of his graduation speech. We found that the Committee failed to post timely notice for two meetings, held an emergency meeting where there was no genuine emergency, failed to state a permissible purpose for entering into executive session for two of the meetings, and that the minutes of the executive sessions provided no detail about the discussions that occurred. Following the complaint, and consultation with our office, the Committee amended the minutes to include sufficient detail and released them to the public. We found this was appropriate remedial action.

### Significant Achievements

The Attorney General's Office's primary goal in enforcing the OML is compliance with the law. In order to help individuals who are subject to the OML comply with its requirements, the Division has continued to devote significant time and resources to education and training.

During Fiscal Year 2015, the Division conducted 7 regional trainings on the OML across the state, reaching 343 attendees. In addition to these in-person training opportunities, the Division offered 6 interactive online training events, reaching an additional 124 attendees. Finally, the Division participated in a dozen conferences and workshops offered by groups including the Massachusetts Municipal Association, the Massachusetts Association of School Committees, the Office of the Inspector General, and the Massachusetts Municipal Lawyers Association.

The Division has also continued to update and supplement the materials on its website. The Division's website now includes the Open Meeting Law Guide (updated in March 2015); periodically updated Frequently Asked Questions; three OML checklists; a training video consisting of six segments explaining different aspects of the OML's requirements; and a database of all the Division's determination letters.

Finally, the Division worked with legislators and disability advocates to craft an amendment to the Open Meeting Law that enables greater participation by members of local commissions on disability. The amendment to G.L. c. 30A, s. 20(e) was passed in Fiscal Year 2015 and took effect July 1, 2015.

### Important Statistics and Numbers

The Division resolved more than 260 Open Meeting Law complaints in Fiscal Year 2015, and issued 171 written determinations. The Division responded to more than 1,650 inquiries by telephone, e-mail, and letter in Fiscal Year 2015, often providing responses within 24 hours. These questions came from members of public bodies, municipal attorneys, members of the public, and the press. Finally, the Division led or participated in 25 training events, reaching 1,178 attendees.

## **Trial Division**

The Trial Division defends suits brought against state agencies, officials and employees who are sued in the context of their agency duties. The types of cases generally include employment, torts, civil rights, contracts, erroneous conviction, eminent domain and land use cases. These suits generally seek damages or other relief for alleged wrongful acts of government agencies, officials or employees. The Trial Division handles cases in

both federal and state court, and the cases range from those with simple fact patterns to multi-million dollar cases with complex fact patterns and legal issues.

### Significant Cases

#### **Judge Rotenberg Center Litigation**

**In re Guardianship of Stephanie Lee Bedard** (Bristol Probate Court).

The Division represented the Department of Developmental Services (DDS) in this substituted judgment proceeding brought by Judge Rotenberg Center and a guardian seeking court approval to use aversive conditioning to treat JRC client SB. DDS opposes such treatment. Trial has been completed. We are waiting for the Judge's decision.

**Judge Rotenberg Educational Center, Inc., et al., v. Commissioners of the Dept. Developmental Services and the Dept. of Early Education and Care** (Probate Court). We filed a motion on behalf of Department of Developmental Services to vacate a 1987 consent decree that JRC claims bars the Department from regulating JRC's use of aversive conditioning. Trial is scheduled to start in October 2015.

**Doe v. Patrick, et al.** (United States District Court). This is a class action brought on behalf of a class of women who have been committed for substance abuse treatment under G.L. c. 123, § 35. It is being handled jointly by Administrative Law and Trial Divisions. The class in Doe is made up of women who, after being involuntarily committed pursuant to Section 35, are sent to MCI-Framingham for a period of time rather than a DPH treatment facility. This typically occurs in instances where there are no beds available at DPH. The plaintiffs seek relief for due process violations under the United States Constitution and the Massachusetts Declaration of Rights. The plaintiffs also bring a claim under the Americans with Disabilities Act and Article 114 of the Massachusetts Constitution as it pertains to disabled individuals.

**Paszko and Fowler, for themselves and others similarly situated v. Carol Higgins O'Brien** (United States District Court), in her official capacity as the Commissioner of the Massachusetts Department of Correction, and the Massachusetts Partnership for Correctional Healthcare, LLC.

This is a class action suit brought by two state prisoners relating to treatment of the Hepatitis C virus (HCV) among prisoners in the custody of the Massachusetts Department of Correction. The suit alleges that the Department and its healthcare services provider, the Massachusetts Partnership for Correctional Healthcare, have failed to provide HCV-positive prisoners with access to new medications that, plaintiffs claim, enjoy higher success rates, fewer side effects, and a shorter treatment duration than prior treatments. This case is being handled jointly by the Administrative Law and Trial Divisions.

**Tobacco Diligent Enforcement (2004)** This matter concerns a nationwide arbitration to establish whether Massachusetts (and other states) diligently enforced their escrow statutes against non-settling tobacco companies in 2004.

**Tatum et al. v. Commonwealth.** Plaintiffs are African-American and Hispanic municipal police officers who are subject to the civil service law, G.L. c. 31. They allege that the Human Resources Division engaged in racial discrimination through the design and administration of multiple-choice exams for candidates seeking promotion to police sergeant that had an adverse, discriminatory impact on African-American and Hispanic candidates, and that they were denied promotional opportunities as a result.

**Cummings v. Commonwealth.** Plaintiff alleges unlawful discrimination based on his dismissal from the Boylston Police Academy because he could not complete the endurance run portion of the police academy curriculum because he has one lung. This Division is working on a summary judgment motion.

**Pugsley v. HRD and Boston Police Department** (Supreme Judicial Court). At issue in this appeal was what level of factual support is necessary to establish that gender is a bona fide occupational qualification (“BFOQ”) for a police officer. In particular, what facts need to be demonstrated for a preference for female officers needed to work with female rape victims, female perpetrators (strip searches), and other such duties. Additionally, at issue was whether the Human Resources Division can be liable under G.L. c. 151B for providing a female candidate certification to a law enforcement agency (in this case the Boston Police Department) if it is ultimately determined that gender is not a BFOQ. The SJC decided the case in favor.

**Rexhame Terrace Land Trust, by Trustee John Coon, et al. v. Commonwealth** This was a beach access dispute brought against individual defendants who live in a Marshfield subdivision away from the waterfront, the Town of Marshfield, and the Commonwealth. Plaintiffs sought to block public access to a beach and dune in the Rexhame neighborhood of Marshfield and various ways to the beach. The judge ruled in the Commonwealth’s favor after a lengthy trial.

**Sorenti Bros., Inc. v. Commonwealth.** This eminent domain appeal related to a \$4.1 million jury verdict after a nine-day trial in a Sagamore Flyover case involving the partial taking of land from the former gas station located near the former rotary. The Sagamore Flyover project eliminated the configuration of the old rotary and created a new road that “flies over” the location of the old rotary. The SJC held in our favor on appeal, finding that the Superior Court improperly admitted evidence of so-called circuitry damages, or damages to the land not taken because the project made travel to the land more difficult, less convenient, or circuitous. Where before the project, the gas station was located almost adjacent to the rotary, after the project a motorist would have to travel more than a mile to get to the gas station. We estimate this element of damages was approximately \$2 million of the plaintiff’s \$6 million trial number. The re-trial is scheduled for November.

**Minich v. Spencer et al.** This is a suit for damages brought by three sets of parents on behalf of their mentally ill, autistic and/or intellectually disabled sons confined at Bridgewater State Hospital. Specifically, plaintiffs claim that hospital staff placed them in seclusion and restraint in violation of the procedures set forth in G.L. c. 123, § 21. The Division previously settled a class action that was brought by the same individuals for declaratory relief.

**Unified Contracting, Inc. v. Department of Conservation and Recreation and MassDOT.** This was a breach of contract matter seeking over \$1 million regarding the rehabilitation of the Boston University Bridge. The case settled in Fiscal Year 2015.

**Nordberg v. Massachusetts Department of Education, et al.** (Appeals Court) This case was brought by a certified school business administrator who was not hired for approximately 30 school business administrator positions that he applied for. The Plaintiff claimed that the Department of Education improperly granted waivers to school districts, allowing them to hire uncertified school business administrators in violation of the governing statute. The Appeals Court affirmed the trial court’s finding that the Plaintiff did not have a private right of action under the licensing statute, G.L. c. 71, § 38G, and therefore could not prevail on his tort claims, including claims for negligence and negligent infliction of

emotional distress. The Appeals Court also upheld the trial court's decision granting summary judgment in favor of a state employee on both the Plaintiff's claim of intentional interference with a prospective business relationship and on his substantive due process claim.

**Dobelle v. Westfield State University.** (Superior Court, U.S. District Court) Former Westfield State University President Evan Dobelle filed lawsuits in both federal and state court as a result of being placed on administrative leave while WSU investigated claims that he used University funds for personal expenses. Dobelle ultimately resigned from his position. The cases were both dismissed.

**Perini Corp., Kiewit Constr. Corp., Jay Cashman, Inc. d/b/a Perini-Kiewit-Cashman Joint Venture v. Commonwealth.** The last series of multi-million construction contract claims arising from the Big Dig settled. There were more than 15 cases over more than ten years arising from a particular contract for the construction in front of South Station on Atlantic Ave. in Boston. The settlement of the last series of cases resulted in savings of more than \$25 million.

## HEALTH CARE AND FAIR COMPETITION BUREAU

The Health Care and Fair Competition Bureau aligns Divisions within the Attorney General's Office that routinely touch upon the Massachusetts health care sector in fundamental ways. The work of the bureau includes overseeing public charities, preventing anticompetitive or fraudulent practices by providers of health care products and services within the Commonwealth, safeguarding rights of health care consumers, and combating fraud and abuse in the MassHealth system. The Divisions within the Health Care Fair Competition Bureau bring affirmative litigation on behalf of Massachusetts consumers and taxpayers, maintain a health care help line and mediation service, and engage in advocacy and policy initiatives to ensure access to quality, affordable health care in our state. In addition, some of the Divisions work on cases and issues beyond the health care arena, such as overseeing a wide variety of charitable organizations, combatting fraud across the spectrum of government contracting, and investigating anticompetitive behavior in all manner of businesses.

### **Antitrust Division**

The Attorney General's 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 Antitrust Division investigates and challenges anticompetitive mergers, price-fixing agreements and other illegal practices by companies, both local and national, that harm Massachusetts consumers and important state interests; promotes and protects competition in various industries directly affecting consumers, such as health care, pharmaceuticals, retail, hospitality and food service; obtains relief for consumers in the form of refunds for overcharges, civil penalties, and injunctions against offending businesses; and 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 procompetitive legislation.

### Significant Cases

#### Proposed Hospital Mergers

Following the Superior Court's rejection of a proposed settlement agreement with **Partners HealthCare**, the Division prepared to litigate Partners' proposed acquisition of South Shore Hospital. Instead, Partners informed The Division that it was abandoning this transaction and the Division therefore filed a dismissal of its claims. Stopping this transaction preserves competition on cost and quality in the health care market to the benefit of consumers.

The Division also reviewed a number of other significant health care mergers in order to protect and maintain competition in this vital market. For example, the Division reviewed the proposed mergers of Baystate Health and Noble Hospital and of Tufts Medical Center and Lowell General Hospital. In each instance the Division ensured that the proposed merger complied with the antitrust laws.

#### Hotel Practices

After receiving a consumer tip, the Division uncovered, investigated and ultimately resolved allegations that **nine Boston hotel operators** used an anticompetitive "call around" practice that could raise hotel room rates. The Division learned that certain hotels regularly contacted their competitors and asked for the competitor's room rate and its nonpublic occupancy rate. The Division alleged that this call around information was used in some cases to artificially raise or stabilize the prices for rooms when a

hotel learned that its competitors had limited rooms available. All nine hotel operators agreed to stop the anticompetitive call around practice and three of the hotel operators paid a total of \$45,000 in civil penalties.

### Discount Stores

The Division worked with other antitrust enforcement authorities to review the proposed acquisition of **Family Dollar Stores, Inc. by Dollar Tree, Inc.** The proposed merger combined two large national chains of deep discount stores both of which had a significant presence in Massachusetts. Together with other enforcers, the Division reached a settlement that preserved competition to offer the best prices and merchandise where Dollar Tree and Family Dollar stores directly compete with each other. Under the terms of the agreement, 21 stores located in Massachusetts were sold to a new competitor and re-branded as part of a new chain, Dollar Express.

## **False Claims Division**

Created in 2015 by Attorney General Healey to expand upon the Office's existing false claims initiative, the False Claims Division works to safeguard public funds by enforcing high standards of integrity against companies and individuals that make false statements to obtain government contracts or government funds in violation of the Massachusetts False Claims Act, G.L. c. 12, sec. 5A-5O.

### Significant Cases

The Division obtained a Consent Judgment against Canton-based **National Water Main Cleaning Company** requiring payment of \$655,000 to resolve allegations it submitted false bills and records on multiple public contracts for sewer, storage tank and catch basin cleaning, maintenance and repair, and illegally discharged sewage and wastewater.

The Division obtained an Assurance of Discontinuance with solar energy developer **Soltas Energy Corporation** requiring it to pay \$330,000 to resolve allegations it caused four Central Massachusetts towns and nonprofits to lose thousands of dollars in energy savings when it failed to honor agreements to sell them net metering credits.

The Division obtained a Consent Judgment against **Evan Dobbelle**, former President of Westfield State University (WSU) requiring payment of \$185,000, consisting of 3 times \$44,000 in allegedly unreimbursed, personal credit card and travel expenses plus \$53,000 in attorney's fees and costs. The judgment further prohibits Dobbelle from accepting any public higher education position within the Commonwealth.

## **Health Care Division**

The Health Care Division was created in 2007 to place a heightened focus on promoting the interests of consumers as Massachusetts undertook its landmark health reform effort. Since its creation, the Division has led a range of actions to protect the public from unfair and illegal conduct by insurers, providers, pharmaceutical companies, and medical device manufacturers. The Division also leads state efforts to examine the health care market and develop standards for public reporting of cost and quality information to help consumers and employers make more prudent health care purchasing decisions. In addition, the Division mediates hundreds of health care complaints annually and educates consumers regarding their health care coverage and billing rights.

### Significant Cases

The Division has been at the forefront of health care advocacy, enforcement, and consumer protection. During Fiscal Year 2015, the Division obtained several high profile judgments, including:

The Division obtained a consent judgment against **Guarantee Trust Life Insurance Company** (GTL) resolving allegations that it deceptively marketed and sold discount health plans to Massachusetts consumers. Under the judgment, GTL and its subsidiary paid \$1.3 million to the Commonwealth.

**Aspen Dental** paid \$1.2 million to consumers and to the state resolving allegations of deceptive advertising of dental services and charging consumers for services not provided.

The Division obtained a consent judgment against **South Shore Physician Hospital Organization** pursuant to which it paid \$1.77 Million to settle allegations of paying kickbacks to its physician members in exchange for patient referrals.

### Other Significant Achievements

The Division worked with the Health Policy Commission and the Center for Health Information and Analysis to hold the state's annual health care cost trend hearings in October 2014. In June 2015, the Division released its fourth examination of health care cost trends and cost drivers, documenting disparities in how behavioral health services are financed, managed, and analyzed in the Commonwealth.

In Fiscal Year 2015, the Division also analyzed and reported on more than \$631 million in Community Benefits provided by hospitals in the Commonwealth in the previous fiscal year.

## **Medicaid Fraud Division**

The Medicaid Fraud Division investigates and prosecutes health care providers who defraud the Massachusetts Medicaid program, known as MassHealth. In addition, the Division is responsible for reviewing complaints of abuse, neglect, mistreatment and financial exploitation of patients in long-term care facilities.

Through criminal and civil enforcement actions, the Division seeks to have a significant deterrent impact on fraudulent activities within every area of the Commonwealth's healthcare provider community. 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. The Division employs investigators, auditors, data analysts and attorneys who work together to develop investigations and execute prosecutions.

The Division partners with other local, state and federal law enforcement agencies in its efforts to combat fraud, save taxpayer dollars, and protect the most vulnerable in our society from exploitation and abuse by their caregivers.

### Significant Cases

The Division has used its tools to help address the growing addiction crisis in Massachusetts. In May 2015, the Division indicted Hyannis physician **Mohammad Nassery** for prescribing opiates to 10 individuals for no legitimate medical purpose, and causing pharmacies to bill MassHealth for prescriptions he knew were not medically necessary. The Division's case was based upon multiple office

visits by two undercover State Troopers, an expert review of medical records obtained from Dr. Nassery, Dr. Nassery's prescribing history, and statements from Dr. Nassery. In addition, based upon patient and undercover testimony, and review of office visit reports for more than 80 patients, The commonwealth indicted Dr. Nassery for billing the Massachusetts Medicaid program for medically unnecessary or overstated services by billing for simple office visits using a billing code reserved for comprehensive medical exams and complex medical decision-making.

The Division also filed a complaint against **Center for Psychiatric Medicine** ("CPM"), alleging CPM created a barrier for opioid treatment by charging MassHealth recipients cash for Suboxone related treatment in clear violation of regulations.

The Division investigated **Hallmark Health Systems** regarding allegations that it improperly billed MassHealth for short-stay inpatient admissions. Hallmark Health Systems operated two inpatient hospitals, Lawrence Memorial Hospital and Melrose-Wakefield Hospital. MassHealth reimburses acute hospitals at a flat rate that covers all non-physician inpatient services for the first 20 days of an admission; this reimbursement system can create an incentive for hospitals to submit encounters as short-stay admissions to improperly maximize reimbursement. As a result of its investigation, the Attorney General's Office alleged that Hallmark improperly used a case management system for MassHealth patients that did not properly incorporate or rely on clinical criteria or physicians' orders and therefore necessarily resulted in submission of claims for medically unnecessary short-stay inpatient admissions. This resulted in higher payments to Hallmark hospitals than it would have received if the claims were properly submitted as observation or outpatient level of care. Hallmark Health Systems agreed to pay \$1.75 million to resolve the allegations.

The Division obtained convictions against **Preventive Medicine Associates, Inc.** ("PMA") and its owner, **Dr. Punymurtula Kishore** ("Kishore"). Kishore and PMA operated numerous medical facilities throughout Massachusetts, including two drug testing laboratories. After a multi-year investigation by the Division, PMA and Kishore were indicted for paying illegal kickbacks to eight sober homes in exchange for the sober homes directing their urine testing business to PMA. Four sober home owners were also indicted. Kishore submitted claims to MassHealth for tens of thousands of drug tests conducted for sober homes despite his knowledge that such claims were not medically necessary and, therefore, not covered by MassHealth. In order to conceal the fraudulent claims, Kishore directed employees of PMA to falsify documents in an effort to make the urine drug claims appear to be medically necessary. PMA and Kishore faced further indictments for the falsification of the medical records and the resulting larceny from MassHealth. From 2006 through 2011, Kishore and PMA stole approximately \$9.3 million from MassHealth by submitting the false claims for urine screen reimbursements. Dr. Kishore received 11 months committed to jail and 10 years of probation. He was ordered to resign his medical license and along with PMA, pay \$9.3 million in restitution to MassHealth. All but one of the sober home owners also admitted their guilt to participating in the kickback scheme. The last sober home owner went to trial before a jury and the Division prevailed by building and presenting a case to the jury that resulted in a guilty finding.

The Division also investigated fraudulent conduct relating to transportation providers. The owner of a medical transportation company, **Cynthia Keegan**, pleaded guilty to defrauding MassHealth of more than \$470,000 by billing for services under the names of deceased individuals, and for other medical trips that were never provided. Keegan and her company, Keegan Enterprises, LLC d/b/a Cross Roads

Trolley, were each convicted on seven counts of Larceny over \$250 and seven counts of Medicaid False Claims. In addition to billing for deceased members, the allegations included the submission of more than 8,300 fraudulent claims for residents at two nursing facilities who rarely left the facility for medical care or who did not reside there at all. Keegan was sentenced to 2 ½ years in the House of Correction with 18 months committed and the balance suspended for eight years. She was also ordered to pay restitution in the amount of \$477,657.81 with a probationary term of eight years following her period of incarceration. The company was assessed the maximum statutory fine on each indictment, plus a surfine, for a total of \$306,250.

The Division investigated allegations of fraud by dental providers. A Quincy dentist, **Jennifer Lee, D.M.D.**, agreed to pay \$750,000 to settle allegations that her dental practice, Wollaston Dental Care, submitted false claims to MassHealth for emergency dental services that were never provided. The Medicaid Fraud Division's investigation uncovered evidence that from 2005 to 2013, Lee and her practice fraudulently billed MassHealth using a specific code for palliative emergency treatment of minor dental pain, by routinely billing this code at nearly every patient visit.

The Division also investigated fraud and waste involving pharmacies. **Neighborhood Diabetes, Inc.**, based in Billerica, settled allegations in January of 2015 that it improperly billed and received payments from the state's Medicaid program when it automatically refilled prescription medications that were not specifically requested by MassHealth patients or caregivers in violation of 130 C.M.R. 406.411(c) (6). Under the terms of the settlement, Neighborhood Diabetes, Inc., operating under the name of Neighborhood Pharmacy, paid more than \$1.5 million in restitution to the Commonwealth for overpayments received, and remains subject to additional requirements over the next five years to ensure its compliance in the future. These additional requirements include, among other things, an agreement not to refill or bill for prescription medications without an explicit request from a MassHealth member or caregiver, or to refuse to dispense drugs to any MassHealth member who is unable to pay a copayment at the time. Neighborhood Pharmacy is also required to comply with all applicable state and federal statutes, and to provide annual training to its employees who provide pharmacy services.

### Other Significant Achievements

The Division has played an active role in combating the opioid epidemic. As described above, the Division indicted Dr. Nassery on allegations he prescribed opioids to ten individuals for no legitimate medical purpose. The Division also investigated providers who created barriers for drug abuse treatment. A significant amount of the Division's resources has been focused on fighting this crisis.

When appropriate, the Division makes program recommendations to MassHealth, the State's Medicaid agency. For example, in December 2014 we sent a letter to MassHealth concerning potential waste involving the intrauterine device Mirena, manufactured by Bayer Healthcare Pharmaceuticals. Mirena is billed to MassHealth as a pharmacy benefit at the time the unit is dispensed from the pharmacy to the physician. In situations where the MassHealth member never shows up at the physician's office to have the unit inserted, the claim may never be reversed. The Division suggested that MassHealth consider changing billing requirements so that the Mirena unit may only be billed by the physician following insertion of the unit, and consider conducting audits involving Mirena billing.

The Division also has a national presence: several member of the Division are asked to instruct at national conferences; the Chief of the Division has been appointed National Association of Medicaid

Fraud Control Unit's (NAMFCU) President; and an Assistant Attorney General in the Division has served as co-chair of the Global Case Committee of NAMFCU. The Division regularly plays a leadership role in national initiatives and in bringing false claims cases from initial intake to ultimate resolution.

## **Non-Profit Organizations/Public Charities Division**

The Non-Profit Organizations and Public Charities Division is responsible for overseeing more than 25,000 public charities in Massachusetts, including ensuring appropriate application of charitable assets, investigating allegations of wrongdoing or fraud in the application or solicitation of charitable funds, and initiating enforcement actions in cases of breach of fiduciary duty. This work includes reviewing sales of significant charitable assets and dissolution of public charities, reviewing documentation of and ensuring fulfillment of charitable bequests, and supporting non-profit charitable boards of directors in their efforts to discharge their fiduciary duties appropriately. The Division's Compliance Unit comprises administrative staff who support transparency in the sector by processing and managing registration and annual filings by public charities, professional solicitors, fundraising counsel and commercial co-venturers, and by maintaining the Attorney General's Office's Annual Filings Document Search, which makes much of this information available to the public.

### Significant Cases

#### Attorney General's Office Exclusive Standing:

**Harvard Climate Justice Coalition v. President & Fellows of Harvard College, et al.**, (Superior Court)  
In this matter, a collection of Harvard students (law students, graduate students and undergraduates) filed a complaint alleging that the investment of a portion of Harvard's endowment in "fossil fuel companies" amounted to a breach of fiduciary duty. The Attorney General – a necessary party under Massachusetts law – successfully moved to dismiss on the ground that she has the exclusive standing to bring an action alleging the mismanagement of a public charity. At the end of Fiscal Year 2015, the matter was currently on appeal.

**Hellenic College, Inc. v. Friends of the Maliotis Cultural Center, Inc., et al.**, (Superior Court)  
In this matter, a dispute arose between a college and a public charity (and the public charity's related foundation) involving the use, access, support, and maintenance of a building on the college's campus owned by the college but operated and controlled by the public charity. While many of the college's claims against the charity related to a contract, there were several that alleged breaches of the fiduciary duties owed by the directors of the charity to the charity and by the trustees of the foundation to the foundation. The Attorney General was made a necessary party to the action as a result of those fiduciary duty claims, though the college alleged that it had special standing to bring such claims. After the Attorney General reached a resolution with the fiduciaries of the charity and the foundation in an attempt to ensure best practices going forward, the claims were dismissed, as the court agreed with the Attorney General and the charity's arguments that she has the exclusive standing to bring an action alleging the mismanagement of a public charity and that the college's interest in the building on its campus did not accord it special standing different from a member of the general public to bring such claims.

## Veterans Issues

### **Commonwealth v. Bay State Vietnam Veterans, Inc.** (Superior Court)

On August 26, 2015, Suffolk Superior Court Judge Heidi Brieger entered a default judgment ordering a Rhode Island–based fundraiser, Dynamic Marketing Solutions, to pay \$125,000 in financial penalties and permanently banning it from any fundraising activity in Massachusetts because of its deceptive tactics while soliciting funds for Baystate Vietnam Veterans, a Somerset charity, including falsely stating that 100% of donations raised would benefit veterans living in donors’ communities.

## Fiduciary Duty

### **Healey v. International Gospel Party Boosting Jesus Groups, Inc., et al.** (Superior Court)

The Division secured Summary Judgment against the two culpable individual defendants in this matter, barring them from serving as fiduciaries for any charity in Massachusetts ever again. The Division also secured a monetary judgment against one of the defendants in the amount of \$617,000, though the judgment is uncollectible due to the defendant’s lack of unencumbered assets. The Division also entered into a consent judgment with the corporate defendant – a religious group that has put in place a new board and established internal financial controls. The organization has received a portion of its funds, which were being held in escrow, and will receive the remaining funds in two installments over the next 24 months. The organization is required to submit quarterly reports to ensure that it is complying with the terms of the consent judgment.

### **Healey v. Chapman, et al.**, (Superior Court)

In this enforcement action, the Attorney General sued four current and former officers and directors of Lynn Community Access & Media, Inc. (“LynnCAM”), a public charity, alleging the misuse and mismanagement of LynnCAM’s charitable funds. Among other allegations, the complaint alleges that John Chapman, husband of former LynnCAM President Karen Chapman, caused LynnCAM to issue checks in exchange for services that had never been rendered, or to payees that did not exist, endorsed those checks on behalf of those payees, and then cashed those checks with a local check-cashing service and kept the proceeds. John Chapman has also been charged criminally by the Essex County District Attorney’s office for this conduct.

## Charities in Bankruptcy

### **Tri-City Community Action Program, Inc. (“Tri-CAP”)** (U.S. Bankruptcy Court)

This charity, established in 1978, provided services in the communities of Everett, Malden, and Medford. In recent years Tri-CAP focused its efforts in several areas: heating assistance using federal LIHEAP funds; early childhood education using Head Start funds; transitional housing assistance through residential programs; and an energy-efficiency weatherization program. Virtually all of the programs were operated using funds granted directly to Tri-CAP from the federal or state government. In early 2015, attorneys for Tri-CAP contacted the Division to inform it that Tri-CAP had recently become unable to meet all of its financial and operational obligations, and was positioning itself to transition all of its programs to other public charities and to file for bankruptcy. The Division has monitored the bankruptcy action since it was filed in April 2015, and continues to review materials provided to the Division by Tri-CAP.

**Genesys Research Institute, Inc. (“GRI”)** (U.S. Bankruptcy Court)

GRI, a public charity, was formed in 2010 by Steward Health Care System (“Steward”) at the time of that for-profit entity’s acquisition of the former Caritas Christi hospitals. GRI (then known as Steward Research and Specialty Projects Corp.) was apparently formed to receive any assets or programs that had been formerly held by one of the Caritas Christi entities, but which could not be held by a for-profit entity. The programs operated by GRI included cancer and other medical research, a substance abuse program, a victim witness program, and others. Following a transfer of control of GRI in 2013 to members and directors who were not affiliated with Steward, a number of major operational changes, and significant litigation with Steward and other parties, GRI informed the Division in June 2015 that it was running out of funds to continue operations and likely to file for bankruptcy. After the bankruptcy action was commenced in July 2015, the Division has taken a more active monitoring role, and has appeared in Bankruptcy Court to assist the Court in understanding the role of the Attorney General in the oversight of charitable funds. Of particular note is the skirmishing over frozen biological samples which the Division views to be potentially valuable charitable assets.

Cy Pres/Issues

**Conservation Services Group (“CSG”) v. AG** (Supreme Judicial Court)

This charity, created over 30 years Attorney General’s Office, has broad charitable corporate purposes, including performing energy efficiency assessments and related remediation on homes; energy and environmental policy work; economic development relating to energy and environmental conservation; and grantmaking. However, its activities had been limited almost exclusively to efficiency assessment and remediation. When CSG determined that it was fast becoming impossible to conduct this activity on a charitable basis due to capital investment needs in information technology and other advances and the influx of for-profit, investor-driven competition, it decided to sell its operating assets to a for-profit and use the proceeds to become a grant-maker. Even though its corporate purposes encompassed grant-making, we required CSG to file a complaint for cy pres, because it had never actually done grant-making and we determined that there would be change in purpose. CSG filed the petition; the AG assented to the relief requested, and the court approved the sale.

**Fuller Village/Fuller Trust** (Probate Court)

Fuller Trust, established to maintain a residence for needy elderly, owns several long term leases for apartments in Fuller Village, a multi-level senior living community in Milton, and subsidizes living costs for the residences in those apartments. Fuller Trust trustees contend that Fuller Village’s costs are so high that it is not economical for them to use Trust resources at Fuller Village, and they propose to modify the Trust, terminate their relationship with Fuller Village, and instead become a grant maker supporting other non-profits that provide services to the homeless. Fuller Village contends that Fuller Trust has a special relationship with Fuller Village and should not be permitted to terminate that relationship. The Division encouraged discussions toward a mutually agreeable solution, but the parties could not reach agreement, and the trustees of Fuller Trust have filed a petition in Probate Court to modify the trust. Fuller Village sought to intervene and was denied.

### Improper Solicitation

#### **Federal Trade Comm'n, et al. v. Cancer Fund of Am., Inc., et al.,** (U.S. District Court, Arizona)

In this multistate enforcement action, all fifty states, the District of Columbia and the Federal Trade Commission filed a lawsuit against four sham cancer charities, Cancer Fund of America, Inc. ("CFA"), Cancer Support Services, Inc. ("CSS"), Children's Cancer Fund of America, Inc. ("CCFOA"), and The Breast Cancer Society, Inc. ("BCS"), and their operators, James Reynolds, Sr., James Reynolds, Jr., Kyle Effler and Rose Perkins. The complaint alleges that CFA, CCFOA, CSS, and BCS, falsely portrayed themselves to donors as legitimate charities with substantial nationwide programs whose primary purposes were to provide direct support to cancer patients, when they did not, in fact, operate such programs. The defendants allegedly used the organizations for lucrative employment for family members and friends, and spent consumer donations on cars, trips, luxury cruises, college tuition, gym memberships, Jet Ski outings, sporting event and concert tickets, and dating site memberships. Five of the eight defendants – CCFOA, BCS, Reynolds, Jr., Effler and Perkins – have settled with the multistate coalition for a combination of monetary and injunctive relief. Litigation against Reynolds, Sr., CFA and CSS is pending.

### Important Statistics and Numbers

In Fiscal Year 2015, in the nonprofit context, the Division approved 1,638 initial registrations, processed 24,752 annual financial reports, and in calendar year 2015, approved 650 registrations for Professional Solicitors, Fundraising Counsel, and Commercial Co-Venturers. Fees for these activities generated in excess of \$6,081,404.24 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 Fiscal Year 2015 the Attorney General's Office received and reviewed: 772 new wills, 950 interim accounts, and 587 final accounts; assented to 27 petitions to sell real estate; and received and reviewed 93 trust terminations and 564 miscellaneous complaints and filings with respect to these matters. The Attorney General's Office also resolved 132 cases involving the misapplication of charitable bequests or excessive fees, which in the aggregate, resulted in approximately \$465,000.00 being recovered for charitable purposes.

In carrying out its responsibility to assure the proper use of charitable funds, the Attorney General's Office reviews: significant asset dispositions, changes in purposes, and other material transactions undertaken by non-profit charitable organizations, including all dissolution proceedings. During Fiscal Year 2015, the Attorney General's Office reviewed several hundred notices regarding significant transactions and approved the dissolution of 238 public charities.

## **PUBLIC PROTECTION AND ADVOCACY BUREAU**

The Public Protection and Advocacy Bureau (PPAB) uses investigation, litigation, and other advocacy to enforce laws protecting the Commonwealth. The Bureau works towards meaningful economic recovery for Massachusetts by tackling the economic and mortgage foreclosure crisis with a multifaceted and aggressive strategy. The Bureau works to protect consumers from unfair and deception activity, enforces state and federal civil rights laws, ensuring access and equal opportunity for all residents, advocates for protection of our environmental resources, pursues complex insurance and finance cases on behalf of residents or government entities, works towards affordable, high-quality health care for all, and enforces antitrust laws. The Bureau is supported by a team of skilled civil investigators.

### **Civil Rights Division**

The Civil Rights Division enforces and safeguards people's constitutional and statutory civil rights and liberties in the Commonwealth. The Division works to remedy and end discrimination on the basis of race, national origin, religion, gender, gender identity, sexual orientation, age, and disability as well as other protected categories and to ensure the an equal and meaningful opportunity for each Massachusetts resident to participate in a civic society in areas such as education, housing, employment, healthcare, transportation, voting, and marriage. In addition, the Division works to protect reproductive rights.

#### **Significant Cases**

In July 2014, the Division reached a settlement with **Worthington Commons Limited Partnership**, a Springfield landlord, and its management company, First Resource Management Company LLC, to resolve allegations that they had failed to adequately investigate and appropriately respond to harassment of a tenant on the basis of sexual orientation. Under the terms of the settlement, the landlord and the management company paid \$20,000 to the tenant, \$2,500 to the Massachusetts Fair Housing Center, and \$2,500 to the Commonwealth.

In November 2014, the Division and the National Federation of the Blind reached an agreement in federal litigation with **Cardtronics, Inc.**, the world's largest owner and operator of retail ATMs, that required the company to pay \$1.5 million to resolve claims that it failed to comply with a previous court-approved settlement to make many of the company's machines, located in Massachusetts and throughout the country, accessible to blind and visually impaired users. Under the court-approved agreement, Cardtronics also agreed to adopt industry-leading accessibility features at its approximately 95,000 ATMs nationwide.

On December 10, 2014, the Division resolved cases with two Boston-area restaurants involving allegations that they denied a patron admission because she was accompanied by a service animal. In **Commonwealth v. Sweetness Entertainment, Inc.** (d/b/a Sweetwater Tavern) and **Café Fixe, Inc.** (d/b/a 7 Pond Coffee Bar), the Division obtained an Assurance of Discontinuance that required the restaurants to pay up to \$5,000 in compensation and in costs to the Commonwealth and to adopt antidiscrimination policies.

With the New York Attorney General, the Division co-authored a multi-state amicus brief in **Texas Department of Housing and Community Affairs v. The Inclusive Communities Project, Inc.**, a housing discrimination case pending before the United States Supreme Court concerning the recognition of disparate impact claims under the federal Fair Housing Act (FHA). The brief was joined by 15 other states, and the position supported by the brief prevailed.

The Division also continued its advocacy in support of marriage equality throughout the country by leading the filing of an amicus brief on behalf of Massachusetts and 19 states supporting same-sex marriage in three Supreme Court cases, **Obergefell v. Hodges**, **Tanco v. Haslam**, **DeBoer v. Snyder**, and **Bourke v. Beshear**. The brief was inspired, in large part, by a number of testimonials submitted by gay and lesbian couples and their families across Massachusetts that were collected by the Attorney General's Office from the public.

In February 2015, the Division resolved a case involving allegations of lead paint and familial status discrimination by a Boston-based rental agent. According to the Assurance of Discontinuance the Division obtained in **Commonwealth v. Coldwell Banker**, an agent of the company in Jamaica Plain posted several rental advertisements on Craigslist.org that discouraged applications from families with children, and subsequent fair housing tests found that the agent had indicated to prospective tenants with children that landlords had expressed unwillingness to delead their properties. Coldwell Banker agreed to implement fair housing training, adopt of new antidiscrimination policies, and pay up to \$17,500, including \$5,000 to the Childhood Lead Poisoning Prevention Program.

### Other Significant Achievements

Working with the Policy and Government Division, the Civil Rights Division helped to advance new legislation designed to provide safe access to reproductive health clinics in Massachusetts after the Supreme Court struck down Massachusetts' previous buffer zone law. The new law enhances existing laws and creates new ones that promote public safety at and access to reproductive health care facilities in Massachusetts by prohibiting certain conduct outside reproductive health care facilities that threatens access and public safety.

In March 2014, the Division initiated a complaint against **Gerson Barahona and Gerlatin Modeling and Legal Sub-Contractor Co. LLC** for knowingly defrauding hundreds of Massachusetts residents by falsely holding himself out as an attorney specializing in immigration law, and it obtained a preliminary injunction ordering him to stop engaging in the unauthorized practice of law and to stop providing services related to immigration matters. The Division alleged that in many circumstances, Barahona allegedly charged fees for services that were of no benefit to his victims, including helping them to apply for programs when he knew or should have known that they were never eligible.

Also in March 2014, the Division filed a charge of discrimination with the Massachusetts Commission Against Discrimination against the owners of **Route 9 Diner**, Christopher Karabetsos and Argiris Sideris, and two managers alleging a continuous pattern and practice of sexual harassment that include sexualized commentary, cat-calling, whistling, and unwanted touching and advances from cooks at the diner.

In the spring of 2015, the Division participated, along with the U.S. Department of Justice, in a seven-week series of **community dialogues on race** relations initiated by the Worcester City Manager.

### **Civil Investigations Division**

The Civil Investigations Division employs a trained staff who provide investigative support in civil matters for the Divisions both within PPAB and throughout the Attorney Generals Office. The Division's investigators locate and interview victims, witnesses and subjects connected with actions taken by the office.

They obtain and review documentary evidence from numerous sources including individuals, corporations, federal, state, county and municipal agencies, conduct background investigations, analyze financial records and perform other forensic accounting functions, and testify in court. Investigators often work closely with other states Attorney General Offices, local and state law enforcement agencies, the U.S. Attorneys Office and other federal law enforcement agencies.

## **Consumer Protection Division**

The Consumer Protection Division is committed to ensuring the economic security of citizens of the Commonwealth and investigates unfair and deceptive business practices and brings enforcement actions against in-state and nationwide companies under the Consumer Protection Act (M.G.L. c. 93A). The Division reviews and, where appropriate, acts on data breach notices submitted to the Attorney General pursuant to M.G.L. 93H. Finally, the Division also enforces the injunctive relief obtained in the 1998 Tobacco Master Settlement Agreement.

### Significant Cases

**Commonwealth v. Bank of America et. al.:** Lawsuit addressed unlawful foreclosure practice of foreclosing on properties without present ownership of a valid mortgage interest. Settlement with Bank of America, Chase, Citi Bank, and Wells Fargo included a \$2.7 million payment and curative actions to remedy title defects arising from void foreclosures

**In the Matter of Standard and Poor's Financial Services, LLC:** \$7 million settlement which addressed the company's misrepresentation regarding residential mortgage-backed securities.

**Commonwealth v. T.D. Bank:** The Division resolved investigation stemming from a data breach suffered by TD Bank when it lost unencrypted back-up tapes containing sensitive personal information for more than 90,000 Massachusetts customers and delayed sending notice of the incident to the Attorney General's Office and impacted residents.

### Other Significant Achievements

**E-Cigarette Regulations:** On March 17, 2015, the Division announced revisions to regulations that govern the sale and distribution of tobacco products. The regulations previously covered cigarettes, smokeless tobacco, and cigars. The proposed revisions expanded the regulations to incorporate electronic smoking devices (also known as electronic cigarettes). The proposed regulations established a minimum legal sales age for purchase of electronic smoking devices and imposed childproof packaging requirements on liquid nicotine and gel products. The regulations were finalized in September 2015, with the majority of the provisions going into effect on September 25, 2015.

**Federal Data Breach Legislation:** There were multiple proposed bills submitted to the United States House Subcommittee on Commerce, Manufacturing and Trade regarding a federal data breach notification law and security standard. The Division provided multiple comment letters on the proposed bill for the record and Assistant Attorney General Sara Cable testified at a subcommittee hearing in Washington in March 2015 and provided written responses to additional questions for the record that were submitted to the Attorney General's Office.

## Fair Labor Division

The Fair Labor Division's works to protect employees from exploitation by employer, prosecute employers who are failing to follow the Commonwealth's wage and hour laws, and set a level playing field for the Commonwealth's employers. The Division is responsible for enforcing the prevailing wage, minimum wage, payment of wages, misclassification, overtime, earned sick time, domestic workers, domestic violence, tip pooling, child labor, temp worker right to know and Sunday and holiday premium pay laws. The Division has broad powers to investigate and enforce violations of these laws through criminal and civil enforcement actions.

### Significant Cases

During the last fiscal year, the Division continued its mission to expand its deterrent impact by strategically targeting certain industries and utilizing innovative civil and criminal enforcement methods to amplify our effectiveness.

Examples of strategic, high impact and novel cases from Fiscal Year 2015 include:

#### **Star Services, Inc.**

We received a referral from the Service Employee International Union regarding Star Service's failure to make pension contributions to the Massachusetts Service Employees' Pension fund, as outlined in the collective bargaining agreement. In addition, Star Services was required to pay their employee's the prevailing wage as a minority sub-contractor for ABM at the Boston Convention Center. By continuing to take these pension deductions from workers and failing to remit them, Star Service's employees did not receive the prevailing wage rate they were entitled to as a Star (subcontracted) employee. The Attorney General's Office pursued action against Star and ABM. ABM settled with the Attorney General's Office for \$330,000 of the estimated \$959,899.64 wages/contributions owed. Most of the settlement checks were distributed to Star employees the week before Christmas. The Division subsequently cited Star for \$659,899.64 and \$98,985.00 in penalties. At the end of Fiscal Year 2015, this citation was on appeal at DALA.

#### **M&J Painting Company, Inc.**

Painters DC 35 brought to the Division complaints of bridge painters not being paid prevailing wage for all hours worked and not receiving overtime pay for work performed on the Braga Bridge Project in Fall River, MA, a public construction project. After investigation and failed negotiations with the employer's counsel, the Division obtained assignments of claims from workers and filed a civil suit in Superior Court against M&J Painting Company, Inc. and owner Michael Kerpelis, alleging wage violations, false claims, and unfair and deceptive business practices under Chapter 93A. Simultaneously, the company sued MassDOT for withholding payment on the contract per our request due to the outstanding wages owed to workers. After some discovery, negotiations re-opened and ultimately the matter was settled for \$2,065,000.00 with restitution going to 94 employees.

#### **Beaumont Solar**

The Division began an investigation in September 2013 after the matter was referred by National Electrical Contractors Association. The investigation revealed that the company had improperly classified electricians as laborers, paid workers at an apprentice rate without the requisite number of electricians on site, and made improper deductions from the prevailing wage. As a result, 18 employees were paid less than the applicable prevailing wage, and the company failed to provide true and accurate certified payroll

records to awarding authorities. The Division ordered Cavallo-Cavallo, Inc., doing business as Beaumont Solar Co., and owner Phillip V. Cavallo to pay nearly \$83,000 in restitution and \$42,500 in penalties, including a \$10,000 penalty for hindrance of the AGO's investigation. The violations relate to solar panel installations performed on public schools in Melrose, New Bedford, and Newton.

### **Baby Nat's**

In January 2015, the Division began its investigation of Baby Nat's, following a complaint from a former employee. The office determined that, from January 2012 to February 2015, a total of 21 employees were not paid the proper overtime rate, and 23 employees were not paid the required Sunday premium pay, (a rate of pay no less than one and one-half times their regular hourly rate). Baby Nat's also failed to keep true and accurate payroll records, and failed to provide suitable pay slips to employees. During the investigation, Kenneth Natorelli, Jr., and Darlene Etienne Natorelli, who operate Baby Nat's, allegedly told employees not to talk to the AG's Office or provide information about their employment, hours worked, or rate of pay. These attempts to keep the AGO's investigation from materializing included the intimidation of a likely cooperating employee.

Ultimately, Baby Nat's, Inc. has paid nearly \$200,000 in restitution to workers and more than \$100,000 in penalties for not paying proper overtime rates, Sunday premium pay rates, failing to keep accurate payroll records, and failing to issue suitable pay slips to employees. The penalties also include a \$15,000 citation for hindering the investigation by trying to coerce employees to either lie to or refuse to communicate with the AG's Office.

### **The Staffing Group ("TSG")**

On or about December 21, 2011, the Attorney General received a referral alleging that TSG was charging its employees excessive fees for transportation to and from client sites. As a result of an investigation, the Division determined that TSG had charged excessive transportation fees, from March 21, 2010 to November 13, 2011, in violation of G.L. c. 149, §159C. The case was settled in January 2015, and TSG agreed to pay \$170,000 in restitution to 416 employees.

### Other Significant Achievements

During the past fiscal year, the Division has worked in collaboration with the Joint Task Force on the Underground Economy, community organizations and other government agencies to increase our outreach and enforcement in the area of temporary worker agencies, in order to enforce both the Temp Worker Right To Know Law and the Wage and Hour laws. This collaboration and team enforcement approach has shown great promise in effecting timely and thorough investigations and enforcement actions, which we hope will work to have significant impact and curtail the exploitation of thousands of low wage workers.

The Division has put together teams to address specific, high priority enforcement initiatives, defined by area of law, industry or region, depending upon needs for deterrence. The team members developed specialized knowledge of legal issues and facts unique to a targeted industry, worker group, or region we serve. For example, the domestic workers team has handled a number of cases in which domestic workers were exploited and significantly underpaid by their employers. This team has recovered over \$58,000 in restitution and \$10,000 in penalties from employers violating the minimum wage, overtime and non-payment of wage statutes by taking advantage of their domestic workers by having them work many hours a week and not paying them the required wage for all hours worked.

Throughout Fiscal Year 2015, the Division continued to work closely with community partners including, workers' rights organizations, community organizations, immigrant rights organizations and other state and federal agencies. These critical relationships continue to help reach communities and workers who may have been unaware of the Attorney General's Office's role and resources as well as with workers who might have been less likely to assert their rights under the wage laws because of their distrust of the government.

During Fiscal Year 2015, the Division continued to play a key role in promoting legislation that helps working families and our economy by strengthening workers' rights and leveling the playing field for Massachusetts businesses that play by the rules. The Division worked closely with PPAB, P&G, the State Legislature, stakeholders and other state agencies in its legislative efforts. Some examples of the legislation that was central to these efforts included:

- Minimum Wage (enacted)
- Earned Paid Sick Time (enacted)
- Domestic Workers Bill of Rights (enacted)
- Uniform Wage Compliance (enacted)
- Domestic Violence (enacted)

### Important Statistics and Numbers

During the last fiscal year, the Division issued 373 citations against employers for violations of the wage and hour laws, ordering the payment of \$3,270,065.47 in restitution and penalties. In addition, the Division was responsible for issuing four debarments against contractors doing public construction work for violations of the prevailing wage laws.

In an effort to educate the public about the wage and hour laws and assist workers with complaints against their employers, the Division Hotline, manned by intake staff and investigators, took 19,500 calls from members of the public regarding many different employment related issues. We also gave over 50 outreach presentations. As a result of these outreach efforts, over 4,500 complaints were filed with the Division. In addition to the Division's usual outreach efforts, the Division, in conjunction with other divisions of the Attorney General's Office, did many presentations, public comment sessions and public hearings related to both the new Earned Sick Time and Domestic Workers Laws.

In Fiscal Year 2015, the Division filed one Supreme Judicial Court brief and several other case briefs to weigh in on issues that directly impact the workers of the Commonwealth.

The Bid Unit remained very active on public bid challenges, dealing with 33 hearings and approximately 200 resolutions prior to hearing.

## **HomeCorps**

The HomeCorps Loan Modification Initiative (LMI) is the primary of the three HomeCorps Program initiatives. The LMI currently consists of 10 staff members across four locations. The primary function of HomeCorps is to assist Massachusetts homeowners with loan modification and foreclosure prevention through mediation with national and local mortgage servicers. The Division is currently working with over 200 mortgage servicers on 795 open cases and monitoring an additional 754 cases that are with Legal Referral Initiative ("LRI") or Community Based HomeCorps ("CBHC"). In Fiscal Year 2015 we opened

1,263 new cases. On average, HomeCorps answers 388 hotline calls and opens 105 cases per month. Additionally, the HomeCorps team monitors compliance with the National Mortgage Settlement servicing standards, M.G.L. Chapter 244 and the corresponding Division of Banks regulations and Consumer Financial Protection Bureau mortgage servicing regulations.

### Important Numbers and Statistics

Hotline:

- Total calls received in Fiscal Year 2015: 4,400

LMI in Fiscal Year 2015:

- 1,865 total cases resolved
- 323 total permanent modifications achieved
- 184 total auctions prevented

LRI in Fiscal Year 2015:

- 57 total referrals made to LRI
- 375 LRI cases resolved

CBHC in Fiscal Year 2015:

- 293 total referrals made to CBHC
- 1333 CBHC cases resolved

Chapter 244 in Fiscal Year 2015:

- 265 new cases opened as 35B cases
- 257 creditors are now complying with 35B notice requirement (44 electronically and 224 via paper mail). 135 of these began filing with Attorney General's Office for the first time in Fiscal Year 2015.

Other matters in Fiscal Year 2015:

- 18 loan modification scam referrals made to the Public Inquiry and Assistance Center;
- 2 referrals made to the Civil Rights Division;
- Fremont case team has responded to 143 requests to foreclose under the Fremont injunction;
- HomeCorps staff have participated in 36 events including training programs, round tables, stakeholder meetings etc.

## **Insurance and Financial Services Division**

The Insurance & Financial Services Division represents consumers, cities, towns and the state in civil matters involving the insurance, securities and lending industries. The Division performs key consumer protection functions, including securities enforcement, insurance and lending enforcement, and litigation and advocacy concerning insurance rates. The Division also provides mediation services to consumers relating to property, casualty and life insurance, as well as annuities, investments, and student loans.

## Significant Cases

**For-Profit Schools:** As part of the Attorney General's for-profit school initiative, the Division continued to investigate the advertising and recruiting practices used by for-profit schools on prospective students. During Fiscal Year 2015, the Division filed a complaint and consent judgment against **Premier Education Group, L.P.**, the owner of Salter College, which required the Premier Education Group, L.P. to pay \$3.75 million to resolve allegations of misrepresenting job placement numbers and using deceptive enrollment tactics.

**Auto Insurance:** The Division continued to pursue auto insurers for overcharging consumers. In Fiscal Year 2015, the Division recovered over \$25 million for Massachusetts consumers on issues ranging from failures to refund surcharge that had been vacated by the Board of Appeal to motorcycle insurance overcharges. The Division also entered into settlements with three carriers concerning allegations that the companies had failed to follow statutes regarding the appraisal of damaged motor vehicles.

**False Claims:** The Division pursued a number of false claims investigations in Fiscal Year 2015, and reached a settlement of approximately \$1.5 million with **Verizon** regarding allegations that the company overcharged the state for telecommunications services under a statewide procurement contract.

**Seniors:** The Division investigated a large life insurer concerning allegations that it had failed to supervise one of its representatives, permitting him to sell unsuitable life insurance policies and annuities to Massachusetts seniors, which were often funded with the proceeds of reverse mortgages. The Division reached a settlement with the carrier requiring it to refund over \$550,000 to Massachusetts seniors and \$165,000 to the state.

## Other Significant Achievements

**Outreach:** As part of settlement implementation, we contacted thousands of consumers and provided them with reimbursement checks relating to motorcycle, home loan servicing, securitization and other cases. The Division received over 4,000 calls from consumers relating to settlement implementations in Fiscal Year 2015.

**Regulatory and Legislative:** The Division provided testimony to the Division of Insurance regarding potential revisions to the Commissioner's consumer protection regulations on annuities, testimony to the Division of Banks on the agency's new flood insurance regulations, and testimony to the Legislature's Financial Services Committee regarding a variety of insurance issues.

**Rate setting cases:** The Division negotiated a settlement with the FAIR Plan (the provider of home insurance for over 100,000 urban and coastal families that cannot obtain coverage in the open marketplace), regarding freezing rates for a new policy product that provides liability coverage for certain non-owner occupied homes.

## Important Statistics and Numbers

In Fiscal Year 2015, The Division fielded over 2,000 hotline calls, opened 964 consumer complaint files, closed 840 complaint files and generated \$966,031.48 in savings and recoveries for consumers. Successful mediation results included: securing payment of auto, home, long term care, and life insurance claims, persuading companies to unwind unsuitable annuity sales, obtaining premium refunds

for consumers who were deceived into signing up for insurance coverage, helping consumers eliminate expensive force-placed insurance coverage, aiding in getting incorrectly applied surcharges removed, assisting consumers in obtaining homeowners insurance checks from mortgage loan servicers, obtaining refunds of incorrectly calculated premiums, assisting consumers in understanding their student loans and repayment options, correcting student loan payment errors with servicers, recovering monies from student loan debt relief scams, and helping consumers get wrongfully terminated policies reinstated.

## REGIONAL OFFICES

### **Central Massachusetts**

The Central Massachusetts Regional Office serves as the local representative of the Office of the Attorney General. The CMAS Division includes lawyers, labor inspectors, consumer mediators, and administrative staff who are knowledgeable about the statewide activities of the Attorney General's Office and have also developed special relationships with local, regional, and community resources. The CMAS office works closely with local community organizations (including the City Manager's Coalition Against Bias and Hate, the YWCA's Coordinated Community Response Network, the Mayor's Brownfields Task Force, the Regional Response to Addiction Partnership, and the Better Business Bureau) to provide outreach and education programs on important consumer, environmental, and public safety issues.

The staff of the CMAS Regional Office was very involved with the Community Dialogues on Race sponsored by the City of Worcester. This 7 week series of Dialogues attracted hundreds of city residents and community members for a discussion of the impact of race on representative government, public safety, youth and education, media and online social networks, and economic development. Our staff served as facilitators and note-takers for these discussions.

### **Southeastern Massachusetts**

The Southeastern Massachusetts (SEMA) regional office continues to be a valuable resource for residents of the region. The SEMA staff is made up of personnel from the Attorney General's Government, Public Protection and Advocacy and Business and Labor Bureaus. SEMA Assistant Attorneys General litigate matters from the Administrative Law, Trial, Fair Labor, and Consumer Protection Divisions. The SEMA consumer mediator is extremely successful in mediating consumer related issues including auto sales/repair problems, retail sale disputes and problems with home improvement projects. Our Fair Labor investigators readily assist local workers with rights and wage issues. The SEMA Insurance and Financial Services mediator assists with auto, life and homeowners insurance issues. All members of the SEMA team are knowledgeable of the resources available throughout the Attorney General's office and can provide referrals to community organizations or other government agencies most appropriate for specific needs.

### Significant Cases

Examples of properties rehabbed through AHI efforts in SEMA in Fiscal Year 2015

389 Cottage Street, New Bedford

36 Hewitt Avenue, Taunton

72 Newbury Avenue, Brockton

**Robert L. Brown v. Department of Children and Families, et al.** Plaintiff claimed that DCF mishandled his son's case. He alleged defamation, harassment, and negligence and sought damages in the amount of \$200,000.00. DCF's Motion to Dismiss was filed and Allowed. Commonwealth savings: \$200,000.00

**Leo Willoughby v. Commonwealth of MA, AOTC.** Plaintiff fell off a ladder while being supervised performing community service suffering serious injuries. He sought \$100,000 in damages. A settlement of \$70,000 was negotiated. Commonwealth savings: \$30,000.

## Other Significant Achievements

The SEMA Abandoned Housing Initiative (AHI) team has been successful in partnering with various local communities in the Southeastern Massachusetts region to locate the owners of properties with serious health and safety code violations and demand that the violations be corrected. In those instances when negotiations with the property owners fail, our office has been successful in petitioning the Housing Court to appoint receivers to address those violations.

In addition to working with New Bedford, Brockton, Fall River, Taunton, and Barnstable, the SEMA AHI team has now expanded into Abington, Carver, Swansea, Truro and Wareham.

SEMA staff has increased its presence in SEMA community with the goal to provide area residents with the knowledge of the work of the Attorney General's Office. To that end, SEMA has partnered with organizations such as the Bristol County District Attorney Office, Barnstable Youth Commission, Massachusetts Organization on Addiction Recovery, New Bedford Economic Development Council, Greater New Bedford Regional Technical Vocational High School, Justice Bridge, and UMass Dartmouth School of Law.

The SEMA Consumer Mediator regularly shares her extensive knowledge of consumer protection issues, elder abuse and landlord-tenant rights. She has accepted invitations to speak at group events sponsored by Bristol Elder Services, Catholic Social Services, New Bedford Council on Aging, Fall River Office of Neighborhood Development, Coastline Elder Services, Senior Whole Health, and the Somerset Police Department.

## **Western Massachusetts**

The Western Massachusetts Division ("WMAS") of the Attorney General's Office was the first regional office and remains the largest regional office in Massachusetts. WMAS has 28 employees representing the following Divisions: Medicaid Fraud, State Police, Trial, Administrative Law, HomeCorps, Abandoned Housing Initiative, Fair Labor, Insurance and Financial Services, Criminal Appeals, Criminal, Civil Rights, Consumer Protection, Investigations and Public Inquiry Assistance Center. WMAS handles matters throughout the state with a particular focus on those matters within the jurisdictions of Hampden, Hampshire, Franklin and Berkshire Counties.

The Western Massachusetts Regional Office attains its mission of providing accessible Attorney General's Office assistance to Western Massachusetts citizens in four western counties: Berkshire, Hampden, Hampshire and Franklin. The Western Massachusetts Regional Office reflects the AG's dedication to providing access to effective services throughout Western Massachusetts. In addition to providing direct constituent services in areas including consumer protection, civil rights and fair labor, the Western Massachusetts Regional staff participates in numerous community outreach programs, establishing new relationships and solidifying ongoing relationships with partner agencies throughout the area. Through the Attorney General's Office's new Community Engagement Division ("CED"), and WMAS's CED working-group, WMAS more effectively partners with and outreaches to the communities that it serves in the Commonwealth's four western counties.

## Significant Cases.

**Commonwealth v. Ryder Funeral Home** – c.93A enforcement action on behalf of consumers

against funeral home and funeral director regarding mishandled human remains and misappropriated consumers' insurance policies and funeral trust accounts.

**Commonwealth v. Cinelli** – IT professional accused of stealing in excess of \$1.2M from company pled guilty on 6/19/15 and sentenced to 2 ½ years in jail, plus restitution exceeding \$1M.

**Mejias v. HRD et al.** – Settled gender disparate discriminatory impact employment claim arising from Human Resources Division's administration of the municipal police Physical Abilities Test.

**Seneca One, LLP v. Geulakos and Massachusetts State Lottery Commission** – Appeals Court has under advisement (argument held on 6/3/15) appeal of Superior Court decisions approving trustee process attachment against the State Lottery Commission.

**Huthcinson v. STCC** – Defense jury verdict on 7/17/14 in Massachusetts Whistleblower Act claim arising from the non-reappointment of Springfield Technical Community College's Dean and Professor of its Surgical Technology program.

**Jane Doe v. DCF** – Defense jury verdict on 12/17/14 in Massachusetts Tort Claims Act claim arising from the alleged sexual assault of a minor while she was placed with a child-specific foster care resource and was within DCF's legal custody.

## **OFFICE OF THE STATE SOLICITOR**

The Office of the State Solicitor's mission is to ensure the highest quality of appellate advocacy throughout the Office of the Attorney General. We are here to be a resource to all Assistant and Special Assistant Attorneys General, at any stage of a case. This includes determining whether and when to appeal, helping craft a brief or argument, consulting on appellate procedure or strategy, and framing and ensuring adequate preservation of key issues at the trial-court level. We also help ensure the consistency of legal positions taken in briefs filed by the Office of the Attorney General; serve as a liaison to the appellate courts on recurring or difficult procedural problems; advise the Attorney General on whether to write or join amicus curiae briefs, particularly in the U.S. Supreme Court; and offer other support for Attorney General's appellate work.





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