

# Report of the Attorney General for Fiscal Year 2017



COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL

MAURA HEALEY

PUBLIC DOCUMENT No. 12





MAURA HEALEY  
ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL  
ONE ASHBURTON PLACE  
BOSTON, MASSACHUSETTS 02108

(617) 727-2200  
(617) 727-4765 TTY  
[www.mass.gov/ago](http://www.mass.gov/ago)

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, 2016 to June 30, 2017.

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  
Child and Youth Protection Unit  
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

## **The Criminal Bureau**

Appeals Division  
Digital Evidence Lab  
Enterprise, Major, & Cyber Crimes Division  
Financial Investigations Division  
Gaming Enforcement Division  
Human Trafficking Division  
White Collar & Public Integrity Division  
Victim/Witness Services 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 Advocacy & Response Division  
Consumer Protection Division  
Fair Labor Division  
Insurance and Financial Services Division

## **Regional Offices**

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

## **Office of the State Solicitor**



## TABLE OF CONTENTS

<b>Executive Bureau</b> .....	<b>1</b>
Child and Youth Protection Unit.....	1
Community Engagement Division.....	2
General Counsel's Office .....	3
Policy & Government Division .....	4
<b>Criminal Bureau</b> .....	<b>6</b>
Appeals Division .....	6
Enterprise, Major, and Cyber Crimes Division.....	9
Financial Investigations .....	10
Gaming Enforcement Division.....	12
Human Trafficking Division.....	13
White Collar & Public Integrity Division.....	14
Victim Witness Services .....	14
<b>Energy and Environment Bureau</b> .....	<b>17</b>
Energy and Telecommunications Division.....	17
Environmental Crimes Strike Force.....	18
Environmental Protection Division .....	18
<b>Government Bureau</b> .....	<b>23</b>
Abandoned Housing Initiative .....	23
Administrative Law Division.....	24
Municipal Law Unit.....	25
Division of Open Government.....	26
Trial Division .....	28
<b>Health Care and Fair Competition Bureau</b> .....	<b>30</b>
Antitrust Division .....	30
False Claims Division.....	31
Health Care Division .....	32
Medicaid Fraud Division.....	33
Non-Profit Organizations/Public Charities Division.....	35
<b>Public Protection and Advocacy Bureau</b> .....	<b>38</b>
Civil Rights Division.....	38
Consumer Advocacy & Response Division.....	39
Consumer Protection Division .....	40
Fair Labor Division .....	41
Insurance and Financial Services Division .....	42
<b>Regional Offices</b> .....	<b>45</b>
Central Massachusetts .....	45
Southeastern Massachusetts.....	45
Western Massachusetts .....	45
<b>Office of the State Solicitor</b> .....	<b>46</b>





## **EXECUTIVE BUREAU**

The Executive Bureau provides administration, public information, and policy development support for the Attorney General's Office (AGO), as well as operational, information technology, human resources, and fiscal management services. Executive Bureau leadership includes the First Assistant Attorney General, the Deputy Attorney General, and the Chief of Staff. Divisions within the Executive Bureau include: General Counsel's Office; Policy and Government; Child and Youth Protection Unit, Community Engagement; Information Technology; Human Resources; Communications; Budget; Operations and Support Services, and the Law Library.

### **Child and Youth Protection Unit**

The Child & Youth Protection Unit (CYPU) was established in September 2015. The mission of the CYPU is to use the unique position and expertise of the Attorney General's Office to advance initiatives fostering enhanced protections and positive outcomes for children and youth in Massachusetts. CYPU engages in advocacy, enforcement, advisory, programmatic, and policy-making efforts.

#### **Significant Cases**

Supreme Judicial Court (SJC) victory in Guardianship of KN: We submitted an amicus brief arguing that a long-term guardian who is a de facto parent should have a right to counsel when someone seeks to remove the guardian. The SJC ruled in favor of allowing judges discretion to appoint a guardian in such cases. We followed up this ruling by drafting legislation that would create an affirmative right to counsel and clarify the standards and burdens applied by courts when someone seeks to remove a guardian.

#### **Other Significant Achievements**

The CYPU provided consultation on child-related matters within the office, advised state agencies and the legislature, participated in task forces and presented at convenings, and pursued specific projects to advance the best interests of children and youth throughout the Commonwealth. Among these projects were:

- **Firearm Guidance for Providers:** With the Massachusetts Medical Society, we developed informative brochures and a voluntary online continuing medical education training program to support health care providers in their efforts to prevent gun-related accidents, self-harm, and violence.
- **Interagency Task Force on NAS/SEN:** CYPU Director Gail Garinger co-chaired a task force to create a statewide plan for providing care and support for families affected by neonatal abstinence syndrome and substance exposed newborns. The task force convened an advisory committee, created a state plan, and secured a federal grant from SAMHSA for technical assistance on implementation.
- **Kinship Caregiver Listening Tour:** With the Commission on the Status of Grandparents Raising Grandchildren, we co-hosted an information exchange and listening tour focused on the impact of the opioid crisis on grandparent and other kinship caregivers in Massachusetts. We visited eight communities across Massachusetts and documented our findings and recommendations in a report.
- **CASA Program for Transition-Aged Youth:** We launched a pilot program with Boston CASA and other stakeholders to provide specially-trained Court Appointed Special Advocates to youth ages 16+ in foster care in Boston. Through advocacy, mentorship, and a youth-driven transition-planning process, CASAs help foster youth prepare for adulthood.

- **Campus Safety and Violence Prevention Conference:** As part of the Department of Higher Education's Campus Safety and Violence Prevention Task Force, we co-hosted and planned, with DHE and EOPSS, a statewide Conference on Campus Safety and Violence Prevention, attended by hundreds of college and university presidents, Title IX Coordinators, and campus police chiefs.

## **Community Engagement Division**

The Attorney General's Community Engagement Division (CED) aims to fulfill the Office's mission to serve all people in Massachusetts in each of its diverse communities. The Division works to establish a bridge between community members and the Office so that every resident has access to our resources, services, and educational materials. CED works with all bureaus in the Office on a wide variety of topics to develop trainings, informational sessions, office hours, and presentations to bring into communities.

In 2017, the People's Law Firm Outreach Day Summit brought together over 120 service providers for a deep overview of the Office's actions to assist immigrants; wage theft enforcement and outreach for workers; student loan assistance; and consumer protection through free debt collection legal clinics. At this half-day summit, service providers learned about our efforts and the legal assistance available, as well as how they could use our services to assist clients, members, and students served by their organizations.

Wage Theft Clinics, in partnership with the Fair Labor Division, invited workers to attend clinics, where they received free legal assistance in their Wage Theft court action from a variety of legal service providers and private bar attorneys. In addition, these workers met with Workers' Centers who operate in their area and learned about all the other services of the AGO.

Community Action Hours brought attorneys, investigators and specialists from our office into communities across the state to assist working people and their families at times and places convenient for them.

Access to Justice Clinics encouraged consumers who had been sued over a debt to show up to their court date and often connected these consumers with legal aid in order to adequately defend themselves.

Healthy Summer Youth Jobs program funded summer youth jobs to over 70 organizations and provided workers' rights trainings and assistance to nearly 400 youth.

In 2017, The Attorney General's Community Engagement Division organized over 230 events and trainings and engaged with nearly 15,000 community members across the state.

## General Counsel's Office

The General Counsel's Office's (GCO) primary responsibility is to provide legal assistance and operational support to the Attorney General, Senior Management, Executive Bureau (Human Resource Division, Information Technology Division, Operations Division, and Budget Office), and the substantive bureaus.

Specifically, the GCO provides legal assistance with employment, ethics, conflicts of interest issues; assists in the development and implementation of office policies and procedures; ensures that all staff members comply with G.L. c. 268A; coordinates the AGO's appointments to state boards and commissions; manages the AGO's responses to public records requests; and runs the AGO in-house training program.

The GCO also manages the library and eDiscovery teams.

The General Counsel's Office's reports to the Chief Legal Counsel.

### Important Statistics

#### AG Institute:

In FY 2017, the AG Institute conducted 45 informal programs for (Assistant Attorneys General) AAsG, filling approximately 1,150 seats.

The AG Institute also conducted 4 New Employee Orientations.

#### Boards and Commissions:

In FY 2017, there were a total of 24 new Boards & Commissions Appointments and 3 Boards & Commissions Reappointments.

#### Public Records Requests:

In FY 2017, the AGO received 484 public records requests, a 2.9% increase in the number received in FY 2016. Of the total received, 247 were handled through the GCO (51%) and 142 were from the press (29.3%).

#### Review of Legal Services Contracts:

The GCO reviewed 22 Legal Services Contracts.

#### Special Assistant Attorneys General (SAAsG):

In FY 2017, there were a total of 31 new SAAG Appointments, 12 amended SAAG Appointments, and 43 vacated SAAG Appointments.

## Policy & Government Division

The Policy & Government Division assists in the development and advancement of Attorney General Maura Healey's policy and legislative priorities. These initiatives focus on ensuring all Massachusetts residents have access to equal treatment under the law, a healthy environment, affordable health care, a transparent and open government, safe neighborhoods and protection from abusive practices in the marketplace. Additionally, the Division articulates the office's positions on legislation under consideration in the Massachusetts Legislature and Congress. The Division responds to inquiries from members of the congressional delegation, state legislators, executive agencies and local officials made on behalf of their constituents, and helps those constituents access resources within the office.

### Achievements

In July 2016, the Division celebrated passage of a law protecting transgender persons from discrimination in places of public accommodation. The Division coordinated legislative testimony, convened a roundtable with transgender persons and their families, gathered support from a broad coalition of businesses and guided a social media campaign. In August 2016, the Governor signed into law an update to the Commonwealth's 70-year-old pay equity statute, to ensure women are paid fairly and equally. The Division, working with the Civil Rights Division, collaborated with legislators, advocates, and the business community to advance this important bill.

The Division continued to spearhead Game Change, a first-of-its-kind violence prevention initiative developed in partnership with the New England Patriots Charitable Foundation. In 2017, Game Change trained nearly 1,500 students as peer educators in preventing relationship violence and intervening as bystanders. High school-aged peer educators led in-depth sessions and cultivated Game Changers in middle schools across the Commonwealth. Game Change participants also planned and executed public service announcements and media campaigns to educate their communities.

In May 2017, the Division helped unveil Project Here, an innovative initiative funded by the Office and the GE Foundation to make substance use prevention education available to all public middle schools in Massachusetts.

The Division, with assistance from the Criminal Bureau, crafted a successful application on behalf of the office to the U.S. Department of Justice for funding to target heroin and fentanyl trafficking organizations. The office used the \$1 million grant to establish a Fentanyl Strike Force, expand its drug enforcement work and enhance partnerships with federal, state and local law enforcement.

The Division, in partnership with DPH, led a statewide campaign to raise awareness of the Good Samaritan law. Under the law, a person who, in good faith, seeks medical assistance for another person experiencing a drug-related overdose will not be charged with drug possession. The "Make the Right Call" campaign encourages bystanders to call 911 when they witness an overdose. The campaign included posters and banners, billboards and social media. The Division shared a roll call video, produced jointly with the Massachusetts Chiefs of Police Association and the Massachusetts Major City Chiefs of Police, with police departments across the Commonwealth.

In January 2017, the Division led the rollout of AG Healey's legislative agenda. These initiatives would provide financial relief to students who have fallen victim to the unscrupulous conduct of a for-profit school, enhance the office's role as the ratepayer advocate for electric and gas customers, allow the Fair Labor Division to pursue wage violations in court and substantially increase the penalty for corporations found guilty of manslaughter.

The Division also conveyed the office's support for legislation to protect the confidentiality of patients receiving sensitive health care services, require contraceptive coverage without cost-sharing under Massachusetts law, enhance tools to address unscrupulous debt collection practices and adopt automatic voter registration.

The Division collaborated with the Greater Boston Chamber of Commerce to launch a Student Debt Working Group. The group brought together leaders from private, public, and non-profits sectors exchange ideas for improving access to higher education and discuss strategies to reduce unaffordable debt, increase transparency in student lending and learn about programs at colleges and universities to create more affordable paths to graduation and into the workforce. The Division also worked closely with the Student Loan Assistance Unit and the non-profit uAspire to develop an educational awareness campaign providing resources to high school students and their families to help them interpret and understand financial aid awards

## 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. Such convictions often arise from large-scale drug trafficking; environmental violations; child pornography; and white-collar offenses, such as those involving public corruption, fraud, and financial crimes. The Division also responds to all challenges in federal court to convictions obtained by the AGO and the Commonwealth's District Attorney's Offices. Most commonly, they attack convictions for homicide; rape; other violent and sex-based offenses; drug crimes; and weapons offenses. The Division is, in fact, the only unit of state government to defend Massachusetts convictions in federal courts. These conviction challenges may be pursued through habeas corpus actions in the U.S. District Court, Court of Appeals for the First Circuit, and United States Supreme Court. The Division's role in the development of federal habeas law is considerable. In a typical year, between ninety and one hundred percent 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 when they are sued or subpoenaed in relation to criminal justice matters in federal or state civil actions and when they are subpoenaed in criminal cases. The Division's clients include the AGO itself, District Attorney's Offices, the Parole Board, the Inspector General's Office, courts, the Probation Service, other criminal justice agencies, and members of such bodies. In its various cases, the Division is often required to defend the constitutionality of statutes, rules, procedures, and practices related to criminal adjudication and punishment.

In FY 2017, 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 in the U.S. Supreme Court and 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 in federal and state courts; and subpoena matters in relation to federal and state civil and criminal actions. Division members had around 100 court appearances, and their cases produced over 100 published and unpublished opinions by federal and state courts.

### Significant Cases

In FY 2017, the Appeals Division successfully defended numerous convictions in federal courts. Many of those convictions arose from tragic violent crimes. In several cases, courts issued decisions refining the criminal law in ways that will benefit the Commonwealth and the public in the future.

In the United States Supreme Court, the Division secured a judgment upholding **Kentel Myrone Weaver**'s convictions for the first-degree murder of fifteen-year-old Germaine Rucker, and the unlicensed possession of a firearm, in Boston. Following briefing and argument on the merits of the case, the Court agreed with the Massachusetts Supreme Judicial Court that a defendant who claims his counsel was ineffective for failing to object to a courtroom closure during jury selection must, like other defendants

alleging attorney ineffectiveness, show that the omission prejudiced his defense. The Court further found that Weaver had made no such showing. In three other cases, the U.S. Supreme Court denied a criminal defendant's petition for certiorari review after requesting an opposing brief from the Division – a step taken in only a small fraction of cases. The petitions were lodged by: Reginald Butler, whose habeas corpus action challenging his conviction for raping a woman in Chelsea had been defeated by the Division in lower federal courts; Ahmad Bright, who was found guilty of the second-degree murder of Corey Davis, the assault of Troy Davis, and unlawful possession of a firearm, in Cambridge; and Pov Hour, who was imprisoned for the first-degree murder of Karlos Dowdye in Lowell.

The U.S. Court of Appeals for the First Circuit affirmed the denial of habeas corpus relief to several other prisoners whose challenges to criminal convictions were opposed by the Division. These included: **James Freeman, III**, who was convicted of first-degree murder and several other offenses arising from the shooting of Teofila Matos and her husband Buenaventura Ferrera, leaving the wife dead and husband wounded, in Worcester; **Charkeem Hyatt**, who was convicted on multiple charges as a result of the shooting of Latoya Henley, Britney Walker, Sylvia Miranda, and Travis Curry, in Boston; **Anthony Moore**, who was found guilty of unarmed robbery of a Boston bank; **James J. Smith**, who was imprisoned for the first-degree murder of Kijona Osmond and the unlawful possession of a firearm; and **Siny Van Tran and Nam The Tham**, each of whom was convicted of five counts of first-degree murder and other offenses arising from a Boston shooting in which Man Cheung, Van Tram, David Quang Lam, and Cuong Khand Luu were killed, and Pak Wing Lee was left unconscious. Aside from one count of a multi-count conviction discussed below, no Massachusetts conviction was disturbed on federal habeas corpus review.

The Division also successfully defended criminal convictions and the actions of justice-system officials in state appellate courts. As a result of Division efforts, the Supreme Judicial Court affirmed **Josue Molina's** convictions on child pornography charges, even as it construed the relevant statute differently than the Division, and agreed that the Commonwealth should have the opportunity to seek restitution for the victim. The court also resisted **Richard Zagranski's** attempt to circumvent the statutory procedures for challenging his conviction of the first-degree murder of Michael Molin, which was previously upheld on direct appeal and in other post-conviction proceedings. The state's high court further dismissed certain protests by **Daniel D. Tavares**, who was convicted of larceny and drug offenses, to the manner in which his bail was handled by courts.

Added to the above, the Massachusetts Appeals Court affirmed **Kevin C. Moore's** convictions of child pornography offenses; as well as judgments against **Miguel Cruz**, **Jason DePina**, and **Henry Pryor** for trafficking in controlled substances. In Cruz's appeal, the court also interpreted the statute punishing drug sales in school zones in a manner that was consistent with the AGO's understanding of the law and will prove helpful in future cases. The Appeals Court further affirmed decisions denying civil claims by **Bodhisattva Skandha** against the Commonwealth and its Parole Board, and a claim by **Anthony Cristallo** against the State Police.

In a few other cases, courts declined to agree with certain positions taken by the Division, but in decisions with limited impact. Specifically, in one habeas corpus action, the U.S. District Court vacated **Roy Dumas's** conviction for rape of a child, upon finding the evidence of the victim's age to have been insufficient. But the court did not disturb the judgments against Dumas on four counts of rape and one count of indecent assault and battery. Also, the Supreme Judicial Court found that the state Parole Board erred by applying a new version of the relevant statute in evaluating, and ultimately denying, a request for parole by **Frederick Clay**, who had been convicted of the first-degree murder of Jeffrey S. Boyajian in Boston. But the court affirmed the statute's constitutionality and provided useful guidance for future

cases. That court additionally reversed a decision dismissing a challenge to a parole denial brought by **Richard Crowell**, who had pleaded guilty to murdering Harry Cohen in Boston. But, while the court identified certain factors that the Parole Board should have considered, the court's decision was based on a procedural irregularity in the lower court, and it did not order that Crowell be paroled, or even squarely decide the merits of his challenge.

All these examples were in addition to scores of favorable dispositive decisions and other orders secured by the Division in federal and state appellate and trial courts. In all cases, Division members cooperated closely with the AGO's Victim/Witness Assistance Division to ensure that affected citizens were notified of proceedings and developments.

### Other Significant Achievements

The Appeals Division continued to serve the Commonwealth in ways beyond its core litigation work in FY 2017. In particular, the team filed an amicus brief in **Commonwealth v. Grassie** in order to provide the Supreme Judicial Court with information it requested regarding the manner in which grand jurors are instructed in different counties. Division members also delivered presentations to their colleagues or other legal groups on subjects such as United States Supreme Court cases, federal habeas corpus law, rules of professional conduct, search and seizure law, restitution for crime victims, grand jury procedure, victim-based applications for immigration relief, and careers in the law.

Additionally, members of Appeals represented the AGO as appointees or liaisons to various governmental bodies. Such bodies included: the Massachusetts Criminal Records Review Board, Firearms Licensing Review Board, Illegal Tobacco Task Force, Veterans' Bonus Appeal Board, and Working Group on the Application of the Public Records Law to Law Enforcement; the Supreme Judicial Court's Standing Advisory Committees on the Rules of Criminal Procedure and on Eyewitness Identification, and its Subcommittee on the Rules of Appellate Procedure; the Interstate Compact for Adult Supervision State Advisory Council; and the U.S. Department of State's Bureau of Consular Affairs. Division personnel also joined the AGO's Diversity & Inclusion Committee, and served on the Office's Criminal Justice Investment Program Grants Committee and Community-Police Relations Committee.

Added to the above, Division members contributed to AGO criminal trial teams; developed and analyzed policy proposals concerning matters such as firearms, human trafficking, drone regulation, immigration enforcement, and criminal justice reform; represented the AGO at public events and otherwise participated in its community engagement efforts; regularly advised the 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 AGO as a whole, and supervised several interns within the Division; counseled members of the Criminal Bureau and other state offices on interstate extradition matters; analyzed and made recommendations on whether the AGO should join amicus curiae briefs to the U.S. Supreme Court; oversaw the activities of eight Special Assistant Attorneys General and lawyers working under them; prepared updates on relevant, new court decisions for the Criminal Bureau; contributed to the development of protocols for seeking search warrants and handling seized electronic information; routinely assisted state attorneys in preparing for oral arguments through moot courts; and consulted on dozens of civil and criminal matters being handled by other units of Massachusetts government.

Members of Appeals were also active in the broader legal community. One continued to serve as a Clinical Instructor at Harvard Law School, another authored an article on search and seizure law for the Boston Bar Journal, and a third was honored for supporting the amicus activity of the Boston Bar Association. Division personnel were also involved in the BBA's Criminal Law Section Steering



Committee, Public Interest Leadership Program, and Law Day in the Schools Program, as well as the Massachusetts Law Review Editorial Board.

## **Enterprise, Major, and Cyber Crimes Division**

The Enterprise, Major and Cyber Crimes Division (EMCC) 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, Major and Cyber Crimes Division investigates and prosecutes a wide variety of offenses, including narcotics trafficking that focuses on heroin and fentanyl cases, extortion, firearms, possession/dissemination/manufacturing of child pornography, and cyber intimidation.

In FY 2017, EMCC had an overall caseload of 122 cases. The division charged 61 new cases and closed 41 cases. An estimated \$1,042,090 cash was seized in the FY 2017.

### Significant Cases

**Operation Crooked Spindle** was a joint investigation with Massachusetts State Police (MSP) and the Drug Enforcement Agency (DEA) into a large scale drug trafficking organization operating in the Merrimack Valley (Lowell, Lawrence and Haverhill). The investigation began in February 2017 when the DEA and MSP received information regarding a drug trafficker out of Lowell, who was identified as Helton Jose Marin Perez. On August 9, 2017, a wiretap warrant was authorized for Helton Jose Marin Perez's cell phone. Through these intercepted communications, additional co-conspirators were identified. The investigation resulted in 12 arrests, a seizure of almost \$30,000, multiple guns and a sizable amount of fentanyl and heroin.

In response to a spike in opiate abuse and opioid related criminal activity in the town of Marlboro and surrounding communities, the AGO and MSP Gang Unit partnered with Marlboro Police Department and other local police departments to root out a network of drug dealers. The investigation involved purchasing of heroin from identified drug dealing targets by undercover officers. The distribution network dealt drugs in local parks, restaurants and other public places in the area. In early November the investigation resulted in the arrest of 31 targets.

During the summer of 2016, the Attorney General's Office received three cybertips which had been submitted electronically by Chatstep to the National Center for Missing and Exploited Children ("NCMEC"). The three Cybertips concerned a file identified by Chatstep as possible child pornography that had been uploaded to the website on three separate occasions: May 30, 2016; June 14, 2016; and July 28, 2016. Using the IP address associated with the uploads, the MSP traced the uploads to a residence in New Bedford, MA. Further investigation revealed that Andrew Roderick lived at the residence. Roderick was a registered Level 1 Sex Offender, who pled guilty in February 2013 to three counts of possession of child pornography, and was currently on probation. On November 29, 2016, the Massachusetts State Police executed a search warrant at Roderick's residence, where numerous digital devices were seized. The initial on-site forensic examination located images and videos consistent with child pornography on Roderick's digital devices, and he was later arraigned in New Bedford District Court. On March 1, 2017, in Fall River Superior Court, Roderick was arraigned on one count possession of child pornography subsequent offense. While this case was being investigated, on January

17, 2017, the Attorney General's Office received two more cybertips, which had been submitted electronically by Chatstep to NCMEC. In November 2017, the Bristol County Grand Jury indicted Roderick on two counts of dissemination of child pornography. On December 14, 2017, in Fall River Superior Court, Roderick pleaded guilty to one count of possession of child pornography (subsequent offense) in violation of G.L. 272 Sec. 29C, and two counts dissemination of child pornography in violation of G.L. 272 Sec. 29B. On the possession charge, he was sentenced to "five years to five and day" in state prison. On the two dissemination charges, he was sentenced to two concurrent probation terms on and after his release on the possession charge.

### Other Significant Achievements

As a result of being awarded the 2016 COPS Grant, the EMCC has successfully partnered with local, state, and federal law enforcement agencies. The grant of one million dollars is for law enforcement overtime pay in opioid related investigations. Three collaborations highlight the immediate impact the overtime funds have made in our investigative and prosecution efforts. The Massachusetts State Police Gang Unit, the Worcester HIDTA Task Force and the Massachusetts State Police Transportation Drug Unit have identified, disrupted and dismantled high level drug trafficking organizations using overtime funded through the COPS grant. Each of the units have investigations that geographically impact multiple counties in Massachusetts.

The Massachusetts State Police Gang Unit has conducted eight investigations with close to thirty targets arrested. The unit has conducted thirty-eight controlled buys and has seized an estimated 347 grams of heroin and 42 grams of fentanyl. The unit applied for five search warrants and seized over \$25,000.

The Worcester HIDTA Task Force has three investigations supported with COPS grant funding. There have been seventeen arrests with twenty-three controlled buys. The task force has seized 894 grams of heroin and 39.5 grams of fentanyl. The group has applied for six GPS warrants, eighteen pen registers, six wire taps and twelve pings.

The Massachusetts State Police Transportation Drug Unit has made seventy-four arrests in over twenty investigations. The unit has seized over 22 kilograms of fentanyl and over 21 kilograms of heroin. The unit has seized sixteen firearms and approximately \$2,375.00 in cash. The unit applied for over sixty warrants and collaborated with federal partners on multiple wiretap investigations in Massachusetts and New Hampshire.

### **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 White Collar/Public Integrity Division, the Human Trafficking Unit and the Enterprise and Major Crimes Division. 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 as a summary witness 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 operations of the State Police assigned to the office.

## Significant Cases

In FY 2017 the Financial Investigations Division was part of the prosecution team for the following significant cases:

**Commonwealth v. Sonya Palic, Charlotte Napolitano et al:** Financial investigators forensically examined bank records, and hotel records in a sex trafficking investigation in connection with an on-line escort service and discovered \$200,000 in money laundering. Palic, Napolitano et al have been indicted and their cases are pending in Middlesex Superior Court.

**Commonwealth v. Pingxia Fan, Simon Shimao Lin, Timothy Hayes:** Financial investigators forensically examined bank records, reviewed apartment leases and other relevant financial records in connection with a human trafficking and money laundering at brothels in Boston, Cambridge, North Reading and Quincy. Fan, Lin and Hayes have been indicted and their cases are pending in Suffolk Superior Court.

**Commonwealth v. Gary Nardi:** Financial investigators analyzed bank records and tracked that Nardi stole more than \$10,000 through three different schemes from his employer, the Agawam Police Department, when Nardi was overseeing the Agawam Police Patrolman's Association. In the first scheme, he allegedly took cash from the union by withdrawing funds from the ATM without authorization. In a second scheme, Nardi allegedly paid his own bills using money from the union without authorization. In the third scheme, Nardi wrote checks to himself from the union's bank account without authorization. Nardi was indicted and plead guilty.

**Commonwealth v. Dale Murawski:** Financial investigators reviewed financial documents of former real estate agent Dale Murawski and determined Murawski stole more than \$166,000 from 19 individuals through a variety of larcenous schemes. Murawski was indicted and his case is pending in Suffolk Superior Court.

## Other Significant Achievements

The Financial Investigations Division has affiliations and memberships with the IAFCI (International Association of Financial Crimes Investigators), the Check Fraud Sub-Committee, NW3C (National White Collar Crime Center) and NESPIN (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, NESPIN and the USDOJ 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 in Boston and Worcester. The task force 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.

## 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. 12, § 11M(c).

### Significant Cases

During FY 2017, the Division responded to dozens of intakes from constituents, private businesses, police departments and other government entities.

The Division conducted dozens of investigations arising out of conduct at **Plainridge Park Casino**. The investigations and prosecutions at the Plainridge Park Casino included larceny, assault, firearms, money laundering, and narcotics offenses.

The Division investigated and indicted a Revere man, **John Lightbody**, on the charges of assault and battery on a Person over Sixty, Unlawful Operation of a Gaming Device, Keeping a Place for Registering Bets and Keeping a Gaming House or Apparatus Used for Gaming. The case resolved with a guilty plea.

The Division investigated and prosecuted **Ulysses Pena** for endeavoring to intimidate a judge by bombing her house. While Pena was in jail on a case pending before the judge, he wrote two letters to a friend detailing Pena's desire to have the judge harmed and instructing how to do so. The defendant pleaded guilty and was sentenced to state prison.

Additionally, during the FY 2017, the Division successfully investigated and indicted **Four Star Vending**, a North Andover company and six individuals involved with the company. This case resolved in FY 2018 with the owners of the company pleading guilty to using their business as a front for an illegal gambling and money laundering scheme. As a result of this plea, one of the owners will be serving six months in jail, the company will dissolve, and \$1 million in illegal gaming proceeds will be forfeited. This was the largest seizure in the history of our state's money laundering statute.

### Significant Achievements

Members of the Division attended meetings throughout the Commonwealth with law enforcement, industry stakeholders, local officials, and interested citizens relating to gambling. Members of the Division conducted internal and external trainings on criminal law and search and seizure.

Notably, members of the Division executed a major takedown resulting in the execution of 100 search warrants and subsequently closed a 30-year-old FBI investigation. The Division aided in the discovery of the remains of Donald Eugene Webb, a fugitive wanted by the FBI for allegedly killing a police chief in 1980. Webb's remains were found in his former wife's backyard in Dartmouth, MA.

Additionally, members of the Division offer assistance and expertise on case and policy matters throughout the office.

The Gaming Enforcement Division seized approximately \$3,000,000 in laundered proceeds in the FY 2017. The Division remained under its statutory expenditure cap pursuant to G.L. c. 12, s. 11M, for the fifth year in a row.

## Human Trafficking Division

The Human Trafficking Division (HTD) at the Office of the Attorney General uses a multidisciplinary team approach dedicated to prosecuting and preventing human trafficking (labor and sex trafficking) through law enforcement efforts, policy development, and community partnerships. Four AAsG, two Victim Witness Advocates, a Paralegal, and a team of dedicated Massachusetts State Police troopers investigate and prosecute cases of human trafficking throughout the Commonwealth. Team members also conduct outreach and training for law enforcement and other community members statewide. The Human Trafficking Division also works extensively with stakeholders on collaborative efforts towards prevention, service provision, and data collection.

In FY 2017 the Human Trafficking Division had 72 pending cases in criminal courts throughout the Commonwealth. This reflects an increase in prosecutions for FY 2017 because in the spring of 2017, HTD teamed up with law enforcement across the state and pursued sex-buyer investigation/prosecutions in four different counties of the Commonwealth. The result was the prosecution of 29 individuals.

### Significant Cases

In FY 2017, the Human Trafficking Division charged several people with human trafficking and related offenses. These arrests include:

**Commonwealth v. FenLing Liu, Jian Song, Ting Ting Yin & Commonwealth v. Shuzi Li.** These individuals were indicted on charges of Human Trafficking, Deriving Support from a Prostitute, Money Laundering, and Conspiracy. These indictments were a result of a joint investigation with our office and the Northwestern District Anti-Crime Task Force that ultimately dismantled five illicit massage businesses in three separate counties. Indicted January 2017.

**Commonwealth v. Hendricks Berdet & David Rivera.** Berdet was charged with multiple counts of Human Trafficking, Deriving Support from Prostitution, as well as Rape and Witness intimidation for his conduct over the course of a months long investigation. Berdet's scheme included supplying heroin to drug addicted victims in order to sell these victims for commercial sex. Rivera was charged with Conspiracy to Traffick with Berdet for his conduct in connection with Berdet.

**Commonwealth v. Sonia Palic and Charlotte Napolitano, et. al.** These defendants were charged with Human Trafficking, Deriving Support from Prostitution, Money Laundering and Conspiracy. These defendants organized and ran a website advertising "high-end escorts" which our investigation revealed to actually be a front for facilitating commercial sexual activity. Initial arrests were conducted in February 2017.

**Commonwealth v. Pingxia Fan, Simon Lin, Timothy Hayes, & Robert Mozer.** These defendants were also charged and indicted on multiple counts of Human Trafficking, Deriving Support from Prostitution, Money Laundering and Conspiracy. This investigation was pursued jointly with the FBI and resulted in the dismantling of five brothels in four different communities of the Commonwealth.

### Achievements

In addition to bringing high-impact, multi-jurisdictional cases of human trafficking, the HTD works to educate and train our partners by conducting trainings for law enforcement. The Division also focuses on spreading awareness about sex trafficking and labor trafficking across the state.

## White Collar & Public Integrity Division

### Insurance and Unemployment Fraud Unit

The Insurance and Unemployment Fraud Unit 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 Unit 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.

The Unit recovered \$247,440.95 of which \$88,767.80 represents restitution ordered in Insurance Fraud Bureau matters. The remaining \$158,673.15 represents restitution ordered in Division of Unemployment Assistance matters. The Division handled a total of 55 cases (33 DUA cases and 22 IFB cases).

### Significant Cases

**Commonwealth v. Forlizzi and Battista:** After going to trial, and being found not guilty of insurance fraud charges, it was discovered that these defendants had paid thousands of dollars to one witness, and paid to keep another witness out of state during the trial. Battista and Forlizzi both pled guilty to charges of corrupting a witness, suborning perjury, obstruction of justice, and conspiracy. Forlizzi received a state prison sentence of 3-4 years and Battista received a state prison sentence of 2-3 years.

**Commonwealth v. Bob Foss Contracting and owner Bob Foss:** Foss ran a roofing company out of Burlington called Bob Foss Contracting. He misclassified his workers as general contractors when in fact they were roofers. Between 2009 and 2012, he evaded at least \$70,000 in insurance premiums. Judge Rosaline Miller sentenced Foss and ordered him repay the \$70,000.

**Commonwealth v. Atlantic Restoration Corporation ("ARC") and its President, Theodore Fernald, as well as its Vice President and Treasurer, Alex Rielly.** ARC and its officers failed to pay unemployment taxes from 2009 to 2014. According to payroll filings with the DUA, ARC, Fernald, and Rielly owe approximately \$89,766.15 in unpaid contributions. Judge Jeffrey Locke sentenced ARC, Fernald, and Rielly and ordered they repay \$89,766.15 in restitution to the DUA.

## 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 Victim Witness & Assistance Division provides comprehensive services to victims and witnesses involved in Attorney General Office cases. Victim Witness Advocates (VWA) handled over 155 cases throughout the year serving victims and witnesses involved with criminal, civil and post-conviction matters. In addition, staff members have been active in numerous committees, outreach and over 50 trainings/conferences including Crimes Against Women's Conference, Cyber Crime conference, DV round-table events, Garden of Peace, AGO Game Change Summit, Victim Rights Conference and Recruitment and Hiring Committees.

## Significant Cases

**Commonwealth v. Murawski:** A former Boston-based real estate agent was charged in connection with stealing more than \$166,000 from 19 individuals. The Attorney General's Office began an investigation in 2016 following a complaint received by the Office. Authorities allege that Murawski employed a variety of schemes that generally involved telling a co-worker or acquaintance that he needed money in connection with his divorce or for a real estate purchase. Murawski allegedly told these individuals that he did not have ready access to his own funds because he was transferring money between accounts or selling stock. He also said that he was seeking a short loan that he would pay back with 20 percent interest in a matter of days. It is further alleged that throughout all these schemes, Murawski did not use the money received for its stated purpose, but instead used it to gamble or cover other personal expenses. Murawski allegedly paid some victims back early on using gambling winnings or money from other victims, but authorities found that he ultimately failed to repay more than \$143,000.

This case took dedicated effort and time over the course of 2016-17 with the completion of Grand Jury, Indictments, keeping a high number of victims apprised of the case status post indictment through pre-arrest (while the defendant was held in NJ), and considerable follow-up from arraignment to present day, which included the most recent event that allowed Motion for New Counsel.

**Weaver v. Massachusetts (Supreme Court of the United States Docket No. 16-240):** In a Petition for a Writ of Certiorari, the petitioner challenged his 2006 Suffolk County convictions for first-degree murder and unlawful possession of a firearm. The petitioner also questioned whether the ineffective assistance of trial counsel that resulted in a structural error required him to show that he was prejudiced or whether prejudice is presumed.

This was a significant case that the Supreme Court of the United States (SCOTUS) weighed in on. The Victim Witness Assistance Division (VWAD) provided explanation of the federal constitutional issues, and worked the Suffolk County District Attorney's Victim Witness Advocate to determine the best approach for linkage with the family, attend multiple moots, read federal briefs and, ultimately, attend the oral argument in DC. A pastor in the community who preaches and provides outreach and support to families of homicide victims. VWAD spent time speaking with the pastor's church administrator about the federal issues, the status of the case and provided an update from DC and back in Boston following the argument.

## Victim Compensation & Assistance Division

Through the Victim Compensation & Assistance Division (VCAD), the AGO 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 a 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.

## Achievements

There are several statistics that highlight the impact of the division in responding to the needs of victims of violent crime. In the state FY 2017, VCAD received 1,801 new standard applications and direct billing requests. These new claims represent the numbers of individuals who are impacted by violent crimes in the Commonwealth.

In FY 2017, the Division responded to and made 1,594 claims eligible. By the end of the fiscal year, the Division paid out \$3,910,787.77 in crime-related expenses using federal and state monies. During this state fiscal year, almost 88% of all claims that the Division paid out were related to crimes of assault, homicide, and sexual assault. The top three expense categories paid out by the Division in FY 2017 were medical/dental, economic support and funeral/burial expenses. The Division paid out a total of \$802,090.37 in medical/dental expenses, \$704,026.29 in funeral related expenses, and \$1,351,307.90 in economic support.

During this fiscal year, the Division continued to work with the MA Executive Office of Public Safety & Security, MA Department of Public Health/Sexual Assault Nurse Examiner Program, and the MA Hospital Association in a pilot project to ensure that survivors of sexual assault were not billed for the expenses associated with the administration of a Forensic Sexual Assault Exam Kit for incidents that occurred in the Commonwealth. A total of 769 claims were made for expenses associated with the administration of these kits. There was also an increase in the amount of expenses paid to hospitals and physician organizations during this state fiscal year totaling \$396,751.26, a substantial increase from the previous state fiscal year. The Division will continue to conduct trainings and outreach to hospitals and medical clinics to ensure proper billing of expenses associated with the administration of these kits.

Finally, the Division has continued to conduct various outreach trainings around the Commonwealth in order to increase knowledge about the new categories to District Attorney Offices, Child Advocacy Centers, medical providers, mental health providers, and funeral homes. In addition, the Division participated in the annual Massachusetts Victim Assistance Academy for the eighth consecutive year and continues to train with the Sexual Assault Prevention Office at Hanscom Air Force Base. As a result, VCAD continues to ensure that victims of violent crime receive the financial assistance they need to assist in their recovery after a traumatic incident.

### Massachusetts New England Compounding Center (NECC) Program

In September 2016, the Office of the Attorney General established the Mass. NECC Program to provide compensation for eligible victims of the 2012 nationwide fungal meningitis outbreak caused by contaminated steroids manufactured and distributed by the New England Compounding Center (NECC). Hundreds of people were made ill and more than 70 have died. Although there were no individual victims in Massachusetts, the Attorney General's Office took on this task for three reasons. First, the company was based in Framingham. Second because the federal prosecution and multi-district litigation are in federal court in the District of Massachusetts. Lastly, because of our commitment to assist crime victims. A single point of administration for this program ensures that NECC victims from across the country are treated equitably.

The Attorney General's Office created the Mass. NECC Program with three principles in mind: (1) to provide maximum possible benefit to eligible NECC victims and survivors; (2) to simplify the claims process; and (3) to maintain compliance with all federal and state laws, regulations, and rules.

At the end of FY 2017, the Mass NECC Program had received approximately 400 applications, with a potential victim pool of approximately 800 victims from twenty states across the country. The Mass NECC Program is funded through September 30, 2019 with a \$40M grant from the Office for Victims of Crime of the U.S. Department of Justice.



## **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**

**National Grid Electric Rate Case:** The Division advocated against National Grid's proposed increase of its electricity distribution rates. As a result of the Division's advocacy, the Department of Public Utilities directed National Grid to reduce its proposed annual revenue requirement by \$32.2 million, which could save ratepayers as much as \$161 million over the next five years. The Division was also successful in defeating National Grid's proposal to create a "tiered customer charge" that would have resulted in inequitable rate impacts and would have discouraged distributed generation.

**Reliability and Transmission Initiative:** The Division continued to deliver benefits to ratepayers as a result of its initiative to insist on full transparency on formula rate recovery of RNS and LNS rates. In the summer Reliability and Transmission Committee meetings, Central Maine Power announced that it had been collecting HydroQuebec DC costs in the RNS tariff for 17 years, even though the tariff specifically forbade cost collection. As a result, regional ratepayers will receive \$46.7 million in refunds, which includes approximately \$21 million for Massachusetts ratepayers.

### **Other Significant Achievements**

#### **Settlement Agreement with National Grid Regarding Rate Classification**

National Grid and the Attorney General entered into a settlement agreement concerning the incorrect classification of customers on the company's non-heating rate when they should have been charged the heating rate. The Settlement Agreement provides for rate credits of \$1.5 million to over 4,500 residential gas customers. The Settlement Agreement also requires the company to make certain process improvements to reduce the possibility that customers will be charged the wrong rate in the future.

## Important Statistics and Numbers

In FY 2017, the Division represented ratepayers and energy customers in 411 dockets pending before state and federal courts and regulatory bodies. The Division also participates in New England ISO stakeholder technical and governance issues and has a seat on the Massachusetts Energy Efficiency Council matters.

Cases that were finalized in FY 2017 yielded approximately \$227 million in savings to ratepayers and customers.

## **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 interagency team that includes prosecutors from the Attorney General's Office, officers from the Massachusetts Environmental Police, and investigators, engineers and attorneys from the Massachusetts Department of Environmental Protection (DEP). Strike 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 for criminal prosecution. The Strike Force gathers evidence during undercover investigations, carefully builds cases against environmental violators, then takes them to court.

Over the last fiscal year, the Strike Force has prosecuted cases involving the improper disposal of hazardous waste, animal cruelty, and forging documents related to auto emissions and lead paint, including the following matters.

In July 2016, the Strike Force secured a guilty verdict against a Brockton man who was forging motor vehicle inspection stickers to "pass" vehicles that failed the state's mandatory emissions testing. The defendant was required to pay a fine, surrender his motor vehicle inspector's license, and not conduct any motor vehicle inspections for the 3-year term of his probation.

In March 2017, the Strike Force indicted a Westport farm owner and 26 tenants on multiple charges of animal cruelty, the largest investigation of its kind in New England.

Also in March 2017, the Strike Force indicted the owner of a Lawrence auto shop for illegally dumping more than two thousand gallons of hazardous waste oil into the City of Lawrence sewer system which ultimately discharges into the Merrimack River, as part of ongoing efforts to stop illegal dumping and protect water quality.

In June 2017, the Strike Force indicted a Lawrence landlord in connection with forging and submitting documents including de-leading and occupancy certificates, attempting to secure rental benefits from low-income tenants without proper certifications that the apartments were lead-free and safe for occupants with children.

## **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.

In light of the policy priorities of the new federal administration, EPD is also a key player, working with other state Attorneys General, in challenging illegal or harmful changes to federal environmental regulations and policies.

### Significant Cases

**Exxon Investigation and Related Defensive Litigation:** Leading a cross-office team, EPD continued its defense of the Office’s consumer and investor fraud investigation against Exxon Mobil Corporation regarding the company’s statements regarding climate change, in light of recently disclosed internal documents suggesting Exxon knew about the catastrophic effects of its fossil fuel products in contributing to climate change in the 1970s and 1980s. This investigation parallels a similar investigation initiated by New York under the Martin Act in November 2015. With support from Insurance and Financial Services Division, EPD served a civil investigative demand (CID) on Exxon in April 2016. In June 2016, Exxon filed litigation challenging the CID on constitutional and other grounds in both Superior Court and in federal district court in the Northern District of Texas. In January 2017, the Superior Court rejected Exxon’s challenges to the CID and ordered compliance. Exxon’s appeal of that ruling is now pending before the Supreme Judicial Court, which held argument in the case on December 5, 2017. In federal court, following intensive motion practice in Texas (which required our interlocutory appeal of the judge’s discovery orders to the Fifth Circuit), Exxon’s lawsuit was transferred to the Southern District of New York, where motions to dismiss are now pending. EPD also has supported a cross-office team in responding to an inquiry into our investigation by the House Science, Space, and Technology Committee. While these litigation matters have been pending, Exxon has faced new lawsuits alleging related misconduct, initiated by California municipalities and a prospective security class action. Furthermore, the SEC has confirmed its own investigation, New York’s investigation has continued, and Exxon has acceded to parallel shareholder pressure to disclose additional climate-related information.

**Commonwealth v. Volkswagen AG, et al.:** In this case, federal and state authorities are holding Volkswagen and related entities accountable for implementing engineering cheats designed to conceal the illegally high nitrogen oxide emissions of its passenger diesel vehicles and deliberately deceiving consumers and regulators about those emissions. In June 2016, following a nine-month investigation, 40 states including Massachusetts settled most state consumer protection penalty claims against Volkswagen for a combined \$570 million (with \$22 million for Massachusetts, received in FY 2017), and Massachusetts also helped craft the terms of a federal environmental settlement, which won federal court approval. The federal environmental settlement is funding a \$2.95 billion trust for pollution mitigation projects, which will be available to states over the next decade (including \$75 million for Massachusetts). The AGO is working with the Massachusetts Department of Environmental Protection to deploy these funds for electric vehicle infrastructure, electric trucks and buses, and other electrification projects in the Commonwealth pursuant to a process prescribed by the trust. In June 2017, Massachusetts,

simultaneously with several other states, resolved parallel state court litigation to enforce state clean air laws, and the Volkswagen defendants paid a record-setting \$20 million in state civil penalties and committed to make zero-emission vehicles available in Massachusetts and other settling states. Massachusetts was one of six leadership team states in this matter.

**Federal Regulatory Rollback Litigation and Advocacy:** Continuing our office's legacy of advocating for protective federal regulations that implement the nation's environmental laws and benefit the Commonwealth's residents, EPD is now in the middle of the national fight against unlawful rollbacks of environmental and climate protections under the Trump administration. With the involvement of numerous AAsG, the Office has joined other state AGs in dozens of various lawsuits where we have sought to stop illegal delays and repeals of federal environmental rules, like the Clean Power Plan, limits on carbon pollutions from heavy trucks and methane pollution from the oil and gas sector, ozone regulation, rules that seek to prevent chemical disasters, and energy efficiency standards. In the methane and ozone cases, our coalition has obtained court orders against, or prompt reversals of, unlawful delays. EPD has also contributed to comments that oppose Administration proposals to open the Atlantic to oil and gas exploration, to weaken vehicle emission standards and clean water protections, and to hike fees at national parks, among others.

**Smith v. Westfield:** EPD obtained a significant opinion from the Supreme Judicial Court providing protection for hundreds of thousands of acres of conservation and park lands in Massachusetts. Those protected lands provide important public health and environmental benefits to the Commonwealth and its citizens, including mitigating the harmful effects of climate change. We supported a request for further appellate review of an adverse decision by the Appeals Court, filed a brief, and presented oral argument as amicus curiae in the Supreme Judicial Court. At issue in the case was the applicability of Article 97 of the Amendments to the Massachusetts Constitution, which, among other things, prohibits the disposition or change in use of lands taken or acquired to protect the people's right to the conservation and enjoyment of natural resources. In its decision, the Court rejected the narrow deed-recording rule employed by the Appeals Court and adopted our broader proposed test for determining when land is subject to Article 97's important constitutional protections.

**Commonwealth v. Bayer CropScience; Commonwealth v. Mosquito Shield (Pesticides and Deceptive Marketing):** EPD secured a victory for the people (and the pollinators) of Massachusetts in landmark cases against pesticide producers who provided pesticide sprays to consumers without disclosing the potential environmental and health risks. The pesticides sold and marketed by Bayer and deployed by Mosquito Shield without appropriate warnings contain neonicotinoids, which threaten bees and other pollinators, and subsequently affects the success of agricultural operations across the Commonwealth. Given the danger of these products, this settlement carries weight in not only protecting pollinators and the people of Massachusetts, but also in ensuring that Massachusetts consumers are informed of the risks associated with certain products in order to make an educated decision about their use.

**Commonwealth v. EQ Northeast:** EPD entered into a Consent Judgment with EQ Northeast, a hazardous waste transport company, for the payment of \$150,000 in civil penalties for multiple violations of the Massachusetts Hazardous Waste Management Act, G.L. c. 21C, and its regulations, and the Consumer Protection Act, G.L. c. 93A, §§ 1-1. On more than ten occasions, rather than transporting separate shipments of hazardous waste directly to designated facilities for disposal, as required by G.L. c. 21C, EQ illegally transported and stored the hazardous waste in a tractor trailer truck in a parking lot. The waste consisted of highly corrosive acids, aerosols, flammables, and other acutely hazardous waste and posed a risk of fire, explosion, or violent reaction. Additionally, EQ failed to disclose to the hazardous waste generators that the waste would not be transported or stored in accordance with the law in violation of Chapter 93A consumer protections.

**Commonwealth v. Rowe et al., and Commonwealth v. Oliveira (Asbestos Cases):** EPD settled an enforcement case (Commonwealth v. Rowe) against 7 defendants who completed illegal asbestos work on a Framingham sewer pipe project and improperly disposed of a pile of asbestos contaminated material behind a home in Milford. The consent judgments include a total of \$385,000 in imposed and suspended civil penalties, as well as various terms of injunctive relief. In addition to the Rowe case, we settled an asbestos case against the owner of multi-family homes in New Bedford at which we alleged violations of the Massachusetts Clean Air Act, G.L. c. 111, §§ 142A-142O, and its regulations, for the destruction of and illegal removal, handling, and storage of asbestos containing shingles during the renovation of these properties. The Consent Judgment requires the property owner to pay a \$100,000 civil penalty and complete an audit of his properties. If he property owner timely complies with the audit requirements, \$35,000 of the penalty will be waived.

### Other Significant Achievements

**Asbestos Initiative:** This year we continued our Healthy Buildings, Healthy Air Initiative, a comprehensive approach to addressing the public health impacts of asbestos exposure in the Commonwealth. The focus of the Initiative this year has been on asbestos in schools, stakeholder and agency outreach and relationship building, regulation review, and our enforcement work on Clean Air Act violations. Our statewide outreach program included a letter to all Massachusetts schools, which requested information about asbestos management plans in every school. With this data (for which preliminary responses have been offered by ~65% of schools and school districts), we will be able to further understand asbestos management in schools and most appropriate way we can help schools comply to ensure the safety of teachers, students, and school staff. The letter was a joint effort with the Department of Labor Standards (DLS) and other stakeholder groups, with further assistance from the MA Teacher's Association in the data collection phase. Other components included working closely with both DLS and the Department of Environmental Protection on statutory and regulatory amendments to the laws that govern asbestos work and disposal in the Commonwealth (including a proposed amendment to asbestos criminal legislation), as well as working closely with DLS on their enforcement system for licensing of asbestos professionals to ensure the safety of workers in Massachusetts.

**Brownfields Covenant Not to Sue Program:** Led by Deputy Chief Betsy Harper, EPD entered into two Brownfields Covenant Not to Sue Agreements requiring remediation and development of blighted properties in the Commonwealth. The projects are located in West Stockbridge and Jamaica Plain, respectively. In the first Agreement, we provided a covenant to a developer in Stockbridge who has since transformed a former truck stop into a "solar field" that will produce enough clean energy to power approximately 500-700 residential homes and will provide valuable tax revenue to the Town of West Stockbridge. We also provided a covenant for the redevelopment of a 3.36-acre former automotive and industrial facility in Jamaica Plain into a mixed-use property with a retail/housing development, a self-storage/retail building with an associated community room, and a four-story residential apartment/condominium building with parking. We are confident FY 18 will yield Brownfield covenants at properties in South Boston and the Town of Holden and other towns across the Commonwealth. Additionally, we toured ongoing Brownfields redevelopment projects in the City of Gardner with members of the Brownfields Advisory Group.

**Gas Pipeline Advocacy and Litigation:** EPD defended the Commonwealth and state agencies in several court actions related to Kinder Morgan’s Tennessee Gas Pipeline Connecticut Expansion project through Otis State Forest—conservation land protected by Article 97 of the Massachusetts Constitution. Despite skilled arguments by AAG Matt Ireland, the Berkshire Superior Court ruled that Article 97’s substantive and procedural protections were preempted by the federal Natural Gas Act. Following that decision, we reached a settlement with Tennessee Gas for the value of the pipeline easements through Otis State Forest, resolving Tennessee’s eminent domain action in Berkshire Superior Court. The \$640,000 settlement included \$300,000 for acquisition of replacement conservation land, \$300,000 for mitigation and improvements to Otis State Forest, and \$40,000 for the fair market value of the easements.

In federal court actions related to our pipeline work, Tennessee attempted to block a stakeholder group’s administrative appeal of MassDEP’s initial decision approving a water quality certification application for the pipeline (required under the federal Clean Water Act), claiming that DEP’s initial review was subject to judicial review under the Natural Gas Act in federal court. The First Circuit agreed with our argument that MassDEP’s final decision upon completion of the administrative appeal was subject to federal court challenge, but not the initial determination. The First Circuit decision, which received national attention, bolstered the important role states play as the first line of defense protecting valuable water resources in federal review of gas pipeline projects—striking a balance between local permitting and the NGA’s intent to expedite judicial review.

## 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 AGO's Abandoned Housing Initiative (AHI) uses the enforcement authority of the State Sanitary Code to address code violations and restore value in affected communities. Working in close partnership with cities and towns, the AGO seeks out delinquent owners of abandoned residential property and encourages them to voluntarily repair their properties and make them secure. If owners refuse, AGO attorneys petition the relevant court to appoint a receiver to bring the property up to code.

#### Significant Cases

**Montague - 132 L Street** - The receiver used AHI Receivership Fund money to finance their rehabilitation work, and the property is now fully occupied. This property is the second multi-unit receivership completed by AHI on L Street. The result was a full receivership completed on an 8-unit building which was abandoned for several years.

**Holyoke - 140 Beech Street** - A single-family home restored through receivership utilizing Community Development Block Grant funding from the City of Holyoke. The property now carries affordable housing deed restrictions and is owner-occupied.

**Worcester - 175 Lincoln Street** - A single-family Victorian home missing substantial portions of its electrical, plumbing, and heating systems. Relying, in part, on a loan from the AHI Receivership Fund, the receiver performed a full rehabilitation of the house and replaced a collapsed retaining wall. The AGO and the City of Worcester held a press event at the property after repairs were completed.

**Medford - 122 Norwich Circle** - A single-family home doubling as an ammunition manufacturing facility. The receiver secured the property and coordinated with local police for the removal of a large cache of guns and ammunition left by the deceased owner. The receiver's lien was paid and the estate is marketing the property for sale.

#### Other Significant Achievements

AHI launched its \$500,000 Strategic Demolition Fund in cooperation with its AHI Receivership Fund grantees. Awards were made by grantees to subsidize the demolition of severely blighted residential properties and the smart redevelopment of the resulting post-demolition lots. Project award recipients demonstrated an immediate community need for demolition, an absence of any other viable blight remediation measures, and plans for post-demolition site redevelopment. Notable redevelopment projects included affordable housing units, municipal recreation areas, and safety improvements for emergency vehicle access at a nonprofit hospital operating in a medically underserved area. Awards made in FY 2017 will significantly contribute to the expected 17 demolitions and redevelopments slated to take place over the grant period.

## Important Statistics and Numbers:

During the FY 2017, AHI was active in 118 municipalities, opened 291 new cases, and filed 66 receivership petitions in court. Through pre-litigation enforcement efforts and receivership actions filed in 13 Housing and District Courts, AHI achieved successful outcomes for 134 properties across the Commonwealth. By the end of FY 2017, AHI has an active caseload of roughly 400 properties with 100 of those cases in active litigation.

## **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.

As of June 30, 2017, the Division had 918 open cases and litigation matters. During FY 2017, the Division opened 678 new cases and litigation matters, and closed 734 cases and litigation matters.

## Significant Cases

### Saving state funds and protecting state revenue

**Service Employees International Union, Local 509, et al. v. Bump, Auditor of the Commonwealth, et al.**, SJC. The Court affirmed the decision of the Auditor not to object to a privatization plan put forth by the Department of Mental Health for the delivery of emergency mental health services in Southeastern Massachusetts. This decision was done to bring that region into harmony with the rest of the state, where these services have historically been delivered by private contractors. The Auditor estimated that the privatization would save the Commonwealth \$7,007,864 in its first year of operation.

**Commissioner of Administration & Finance v. Commonwealth Employment Relations Board**, SJC. The Court held that the Secretary of Administration and Finance (Jay Gonzalez) did not commit an unfair labor practice by providing pertinent information to the Legislature concerning the fiscal implications of funding a collective bargaining agreement in the depths of the Great Recession. The communication was in conjunction with the A&F appropriation request to the Legislature to fund the agreement.

**Massachusetts Automatic Merchandising Council, Inc. v. Department of Public Health and A&F**, Appeals Court. In a Rule 1:28 decision, the court upheld a licensing fee imposed by DPH on vending machine operators as a valid regulatory fee, not an unlawful tax.

### Supporting municipal revenue

**Verizon New England, Inc. v. Board of Assessors of Boston**, SJC. Article 4 to the Massachusetts Constitution requires that all taxes be “reasonable and proportional.” Before 1969, that was understood to mean that all property must be taxed at the same rate. Amendment Article 112, ratified in 1969, allowed municipalities to create four distinct classes of real property (residential, commercial, industrial and open-space), and to tax them at different rates. Here, telephone companies argued that G.L. c. 40, § 56, the statute that implements Article 112, violates Article 4, because the statute permits a higher tax rate for their property within a municipality, a subject not addressed by Article 112. The Court rejected the argument and affirmed the constitutionality of Section 56 closely following analysis provided by the Attorney General and the Commissioner of Revenue in their joint amicus brief.



### Earned sick time

**Construction Industries of Massachusetts v. Healey.** The First Circuit dismissed upheld the dismissal of a suit by members of the construction industry asserting that the Labor Management Relations Act preempts enforcement of the Massachusetts Earned Sick Time Law as regards unionized employees. The Court ruled that the industry could not bring a broad-brush anticipatory action to preclude enforcement in advance of any enforcement of the law by the state.

### Gun violence prevention

**Morin v. Northborough Police Chief.** The First Circuit affirmed the dismissal of this case challenging the Northborough Police Chief’s denial of plaintiff’s application for a license to carry firearms (LTC). The chief denied the license, as required by state law, because Morin had been convicted of two weapons-related misdemeanors in the District of Columbia. Morin had challenged the denial under the Second Amendment. The AGO intervened in the case to defend the LTC statute and took the lead on the appeal.

### Gender identity

**Horizon Christian Fellowship v. Mass. Commission Against Discrimination and Attorney General.** Plaintiffs in this case, four churches and their pastors, sought to prevent enforcement of the Massachusetts public accommodations law, after it was amended to include “gender identity” as a protected class. The plaintiffs, who oppose the law on religious grounds, claimed the law would chill their protected speech on this topic and violate their religious freedom. After the AGO filed a brief opposing the request for an injunction, the plaintiffs agreed to dismiss the case.

### Campaign finance

**1A Auto, Inc. v. Sullivan, Director, Office of Campaign and Political Finance.** The court (Wilson, J.) entered summary judgment for the Commonwealth in this action to invalidate the state law that prohibits political contributions by business corporations to candidates, parties, and political committees. The plaintiffs, two Massachusetts corporations, alleged that the ban violates their rights of freedom of speech and association. They also claim the law violates equal protection because it does not ban political contributions by labor unions, other unincorporated groups, and non-profit corporations.

## **Municipal Law Unit**

The Municipal Law Unit performs the Attorney General’s statutory duty to determine whether all town bylaws, and all city and town charters, are consistent with the laws and Constitution of the Commonwealth. The Unit also assist town counsel and city solicitors, upon request, regarding municipal law issues related to bylaws and charters.

During the latter half of Fiscal Year 2017 the Municipal Law Unit spent a substantial amount of time assisting municipalities with the local implementation of Chapter 351 of the Acts of 2016, “The Regulation and Taxation of Marijuana Act.” From January through June 2017 the Unit issued 25 decisions on bylaws related to the Act and the amendments thereto, and participated in 11 seminars for over 1,000 municipal officials and members of local public health organizations to explain the requirements of the Act and the local control of commercial marijuana.

Also during Fiscal Year 2017 the Unit conducted 14 trainings for municipal officials on the town meeting process and the statutory requirement for Attorney General review and approval of town bylaws and city and town charters. These trainings were attended by hundreds of town clerks, local building inspectors, town counsel, town executive officers, town planning and zoning board members, and town moderators from communities across the state.

During Fiscal Year 2017 the Municipal Law Unit issued a total of 441 decisions reflecting the Unit's review of over 1300 bylaws and charter provisions.

## **Division of Open Government**

The Division has two primary responsibilities: state-wide enforcement of the Open Meeting Law and the Public Records Law. 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. To help public bodies understand and comply with the law, the Attorney General has created the Division of Open Government. The Division of Open Government provides training, responds to inquiries, investigates complaints and, when necessary, makes findings and orders remedial action to address violations of the law. Under the Public Records Law, any person may appeal a public official's denial of a request for a record to the Supervisor of Records within the Office of the Secretary of the Commonwealth. The Supervisor may refer an order to comply with the Public Records Law to the Attorney General for enforcement. The Division reviews these referrals and works with record custodians to ensure compliance with the Public Records Law.

### Significant Cases

**Fall River City Council (OML 2017-45):** The Division concluded that the City Council intentionally violated the Open Meeting Law by failing to respond to an Open Meeting Law complaint within 14 business days as required by law. The Division recommended immediate and future compliance with the Open Meeting Law and a civil penalty of \$1,000 for a repeated violation. The Division referred the matter to a hearing before an administrative law judge who, based on the written record, issued a decision affirming the finding and order. The City Council has since appealed that decision to Bristol Superior Court.

**Rochester Zoning Board of Appeals (OML 2017-44):** The Division determined that the Board violated the Open Meeting Law when, during a site inspection, a quorum of the Board asked questions of the property owner. Because this was an issue of first impression, the Division offered the Board and other public bodies guidance on the site inspection exception to the definition of "meeting." In order to conduct an on-site inspection in compliance with the law, a public body has three options: (1) post notice of the inspection as a "meeting," provided only if the property is accessible to everyone, including members of the public; (2) visit the property as individuals or in groups that constitute less than a quorum so as to avoid deliberation among a quorum; or (3) visit the property as a quorum, but refrain from asking any questions of the property owner or otherwise discussing any matters within the public body's jurisdiction until the public body convenes in a properly noticed meeting.

**Auto Damage Appraiser Licensing Board (OML 2017-72):** The Division determined that the Board violated the Open Meeting Law by holding discussions under the Open Meeting Law’s quasi-judicial exception. The Board could not invoke the quasi-judicial exception because the adjudicatory process had not yet begun as the Board had not issued an Order to Show Cause but simply discussed a proposed draft Order. Adjudicatory proceedings begin with the Board’s issuance of an Order to Show Cause why a licensee should not be disciplined; the quasi-judicial exception would apply only to deliberations toward a decision to be rendered by the Board after it conducts an adjudicatory proceeding and receives all evidence. At that point, the Board, which is acting quasi-judicially in the conduct of an adjudicatory proceeding, would be free to discuss and deliberate upon the matter privately.

**MBTA Fiscal & Management Control Board (OML 2017-87):** The Division determined that the Board did not violate the Open Meeting Law by entering executive session under Purpose 3. After reviewing all that transpired prior to the executive session, including a lawsuit from a rival bidder, it was reasonable for Board Legal Counsel to anticipate litigation in response to the Board awarding a second contract for additional rail cars rather than go through a competitive procurement process, and to advise the Board in executive session of the potential litigation consequences of this decision.

**Nahant Open Space & Recreation Master Plan Committee (OML 2017-120):** The Division determined that the Committee was a public body subject to the Open Meeting Law and that it violated the Open Meeting Law by failing to comply with the law’s notice and minutes requirements. “The Committee is within government because it was created by the Town Administrator. It serves a public purpose: assessing active and passive recreation space, and beautification of the community. Also, it is a body empowered to act collectively because the purpose of the Committee was to compile and analyze information and work collaboratively to provide a master plan to the Board of Selectmen.” The Committee did not fall within the Connelly exception because the Town Administrator Act only confers the Town Administrator the responsibility over property with approval of the Board of Selectmen. The Act does not provide the Town Administrator with any clear authority to act independently as did the statute at issue in Connelly.

### Significant Achievements

The Division promulgated revised regulations through an eight month open process that included two comment periods and significant public input. The Division also issued new written guidance in the form of updated educational materials, checklists, and answers to frequently asked questions. The Division also handled numerous referrals from the Supervisor of Records for enforcement of the Public Records Law.

### Important Statistics and Numbers

The Division received 323 new Open Meeting Law complaints and resolved a total of 249 complaints. The Division issued 200 determination letters and 24 declination letters. Some determination letters resolved multiple complaints. The Division trained more than 1,100 people on the law’s requirements, conducted a series of 12 regional trainings on the OML across the state, and hosted 11 webinars, in addition to numerous trainings at conferences and events. Finally, the Division received and responded to more than 1,800 inquiries by telephone, e-mail, and letter.

## 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. The cases range from those with simple fact patterns to multi-million dollar cases with complex fact patterns and legal issues.

### Significant Cases

**Tobacco Diligent Enforcement (2004):** Nationwide arbitration to establish whether Massachusetts (and other states) diligently enforced their escrow statutes against non-settling tobacco companies in 2004. In early June 2017, the tobacco manufacturers elected to drop their claim against Massachusetts, resulting in a savings to the Commonwealth of \$260,000,000.

**Hinton and Amherst Drug Lab Cases.:** A series of cases alleged a variety of claims against the Commonwealth, including alleged tort claims, erroneous conviction claims and civil rights violations. These rose out of the criminal conduct of Annie Dookhan, who was a lab technician for the Hinton Lab and falsified lab results during the course of her employment, and Sonja Farak, a lab technician for the Amherst Lab who consumed portions of drug samples and standards. Of particular note is *Penate v. Kaczmarek, et al.*, in which one current and two former AAsG are named as individual defendants whose alleged prosecutorial misconduct compounded the damages caused by Farak's misconduct.

**Paszko, et al. v. DOC, et al.:** This is a case purported class action by DOC inmates with Hepatitis C, claim that DOC systemically fails to adhere to the current standard of care in treating Hepatitis C in inmates. Plaintiffs seek declaratory and injunctive relief under 42 U.S.C. 1983 for violation of the 8<sup>th</sup> Amendment as a result of deliberate indifference to the plaintiffs' medical needs. The case is currently in discovery.

**Briggs, et al. v. DOC, et al.:** This is a case purported class action by deaf and hard of hearing inmates in DOC custody, we allege that DOC fails to accommodate their disability and ensure equal access to DOC programs. The case is currently in discovery.

**Minich, et al. v. DOC, et al.:** This is a case purported class action by guardians of severely mentally ill individuals who were confined at Bridgewater State Hospital. Plaintiffs allege prolonged and deliberate misuse of solitary confinement and mechanical restraints on severely mentally ill individuals, who were not convicted of any crimes but who were incarcerated at the Bridgewater State Hospital, a prison administered by DOC. Claims include Eighth Amendment deliberate indifference and violation of the state seclusion and restraint statute. The case is currently in discovery.

**Judge Rotenberg Center v. DDS.:** In 1987, JRC and DDS entered into a Consent Decree allowing JRC to use Level III aversive treatments subject to court approval. In 2011, however, the DDS issued regulations banning Level III aversives but JRC claimed that the 1987 Consent Decree exempted it from these regulations. DDS moved to vacate the Consent Decree on the ground that Level III aversives are no longer within the relevant standard of care. The Court denied this motion and ordered an evidentiary hearing. The parties completed a 43-day hearing in June 2016 and are awaiting a ruling.

## Significant Achievements

The Division maintained a litigation docket of more than 750 open cases on behalf of Commonwealth agencies and employees.

The Division instituted a system for greater substantive oversight of the work performed by Special Assistant Attorneys General (SAAGs) on behalf of the Commonwealth, including quarterly meetings, review of pleadings, and review of billing. The Division, with the GCO, also promulgated revised SAAG Guidelines.

## **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 combatting 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. The Division also promotes and protects competition in various industries directly affecting consumers, such as health care, pharmaceuticals, retail and communications. Furthermore, the Division obtains relief for consumers in the form of refunds for overcharges, civil penalties, and injunctions against offending businesses. Finally, the Division 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.

ATD advocates for effective competition policy on behalf of the Commonwealth in important antitrust cases. For example, we joined a brief advocating a pro-competition position in the Federal Appeals Court in a case involving a challenge to the merger of hospitals in another state. In addition, ATD consults or provides antitrust expertise on legislative issues to Massachusetts state governmental entities on policy matters. ATD also provides regular training for state and municipal purchasers in order to help government officials and employees detect and report potential illegal collusion in bidding for state contracts.

### **Significant Cases**

ATD worked with other antitrust enforcement authorities to successfully obtain over \$5 million in restitution for Massachusetts consumers and state purchasers following a settlement with the manufacturer of the branded drug Provigil (used to treat certain sleep disorders). Massachusetts and other states alleged that the manufacturer had wrongfully delayed the availability of lower cost generic versions of the drug.

ATD also reviewed a number of other significant health care matters in order to protect and maintain competition in this vital market. For example, ATD reviewed the proposed merger of the Hallmark Health hospitals with the Wellforce healthcare system, Partners/Massachusetts General Hospital's acquisition of the New Hampshire Wentworth Douglas hospital, as well as Walgreen's acquisition of certain Rite Aid assets. In each instance, ATD ensured that the proposed transaction complied with the antitrust laws.

## 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.

The False Claims Division recovered more than \$46M for the Commonwealth, its agencies and political subdivisions in FY 2017.

### Significant Cases

**In the Matter of CDM Smith Inc.:** The settlement agreement required engineering firm CDM Smith Inc. to pay \$5.5M to resolve allegations concerning their role in the design and construction oversight of the Water Street/Plum Island Turnpike Water Main and Force, Main & Water Distribution and Vacuum Sewer Systems projects.

**In the Matter of Doughboy Police Supply, Inc.:** An Assurance of Discontinuance with vendor of first responder supplies required it to pay \$150K to resolve allegations of improper billing practices pertaining to uniform or equipment allowances and to agree to business practice changes.

**In the Matter of Volkswagen AG et al.:** An Assurance of Discontinuance with Volkswagen, Audi and Porsche required them to pay approximately \$20M to resolve claims that the automakers violated G.L. c. 93A in connection with their marketing, advertising, distribution, sale and lease of more than 15,400 2.0- and 3.0-liter diesel passenger vehicles in the Commonwealth, which contained undisclosed software allegedly intended to circumvent federal or state emissions standards and further requiring them to provide \$75 million mitigation fund for diesel and electric vehicle projects to reduce NOx emissions in Massachusetts.

**Commonwealth v. S&R Construction Co., et al:** These consent judgments against a general contractor and an electrical subcontractor and their principals required them to pay more than \$420,000 (\$110K subject to collection) and enjoined them from participating in public contracts for a period of years to resolve allegations they violated the Massachusetts False Claims Act by submitting false and inflated payment requests in connection with construction of the Assembly Square Station on the Massachusetts Bay Transportation Authority's Orange Line in Somerville.

**In the Matter of LAZ Parking Limited, LLC:** This Assurance of Discontinuance with parking management company required it to pay \$1.1M to resolve allegations it violated the Massachusetts False Claims Act and G.L. c. 93A by failing to detect and deter theft of cash revenue at MBTA parking lots it managed.

**Commonwealth v. Volkswagen AG, et al:** This Consent Judgment against Volkswagen, Audi and Porsche required them to pay \$20M to resolve allegations that defendant automakers violated environmental laws and regulations through implementation of defeat devices.

### Significant Achievements

Equal Opportunity in Construction Trades Grant is a one year grant funding awarded to 7 organizations to promote equal opportunity for women and minority workers and small business owners in the construction industry utilizing funds from a \$1.4M settlement the AG's Office reached with construction companies over allegations of falsely certifying compliance with equal opportunity requirements.

## Health Care Division

In the decade since its founding, the Health Care Division (HCD) has used its unique blend of enforcement and policy tools to promote the interests of Massachusetts health care consumers. The Division has led a range of actions to protect the public from unfair and deceptive conduct by insurers, providers, pharmaceutical companies, and medical device manufacturers. The Division 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. HCD has also played a key role through advocacy and litigation in ensuring the continued strength of the Massachusetts health insurance marketplace in light of changes in federal health policy. 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 Health Care Division has been at the forefront of health care advocacy, enforcement, and consumer protection. During FY 2017, HCD was involved in several high-profile cases, including:

- Obtaining a consent judgment against **Unified Life Insurance Company**, requiring payment of \$2.8 million to resolve allegations that it unlawfully sold health insurance in the Commonwealth that, among other things, excluded Massachusetts consumers from coverage based upon their health status or preexisting conditions and failed to cover basic health services.
- Intervening (along with 14 other states) in **House v. Price (D.C. Cir.)** to preserve the federal government's cost share reduction payments that help ensure health insurance plans purchased on the Massachusetts Health Connector are affordable.
- Obtaining a consent judgment against **Johnson & Johnson**, resolving a multi-state investigation of the company's failure to comply with FDA rules governing pharmaceutical manufacturing practices, under which Massachusetts received \$930,775.04.
- Obtaining a consent judgment against **Bristol-Myers Squibb**, resolving a multi-state investigation of unlawful marketing of Abilify, an anti-psychotic, to children and the elderly, under which Massachusetts received \$404,755.
- Obtaining final judgments against **Florida Men's Medical Clinic**, a related entity, and two of the principals, Kevin and Heidi Hornsby, for the deceptive marketing and sale of medications and services relating to the treatment of erectile dysfunction at an unlicensed medical clinic in Framingham, requiring payment by the entities of \$17 million and by the individuals of \$13.5 million.

### Significant Achievements

HCD 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 2016.

That same month, HCD released its sixth and seventh reports of its examinations of health care cost trends and cost drivers. The sixth report looked specifically at pharmaceutical spending and reported, for the first time, that spending on pharmaceuticals increased significantly even when manufacturer's rebates are considered. The seventh report highlighted that commercial insurance health care spending is disproportionately concentrated in higher income areas, even after controlling for health care needs.

In FY 2017, HCD convened a taskforce of health care experts that began meeting regularly to advise the Office regarding updates to the Community Benefits Guidelines that were last updated in 2009.



In June 2017, HCD analyzed and reported on more than \$644 million in Community Benefits provided by hospitals and health plans in the Commonwealth in the previous fiscal year.

### Important Statistics and Numbers

During FY 2017, HCD's Mediation Unit assisted more than 3,000 consumers, initiated more than 1,600 mediation cases and resolved more than 200 such cases. These actions resulted in more than \$400,000 in recoveries and savings for consumers and, where there was a potential pattern of concerning conduct, led directly to enforcement action by HCD.

Examples of consumer advocacy and outreach efforts by the Mediation Unit include:

- Intervening on behalf of a consumer whose wife was a hospice patient and about to run out of her stored oxygen supply because a scheduled delivery had not arrived. The mediator immediately contacted the supply company and received confirmation that the oxygen would be delivered that day to the patient's home.
- Advocating for a consumer who worked with a referral service to find a specialist, that she later learned was out of network. As a result she was billed more than \$7,000. Following extended advocacy with the referral service, the insurer, and the hospital that provided the service, the hospital conceded that its insurance verification process was at fault, so it waived the full amount of the bill.
- Mediating a disagreement between a consumer's primary and secondary insurers regarding bills for over \$15,000 that the consumer would otherwise be left to pay. Following our substantial research and advocacy, the secondary insurer paid the claim.

### **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 Medicaid Fraud 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 Medicaid Fraud Division employs investigators, auditors, data analysts, and attorneys who work together to develop investigations and bring prosecutions.

The Medicaid Fraud 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.

The Division recovered a total of \$8,179,284.57 in FY 2017 with \$700,000 going towards the Youth Opioid Program.

## Significant Cases

### Opioid Epidemic:

The Medicaid Fraud Division continues to combat the opioid epidemic in Massachusetts. In September 2016, the Medicaid Fraud Division entered into a first-in-the-nation settlement with **CVS Pharmacy, Inc.** wherein they agreed to strengthen their opioid dispensing policies and procedures. Further, they agreed to check the state's Prescription Monitoring Program before filling certain commonly misused opioid prescriptions.

Additionally, CVS agreed to pay \$795,000, of which \$500,000 went to the AG's Youth Opioid Prevention Grant Program. In January 2017, the Medicaid Fraud Division entered into a similar settlement with **Walgreen Co.** where the company agreed to pay \$200,000 to the Youth Opioid Prevention Grant Program.

The Medicaid Fraud Division continued its efforts in May 2017, when **Fernando Jayma** pled guilty to over forty charges for illegally prescribing opioids to patients for no legitimate medical purpose, some of whom had documented substance abuse disorder, and for defrauding MassHealth. Jayma was subsequently sentenced to 2 ½ years in the House of Correction, with three years of probation to serve upon his release. Jayma was ordered to permanently resign his medical license and pay \$9,778 in restitution.

### Dental Providers:

The Medicaid Fraud Division recovered nearly \$2 million against dental providers who improperly billed for services. In January 2017, the Medicaid Fraud Division entered into a settlement agreement with **Julia Faigel** and her 21 professional dental corporations throughout Massachusetts for \$475,000 to resolve allegations that the practices improperly billed a code for palliative treatment of dental pain.

The Medicaid Fraud Division also entered into a settlement in February 2017 with **HealthDrive Dental Group** for \$1,500,756 to resolve allegations that the company overbilled MassHealth for nursing home visits.

### Transportation Providers:

In July 2016, the Medicaid Fraud Division entered into a civil settlement with **REM Transportation Services, LLC** for \$717,798.48 to resolve allegations that the company submitted false claims for services that should have been provided at a lower cost through a MassHealth transportation broker. In addition, the Division indicted the transportation company **Rite Way, LLC**, along with its owner and three managers in September 2016 based on allegations that the company fraudulently billed MassHealth for transportation services that were never provided, including claims for individuals who were hospitalized in inpatient settings, no longer used the company's services, or were deceased on the claimed dates of service.

### Home Health Providers:

The Medicaid Fraud Division entered into a settlement in July 2016 to resolve allegations that the home health agency, **Personal Touch Home Care** failed to use a modifier on specific claims made to MassHealth resulting in a \$446,275.20 recovery. In September 2016, the Medicaid Fraud Division indicted a home health company, **Compassionate Homecare, Inc.**, its owner, and two others, based on allegations that they stole more than \$800,000 from MassHealth by routinely billing for services that were not authorized or provided to patients.

### Adult Day Health Providers:

The Medicaid Fraud Division entered into a \$225,000 settlement in September 2016 to resolve allegations that the adult day health provider, **New England Adult Day Health**, submitted claims to MassHealth that overstated the amount of time members were receiving services.

### Unlicensed Psychologist:

Finally, in December 2016, **Nita Guzman** pled guilty to several charges including Medicaid False Claims, Larceny, and Unlicensed Practice of Psychology as a result of a criminal scheme where Guzman provided and billed for unlicensed psychological and mental health services to patients, including children, that she was not qualified to offer. Guzman was sentenced to two and a half years in the house of correction and suspended for a probationary period of five years.

### Other Significant Achievements

The Medicaid Fraud Division continues to lead the Interagency Group on Illegal Prescribing (IGIP). Created in January 2016, IGIP was formed to investigate and prosecute prescribers, pharmacists and other medical providers who illegally prescribe or dispense controlled substances. The group is led by the Medicaid Fraud Division and includes federal and state agencies such as the Federal Bureau of Investigation (FBI), the Drug Enforcement Agency (DEA), the Office of Inspector General (OIG), the Massachusetts State Auditor's Office and MassHealth. The coalition works collaboratively on investigations and meets regularly to share information. By working more closely together, the group aims to eliminate duplicative efforts and save time and resources.

The Medicaid Fraud Division continues to have a national presence within the National Association of Medicaid Fraud Control Units (NAMFCU). AAsG and Investigators presented at the annual conference and act as facilitators at most NAMFCU trainings. Two of the Division's Investigations Supervisors continued to serve with NAMFCU; one as the co-chair of the Association's Training Committee and the other as a member of the Data Analyst Sub-Committee. The Medicaid Fraud 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/Public Charities Division is responsible for overseeing more than 27,000 public charities in Massachusetts. The oversight includes 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. They also maintain the AGO's Annual Filings Document Search, which makes much of this information available to the public.

## Significant Cases

### AG Authority

**Rehoboth Public Access Corporation, Inc. (“RPAC”) v. Board of Selectman, Town of Rehoboth, Civ. A. No. 15-00011 and Board of Selectman of the Town of Rehoboth v. RPAC, Civ. A. No. 2011-00824 (Sup. Ct., Bristol Co.):** Following a 2011 Town of Rehoboth lawsuit alleging that RPAC, a public charity, had violated its cable access contract, RPAC sued Rehoboth in 2015 for mishandling a \$240 check issued to RPAC by a law firm. The Attorney General opposed efforts in each of these actions to join the AG as a necessary party-plaintiff. The Division argued that the AG is not a necessary party-plaintiff where RPAC sought for the AG to vindicate RPAC’s private claims. We also argues and that the court lacked constitutional power to compel such action. The court in each matter agreed with our opposition and in the 2015 action provided the following helpful quote: “Furthermore, the plaintiff directs the court to no authority providing the Attorney General with a general mandate to oversee and enforce the claims of charities. Such a reading of the law would make the Attorney General a mandatory party in virtually every suit involving a public charity- a result quite at odds with the specific nature of the Attorney General’s enforcement power.”

### Dissolution

**In Re: Northern Berkshire Healthcare, Inc., Case No. 14-130327-EDK (Bankr. D. Mass); Maura Healey v. Northern Berkshire Healthcare, Inc., et al., Equity No. SJ-2017-0158 (Supreme Judicial Court):** Following the 2014 closure of North Adams Regional Hospital, owned by Northern Berkshire Healthcare, Inc. (“Northern Berkshire”), Northern Berkshire and its related entities filed for Chapter 7 bankruptcy. As the bankruptcy proceedings neared closure, the AG filed a complaint for involuntary dissolution with the Single Justice of the Supreme Judicial Court (“SJC”) and sought the distribution of remaining endowment funds to Berkshire Health Systems, Inc. (“BHS”) through principles of cy pres. These endowment funds included funds gifted as endowment funds and restricted funds that Northern Berkshire treated as endowment funds. The SJC granted our motion to distribute those funds to BHS.

### Cy Pres Petition

**American Textile History Museum, SJ-2016-070 (Supreme Judicial Court):** The Division assented to and the Court approved a cy pres petition seeking: (1) unlimited access to a \$1 million restricted fund in order to finance deaccessioning the museum collection to other charities before the charity’s dissolution; (2) the titles to all undocumented museum property following six months’ notice to potential claimants; (3) and authority to enter into agreements to transfer its various collections to other charities.

## Achievements

### Inter-Agency Training

DHCD/Housing Authority Trainings: In conjunction with the Department of Housing and Community Development, the State Ethics Commission, the Office of the Inspector General, and the AG’s Division of Open Government, the Division presented on fiduciary duties and obligations to new and experienced board members of local housing authorities statewide.

Division personnel presented on fiduciary duties and obligations to new and experienced board and commission members at trainings through the Office of the Inspector General’s Massachusetts Certified Public Purchasing Official Program.

### Bar Presentations

Division personnel made presentations and served on panels at a wide variety of events aimed at attorneys who represent or work with public charities. These events were coordinated by the Boston Bar Association, Massachusetts Continuing Legal Education, and other sponsors.

### Community Trainings

Division personnel also presented on fiduciary obligations and compliance at conferences/meetings of a number of nonprofit groups throughout the Commonwealth.

### Conferences

The Division participated in two panel presentations at the October 3-5, 2016 National Association of Attorneys General (NAAG)/National Association of State Charity Officials (NASCO) Annual Conference in Washington, D.C. addressing charitable fraud investigations and health care transactions.

### Important Statistics and Numbers

In FY 2017, the Division accepted 1,122 initial charities registrations, processed approximately 23,184 payments for annual reports, and accepted 653 registrations for Professional Solicitors, Fundraising Counsel, and Commercial Co-Venturers. Fees for these activities generated over \$5,000,000 for the Commonwealth.

As a party to the probate of estates in which a charitable interest exists and in judicial proceedings affecting charitable trusts, the AGO received and reviewed: 911 new wills, 843 interim accounts, and 601 final accounts/documents closing estate files. The Division approved 40 petitions to sell real estate, received and reviewed 67 trust terminations, and 805 miscellaneous complaints and filings. The AGO also resolved 134 matters involving the misapplication of charitable bequests or excessive fees, which in the aggregate, resulted in approximately \$219,759.35 being recovered for charitable purposes.

In carrying out its responsibility to assure the proper use of charitable funds, the AGO reviews significant asset dispositions, changes in purposes, and other material transactions undertaken by non-profit charitable organizations, including all dissolution proceedings. During FY 2017, the AGO reviewed several hundred notices regarding significant transactions and approved the dissolution of 55 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 protects consumers from unfair and deceptive activity, enforces state and federal civil rights laws, ensures 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 Attorney General's Civil Rights Division (CRD) protects and advances the Constitutional and statutory civil rights and liberties of residents and visitors to the Commonwealth. The Division works to end discrimination on the basis of race, national origin, immigration status, religion, gender, gender identity, sexual orientation, age, disability, and other protected categories, and to ensure equal opportunity in areas such as education, housing, employment, healthcare, public accommodations, and voting.

#### **Significant Cases**

In FY 2017, CRD obtained three of its largest ever settlements in fair housing cases -- all consent judgments in disability discrimination cases: \$75k in a case against **Related Washington Heights** (Worcester), \$60k in a case against **Mission Park/Trinity Management** (Roxbury), and \$70k in a case against **Casco Crossing** (Andover).

The Division reached a first-of-its kind settlement with **Pursuant Health and the National Federation of the Blind** whereby Pursuant agreed to make its diagnostic health care kiosks accessible to blind consumers nationwide and to pay a total of \$90k to the Commonwealth and NFB.

CRD entered into an Assurance of Discontinuance with the **American Legion** (Jamaica Plain) to settle race discrimination claims for \$15k and significant injunctive relief, including local community partnerships.

The Division obtained a default judgment worth \$150k in a case against a Waltham man engaging in the unauthorized practice of immigration law.

#### **Achievements**

The Civil Rights Division created and managed a special hate crimes hotline that received approximately 2,200 calls, including hundreds of substantive incident reports.

We played a lead role in the AGO's litigation challenging the Trump Administration's unconstitutional travel ban and issued significant policy guidance to K-12 schools about their obligation to educate all students irrespective of immigration status and about responding to requests for information and access by Immigration and Customs Enforcement.

The Civil Rights Division also played a lead role in securing passage of An Act to Establish Pay Equity.

## Consumer Advocacy & Response Division

In March 2016, the Attorney General announced the formation of the Consumer Advocacy & Response Division (CARD). Combining the staff and resources from the Public Inquiry and Assistance Center, HomeCorps (the AGO's foreclosure prevention program), and the Elder Hotline, CARD reflects a new and enhanced approach to consumer assistance within the Attorney General's Office.

CARD works with consumers and businesses to resolve disputes in a manner fair and reasonable to all parties under the circumstances. CARD conducts specific and targeted outreach across the Commonwealth to address high volume and high priority consumer issues. CARD also manages the Local Consumer Program grant program. CARD frequently partners with other AGO division on enforcement actions identified through its consumer advocacy work.

### Significant Cases

Xchange Leasing. CARD received a variety of complaints against Transportation Network Companies from riders and drivers. An extensive investigation identified systemic erroneous toll charges and late fees being deducted from driver weekly earnings which impacted 336 Uber drivers. Kim McDonald negotiated an Assurance of Discontinuance with Xchange Leasing resulting in \$210,000 in refunds and credits to driver accounts and a \$40,000 payment to the Local Consumer Aid Fund.

We led a multi-state effort to draft and submit comments to the Federal Trade Commission regarding a petition to allow ringless robocalls to directly drop into voicemail boxes. Our efforts ultimately led the withdrawal of the petition at the close of the comment period.

We also drafted and submitted comments to the Federal Housing Administration regarding proposed codification of changes to its Home Equity Conversion Mortgage (HECM) Program.

Get In Shape Women-Medford. A local chain of health clubs closed abruptly in March 2017. All memberships were automatically transferred to the Arlington location, which refused to refund prepaid Medford memberships. Ultimately Bianca Hoffman negotiated full refunds to all consumers who had filed complaints as well as proactive notification by Arlington location of refund availability to all transferred members.

### Achievements

CARD staff responded to over 330 complaints for consumers who purchased tickets to the failed Indycar/Boston Grand Prix.

CARD staff worked with over 200 consumers to collect information and financing records, provide guidance and make referrals regarding the abrupt closure of Next Step Living.

CARD staff on the HIVE Team spend dozens of hours updating the Veteran's Resource Guide.

CARD's Trades and Professional Services Team set up bulk escalation and response protocols with the three largest solar companies in Massachusetts, allowing for faster and more successful resolutions as well as streamlined communications.

CARD received 18, 292 intakes between July 1, 2016 and June 30, 2017:

- 3,223 consumers were provided with consumer assistance advocacy by CARD staff;
- 4,803 consumers were provided with consumer assistance advocacy by an LCP organization

## Consumer Protection Division

The Consumer Protection Division (CPD) is responsible for enforcing the Consumer Protection Act, G. L. 93A, by means of investigations and court enforcement actions, without limitation as to subject matter. CPD prioritizes cases that involve the goods and services that are fundamental to the economic security of Massachusetts residents such as housing, education, transportation, and safe access to the digital economy. CPD pursues its mandate by returning funds to consumers that were unlawfully obtained by businesses, by deterring future misconduct through penalties, by ending unlawful practices, and imposing oversight of problematic businesses through injunctive relief.

### Significant Cases

The **American Career Institute** was a for-profit vocational school with 4 Massachusetts campuses that closed without warning mid-school year in 2012. We sued, and after hotly contested litigation obtained a consent judgment in which the school admitted to lying to students about prospects for completing their program at ACI and getting a job in their field of study, employing unqualified former students as teachers, and failing to provide promised job placement assistance. CPD submitted a request to the Department of Education that it forgive all federal loans for ACI students on the basis of our consent judgment. In January 2016, the Department of Education granted our application and forgave all federal student loans incurred to attend ACI, cumulatively in excess of \$27 million, and refunded approximately \$3 million that had been paid on those loans. This is the first and only time the Department of Education has automatically discharged a group of students' loans without requiring individual students to submit attestation forms.

In September 2016, the AG's Office investigated **Ditech's** debt collection practices in Massachusetts and alleges that, since 2012, Ditech routinely violated the AG's regulations governing debt collection. Ditech is a servicer of residential mortgage loans across the country including thousands of loans in Massachusetts. Pursuant to the assurance of discontinuance filed in Suffolk Superior Court, Ditech Financial, LLC, previously GreenTree Servicing, LLC, agreed to change its practices to comply with state debt collection and consumer protection laws. According the terms of the settlement, Ditech will change its procedures to prohibit calls in excess of the number permitted by the debt collection regulations and will implement technological controls to restrict outgoing collection calls when the call limit is reached. Ditech will also ensure that all borrower accounts receive timely and compliant debt validation notices going forward.

In December 2015, the AG's Office launched an investigation into certain student loan servicing practices by **ACS**, and found that the company allegedly failed to properly process student borrowers' applications for federal loan relief associated with the Income-Based Repayment Plan established by the Higher Education Act. ACS also allegedly violated the state's debt collection regulations by calling students at home more than twice a week and not investigating credit reporting disputes, which led to inaccurate information about students being sent to credit reporting agencies. ACS, now known as **Xerox Education Services, LLC (XES)**, cooperated fully with AG Healey's investigation and is implementing the enhancements to its loan servicing practices. Under the terms of the settlement, ACS will pay a total of \$2.4 million, a portion of which will be paid as restitution to hundreds of Massachusetts borrowers who applied for but were unable to successfully enroll or remain on income-based repayment plans. ACS has also stopped abusive debt collection practices, has reformed the accounts of affected servicemembers, and has credited any late fee overcharges.

Consumers reported a variety of issues with their vehicles from **Auto Number One**, including lack of heat, oil and other fluid leaks, a broken catalytic converter, and transmission issues. Many consumers spent weeks or months trying to get their vehicles repaired, often making multiple unsuccessful repair



attempts. Several consumers took their vehicles off the road altogether because they could not get them in safe working order. According to the AG's complaint, which was filed in January 2015, Auto Number One frequently sold vehicles that failed to pass inspection and refused to provide refunds or make repairs or promised to make repairs but then did not do so. Additionally, the complaint alleged that Auto Number One retained vehicles during consumers' seven-day inspection period, so that consumers would be unable to exercise their rights under the Lemon Aid Law. Pursuant to the settlement, Auto Number One will cease all operations in Massachusetts. The company and Hanna will also pay nearly \$25,000 in consumer restitution. An additional \$85,000 in civil penalties and attorneys' fees will be suspended pending the defendants' compliance with the terms of the consent judgment.

## **Fair Labor Division**

The Attorney General's Fair Labor Division (FLD) ensures that workers are paid the wages they are owed and that businesses that play by the rules do not get undercut by competitors who save costs at the expense of their workers. FLD ensure that employers follow prevailing wage and public construction bid laws, so that tax dollars are spent on responsible employers who provide good jobs in Massachusetts. FLD also ensure that employers follow child labor laws that protect young workers. FLD accomplishes this work through robust enforcement, strong partnerships, and community education.

### Significant Cases

**UnWrapped, Inc.** FLD collaborated with the U.S. Department of Labor (USDOL) to investigate UnWrapped, Inc., a Lowell manufacturer, after receiving information of questionable payroll practices from the Council on the Underground Economy. The investigation revealed minimum wage, overtime, earned sick time, and child labor violations affecting hundreds of employees paid through staffing agencies. In addition to paying nearly \$1.2 million in restitution and penalties through settlement agreements with the AGO and USDOL, the company agreed to reinstate two workers who had been fired after cooperating with the investigation, improve its oversight of the staffing agencies it uses; and post the Massachusetts wage and hour poster in its facility. Additionally, Fair Labor issued \$87,500 in citations to three staffing agencies operating at the facility for records violations and violations of the Temporary Workers Right to Know and Earned Sick Time Laws.

**Derrick Sullivan and Sullivan Painting.** Fair Labor secured the conviction of this Lynn painting contractor for intentionally not paying workers their wages, resulting in a sentence of three years of probation, a one-year debarment from public contracts, and a \$2,500 fine. The investigation began with complaints referred by the Chelsea Collaborative, a local non-profit, and revealed that Sullivan routinely underpaid workers or did not pay them at all for weeks of work. Sullivan had a history with our office. In 2009, he had pleaded guilty to wage and hour charges and was sentenced to two years of probation.

**Bay State Linen.** Fair Labor reached another settlement agreement with a Dorchester commercial laundry facility, doing business as Bay State Linen. This company hired the vast majority of its employees through a staffing agency. Fair Labor's investigation found that on average, employees worked 65-70 hours per week and were paid subminimum wages with no overtime premium. The company has agreed to pay up to \$900,000 in restitution to 177 workers.

### Other Significant Achievements

In October 2016, the AGO launched its free, monthly **Wage Theft Clinic** in partnership with community based organizations, legal services providers, and members of the private bar. The clinics supplement the AGO's enforcement efforts by connecting workers with attorneys and other advocates

who can help them pursue wages on their own. At the clinics, workers receive advice and information in their own language, get help drafting a demand letter or filing suit, or even find a lawyer to take their case. The Clinic is hosted by Suffolk University Law School and its partners, including legal aid organizations, immigrant worker centers, law schools, and the private bar. They provide free consultations and legal assistance to workers in need. More than 230 workers have received free consultations and more than \$65,000 in wages were recovered in FY 2017.

Fair Labor has also done outreach to awarding authorities, (the public entity contracting out the public work) a central piece of prevailing wage enforcement. Last year, Fair Labor **trained more than 350 procurement officials** through the Inspector General's Massachusetts Certified Public Purchasing Official (MCPPO) seminars on what the law requires of contractors performing public works. In addition to trainings, awarding authorities are now notified of prevailing wage citations relating to their public works projects and Fair Labor offers reminders to the awarding authorities so they can ensure that public funds are only directed to responsible employers. During FY 2017, Fair Labor sent 293 contractor citation notifications to state and local awarding authorities.

FLD has worked to expand the informational resources available to combat wage theft by updating its web content and posters, and conducting regular compliance visits that bring visibility to workplace protections. In the past year, FLD increased transparency by making information about complaints and enforcement actions available via our online data portals so that contractors, workers, government agencies, consumers, and other members of the public can make informed decisions.

### Important Statistics and Numbers

In FY 2016, FLD issued 636 citations and entered into 30 settlement agreements without citations. The total amount cited was \$8,681,677.98 (i.e., \$6,015,527.06 in restitution and \$2,666,150.92 in penalties).

FLD received 5604 complaints and FLD's Hotline fielded more than 16,864 calls.

## **Insurance and Financial Services Division**

The Insurance & Financial Services Division (IFSD) 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 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. Within the Division, the Student Loan Assistance Unit specializes in student debt related issues.

### Significant Cases

**For-Profit Schools & Student Loan Debt:** As part of the Attorney General's for-profit school initiative, IFSD continued to investigate the unfair business practices used by for-profit schools against prospective students. During FY 2017, IFSD successfully secured a judgment against **Corinthian Colleges**, which violated Chapter 93A by, among other things, misleading students and prospective students about the school's quality of education and job placement rates. IFSD also reached a settlement with **DeVry University** to resolve allegations of unfair practices. IFSD's work in investigating the area of student loan debt relief services resulted in settlements with two companies in FY 2017- **Libre Technology (d/b/a Student Loan Servicing.US)** and **DFL International, LLC (d/b/a US Direct Student Loan Services)**. We alleged that these companies used misleading marketing tactics to convince MA consumers to purchase services that are otherwise readily available for free and then unlawfully charged consumers prior

to completing the services. Under the settlements, the companies are prohibited from continuing these practices in Massachusetts and were required to refund payments.

**Securities & Subprime Lending:** IFSD's investigation into subprime automobile financing resulted in a first-in-the-nation action against **Santander Consumer USA Holdings Inc. ("SCUSA")**, a major originator and securitizer of subprime auto loans. In resolving this matter, IFSD recovered more than \$22 Million providing relief to over 2,000 affected borrowers. IFSD also reached a settlement with **State Street Bank and Trust Company** regarding its pricing for foreign currency exchange transactions and failure to make relevant disclosures, which resulted in significant refunds for Massachusetts investors. Additionally, IFSD completed a case against **Moody's**, a national credit rating agency, regarding its ratings for certain securities backed by subprime mortgages. Moody's paid the Commonwealth over \$12 Million as part of the resolution of this matter.

**Insurance, Annuities & Investments:** IFSD continued its series of cases involving the improper force-placing of insurance on Massachusetts homeowners by taking action against **QBE Insurance Corp.** QBE allegedly overcharged consumers and placed them in the wrong types of policies. Resolution of this matter resulted in over \$2 Million in payments to consumers. We also recovered refunds for seniors who were targeted by mortgage broker **Direct Finance Corp**, its employee **Daniel Matthews**, and insurance agent **James Moniz**. The defendants in this case induced elderly clients to take out reverse mortgages and invest the proceeds in unsuitable variable annuities.

**False Claims:** IFSD continued to pursue false claims investigations in FY 2017 and reached a settlement with **Deloitte Consulting, LLP** regarding allegations that the company submitted a materially false contract bid to the state. Deloitte's bid was selected as the apparent winner, resulting in a multi-million dollar contract award under which Deloitte obtained payments from the state. Deloitte was required to pay approximately \$2.1 Million.

### Other Significant Achievements

IFSD continued its litigation against Corinthian Colleges, a for-profit school that used inflated job placement statistics to deceive thousands of Massachusetts students. After submission of voluminous evidence and testimony, IFSD obtained a judgment against Corinthian for over \$80 Million. The Division then used the judgment in its efforts to have the Department of Education discharge federal student loans for Corinthian students. IFSD's Student Loan Assistance Unit helped hundreds of Massachusetts borrowers individually apply for these discharges during the past fiscal year. Over 700 Massachusetts borrowers received Corinthian federal loan discharges in FY 2017. In addition, the Division successfully stopped collections on hundreds of thousands of dollars of private loans that had been made to Corinthian students.

IFSD also took other actions to protect student borrowers. These actions include asking the Department of Education to fix its erroneous tax reporting practices related to discharged borrowers and to fix errors in the federal government's College Scorecard website as well. The Division also submitted comments on new proposed federal regulations regarding distance learning schools and requested a hearing with the Massachusetts Department of Higher Education regarding alleged unfair practices at the New England Institute of Art.

Finally, IFSD continued its consumer protection mission regarding insurance practices, bringing a joint action with the Consumer Protection Division against Ocwen Loan Servicing. The action alleged that Ocwen among other unfair tactics, overcharged consumers for force-placed home insurance.

## Important Statistics and Numbers

In FY 2017, IFSD's Insurance & Financial Services Mediation Program fielded over 5,200 hotline calls, opened 908 complaint files, closed 857 complaint files and generated \$665,951.39 in savings and recoveries for Massachusetts residents. Successful mediation results included:

- Reversing denials of auto, home, credit, travel, pet, warranty, and life insurance claims,
- Securing reinstatements of non-renewed homeowners insurance policies,
- Unwinding unsuitable annuity sales and reinstating life insurance policies,
- Obtaining premium refunds for consumers who were deceived into signing up for insurance coverage,
- Obtaining GAP claim payments and refunds,
- Remediating mortgage escrow disbursement errors and helping consumers avoid expensive force-placed insurance,
- Reversing incorrect auto insurance surcharges,
- Securing the release of homeowners insurance checks from mortgage loan servicers, and
- Obtaining refunds of incorrectly calculated premiums.

In FY 2017, IFSD's Student Loan Assistance Unit (SLAU) fielded over 4,000 hotline calls, received, processed and closed over 1,000 requests for assistance, held 14 student loan workshops, and generated \$2,478,958.24 in savings and recoveries for student loan borrowers. Examples of the services provided by SLAU include:

- Helping borrowers complete and submit Borrower Defense to Repayment applications and put associated federal loans into special forbearances,
- Providing information about income-driven repayment plans and assisting borrowers in enrolling in these plans,
- Aiding borrowers in handling defaulted federal loans and helping borrowers end wage garnishments and tax refund interceptions,
- Obtaining write-downs of institutional and private student loan debt,
- Resolving billing disputes with loan servicers and correcting student loan servicer errors,
- Recovering payments made to student loan "debt relief" companies,
- Helping borrowers obtain information about their student loans through NSLDS or loan servicers, and
- Helping borrowers complete and submit disability, ability to benefit, and closed school discharge applications.

## **REGIONAL OFFICES**

### **Central Massachusetts**

The Central Massachusetts Regional Office serves the central Massachusetts region as the local office of the Attorney General. We serve as a local walk-in resource for consumer and labor complaints, as well as a referral resource for local elected officials and state agencies. Staff of the Office prosecute cases of labor violations, civil rights violations, Medicaid Fraud, and criminal cases arising in the region. We conduct trainings for the local community on a variety of topics and are active participants in local bar and community organizations including the Worcester County Bar Association, the Worcester City Manager's Coalition Against Bias and Hate, and the Worcester Mayor's Brownfields Taskforce.

### **Southeastern Massachusetts**

The Southeastern Massachusetts (SEMA) regional office continues to be a valuable resource for residents of the region. The SEMA staff consists of personnel from the Attorney General's Government and Public Protection and Advocacy Bureaus. SEMA Assistant Attorneys General handle a variety of matters from the FLD, CPD, AdLaw and Trial Division. All members of the SEMA team are knowledgeable of the resources available throughout the entire Attorney General's office and regularly participate in outreach events coordinated through the office's Community Engagement Division.

#### **Achievements**

The SEMA Abandoned Housing Initiative (AHI) team continues to successfully partner 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. The SEMA AHI team currently works with New Bedford, Brockton, Fall River, Wareham, Yarmouth, Barnstable, Hanson, Whitman Abington, Middleboro, Scituate, Somerset and Swansea. In instances when negotiations with the property owners or banks fail, our office has been successful in petitioning the court to appoint receivers to address those violations.

SEMA staff continues to be a presence in the community, with the goal to provide area residents with information regarding the work of the AGO and its resources.

### **Western Massachusetts**

The Western Massachusetts Division ("WMAS") of the AGO was the first regional office and remains the largest regional office in Massachusetts. WMAS has 32 employees representing the following Divisions: Medicaid Fraud, State Police, Gaming Enforcement, Trial, Administrative Law, Abandoned Housing Initiative, Fair Labor, Environmental Crimes Strike Force, Criminal Appeals, Criminal, Civil Rights, Consumer Protection, Investigations and Consumer Advocacy and Response. WMAS handles matters throughout the state with a particular focus on those matters within the jurisdictions of Hampden, Hampshire, Franklin and Berkshire counties.

## Significant Cases

**Rockwell v. Trustees of the Berkshire Museum**, Berkshire Superior Court. A Government Bureau AAG assisted the NPCD litigation team regarding the ongoing action centered around the effort to sell various pieces of Berkshire Museum art including Norman Rockwell's paintings identified as "Shuffleton's Barbershop" and "Shaftsbury Blacksmith Shop."

**Commonwealth v. Rex Cunningham and Brian Hoyle**, In this case, two Springfield men pleaded guilty to illegal sports betting, loansharking and money-laundering in Western Massachusetts.

**Commonwealth v. Scully**, Scully is a Granby man who was sentenced to two and a half years in jail, with an additional five years of probation, after pleading guilty to one count of possession of child pornography.

## Achievements

The Western Massachusetts Regional Office attains its mission of providing accessible AGO 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 the 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 a significant geographic area. Through the extensive work of the AGO's Community Engagement Division ("CED"), including WMAS's CED working-group, WMAS effectively partners with and does outreach to the communities that it serves in the Commonwealth's four westernmost counties.

## 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. The State Solicitor aims to be a resource to all Assistant and Special Assistant Attorneys General, at any stage of a case. This responsibility 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. The State Solicitor 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, and offer other support for Attorney General's appellate work.





OFFICE OF ATTORNEY GENERAL MAURA HEALEY

One Ashburton Place

Boston, MA 02108

(617) 727-2200

[www.mass.gov/ago/](http://www.mass.gov/ago/)