





The Commonwealth of Massachusetts

Report of the Attorney General for Fiscal Year 2000

July 1, 1999 - June 30, 2000



PUBLICATION OF THIS DOCUMENT APPROVED BY PHILMORE ANDERSON III, STATE PURCHASING AGENT.



TOM REILLY
ATTORNEY GENERAL

The Commonwealth of Massachusetts
Office of the Attorney General
One Ashburton Place
Boston, MA 02108-1698

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, 1999 to June 30, 2000.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Tom Reilly", written over a horizontal line.

Thomas F. Reilly
Attorney General

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FISCAL YEAR 2000 (JULY 1, 1999 - JUNE 30, 2000)

OFFICE OF THE ATTORNEY GENERAL

ATTORNEY GENERAL - TOM REILLY
 FIRST ASSISTANT ATTORNEY GENERAL - DEAN RICHLIN
 CHIEF OF STAFF - JEFFREY SHAPIRO

ASSISTANT ATTORNEYS GENERAL:

Ann Ackil	William Bloomer	Aloke Chakravarty (26)
Dorothy Anderson	Edward Bohlen	Lael Chester (40)
David Andrews	Wilner Borgella (20)	John Christin, Jr.
Linda Andros	John Bowen	John Ciardi (62)
Marion Antonucci (30)	Martha Bower (18)	Peter Clark
Luz Arevalo (71)	John Bowman	Stephen Clark (17)
Michael Atleson (23)	David Breen (33)	Jeffrey Clements (59)
Frederick Augenstern	Kevin Brekka (67)	Richard Cole
Steven Baddour (5)	Matthew Brock	Joanna Connolly
Thomas Barnico	George Brooks (50)	Rosemary Connolly
Christopher Barry-Smith (42)	Kimberly Brooks (4)	Patricia Correa
Jason Barshak	Matthew Buehler	Arlie Costine-Scott
Mary Elizabeth Basile	Brian Burke (73)	Pierce Cray
Judith Beals (34)	Ranjana (Chand) Burke	John Crimmins
R. David Beck	Romeo Camba (19)	John Curseaden (20)
Annette Benedetto	Jesse Caplan (14)	William Daggett
Barbara Berenson (2)	Sandra Cardone (30)	Norman D'Amours
Matthew Berge	Eric Carriker	Pamela Dashiell
Anne Berlin	Eugenia Carris (4)	Leslie Davies (47)
Crispin Birnbaum	James Caruso, Jr.	Gerald D'Avolio, Jr.

APPOINTMENTS

George Dean	Alexander Gray (8) (65)	Judy Kalman
Edward Deangelo	Eliot Green	Glenn Kaplan
Irene Delbono	Catherine Greene (15)	Jamie Katz
Linda Delcastilho	John Grossman	David Kerrigan (8)
Stephen Dick	John Grugan	Karen Kleiman (2)
Michael Dingle (70)	Daniel Hammond	Mark Kmetz
Kristen Dionisi	Nancy (Betsy) Harper	Michael Kogut (32)
Henry Eaton (44)	Sarah Hartry (38)	Pamela Kogut
Anne Edwards	Katherine Hatch	Helen Koroniades (56)
F. Henry Ellis, III (72)	Ladonna Hatton	Joshua Krell (73)
Barbara Fain	Janice Healy (2)	Siu Tip Lam
James Farrell (10)	Richard Hecht (53)	Andrew Latimer
Daniel Field	Michael Hering	Andrew Lawlor (41)
Freda Fishman	Muriel Hervey (6)	Kelli Lawrence
Francis Flaherty, Jr.	R. Scott Hill-Whilton (49)	Angela Lee
Elizabeth Ann Foley	John Hitt	Peter Leight
Mary Freeley	Bart Q. Hollander (29)	Gerard Leone, Jr.
Elizabeth Frumkin (11)	Pamela Hunt	Martin Levin
Cynthia Gagne	Marsha Hunter	Leonard Lopes (75)
Rafael Garcia	Carol Iancu	Kara Lucciola (68)
Dana Gershengorn	Matthew Ireland (20)	Jacinta Ma
Bonny Gilbert (54)	Marcia Jackson	Glenn MacKinlay
Suzanne Glick Gilfix	Maria Hickey Jacobson (25)	Anita Maietta
Salvatore Giorlandino	Patrick Johnston (52)	Maria Makredes (3)
I. Andrew Goldberg	Shelley Richmon Joseph (64)	M. Toni Maloney
Caryn Gordon (13)	Michelle Kaczynski	David Marks
Richard Gordon	Stephanie Kahn (20)	Laura Marlin

Laura Maslow-Armand	Jean O'Brien (70)	Robert Quinan
William Matlack (51)	Michelle O'Brien (57)	Susanne Levsen Reardon (58)
William McAvoy (69)	Thomas O'Brien	Karlen Reed (15)
Catherine McClure	James O'Connell (14)	Elizabeth Reinhardt (63)
Timothy McDonough	John O'Leary (12)	William Reynolds (7)
Philip McGovern	Erin Olson	Juliana Rice
Constance McGrane (15)	James Paikos	Robert Ritchie
Beth McLaughlin (60)	Donna Palermino	Lena Robinson
Marianne Meacham	Kathryn Palmer (33)	Beverly Roby
William Meade	Emily Paradise	Anthony Rodriguez
Elisabeth Medvedow	William Pardee	Joseph Rogers
Pamela Meister	Margaret Parks	Deirdre Rosenberg
Beth Merachnik	Lori Parris (43)	Julie Ross (22)
Howard Meshnick	M. Julie Patino (24)	Mary Ruppert (15)
Nicholas Messuri	Robert Patten (16)	Peter Sacks
James Milkey	Peter Paulousky (28)	Vanessa Sanchez-Gasparro (66)
Jonathan Mitchell (31)	Susan Paulson	Ernest Sarason
Daniel Mitchell (39)	Anthony Penski	Kurt Schwartz
David Monahan (15)	Rebeca Perez (61)	Pasqua Scibelli (52)
Alice Moore	Judith Phillips (75)	Amy Sharff
T. Gregory Motta (48)	Mary Phillips	Timothy Shea
Mark Muldoon	Barbara Piselli (46)	Matthew Shea
Mark Mulligan	William Porter	Neil Sherring (32)
David Nalven (1)	Candies Pruitt (47)	Jeremy Silverfine (35)
Cathryn Neaves (73)	Stephen Prunier (20)	Adam Simms
Eileen O'Brien (27)	Christopher Quaye	Ginny Sinkel
James O'Brien	Jason Queenin	Mark Smith (74)

APPOINTMENTS

Johanna Soris	Gina Walcott (37)
Amy Spector	Teresa Walsh (11)
Susan Spurlock (36)	Peter Wechsler
Carol Starkey	Pamela Wechsler (4)
Deborah Steenland	William Weinreb
Kenneth Steinfield (45)	Karen Wells
James Stetson (57)	James Whitcomb
Catherine Sullivan	Doris White (20)
Mark Sutliff	Jonathan White (30)
James Sweeney	Betsy (Sawyer) Whittey (16)
Diane Szafarowicz	H. Gregory Williams (55)
Daniel Szostkiewicz (16)	Jane Willoughby
Pamela Talbot	Howard Wise
Rosemary Tarantino	John Woodruff (60)
Neil Tassel	Chi Chi Wu
Danah Tench (9)	Charles Wyzanski
Louisa Terrell (24)	Judith Yogman
Joseph Thai (7) (70)	Karla Zarbo
Steven Thomas	Catherine Ziehl
Linda Tomaselli (17)	
Marini Torres-Benson (9)	
Bruce Trager	
Hung Tran	
Thomas Ulfelder	
Teri Williams Valentine (13)	
Dorothy Varon (13)	
Linda Wagner (21)	

<u>APPOINTMENT DATE</u>		<u>TERMINATION DATE</u>	
1.	07/01/99	31.	07/02/99
2.	07/12/99	61.	03/14/00
3.	07/26/99	32.	07/05/99
4.	08/02/99	62.	03/31/00
5.	08/09/99	33.	07/09/99
6.	08/25/99	63.	04/07/00
7.	09/13/99	34.	07/27/99
8.	09/20/99	64.	04/18/00
9.	10/04/99	35.	08/06/99
10.	10/07/99	65.	04/30/00
11.	10/25/99	36.	08/26/99
12.	11/01/99	66.	05/03/00
13.	11/08/99	37.	08/31/99
14.	11/29/99	67.	05/10/00
15.	12/06/99	38.	09/01/99
16.	01/03/00	68.	05/11/00
17.	01/31/00	39.	09/07/99
18.	02/07/00	69.	05/19/00
19.	02/22/00	40.	09/09/99
20.	02/28/00	70.	05/26/00
21.	03/01/00	41.	09/15/99
22.	03/10/00	71.	05/31/00
23.	04/03/00	42.	10/01/99
24.	05/01/00	72.	06/02/00
25.	05/09/00	43.	10/12/99
26.	05/22/00	73.	06/09/00
27.	06/05/00	44.	10/14/99
28.	06/19/00	74.	06/16/00
29.	06/20/00	45.	10/15/99
30.	06/26/00	75.	06/30/00
		46.	10/22/99
		47.	10/29/99
		48.	11/01/99
		49.	11/03/99
		50.	11/05/99
		51.	11/22/99
		52.	12/01/99
		53.	12/03/99
		54.	12/06/99
		55.	12/27/99
		56.	12/31/99
		57.	01/07/00
		58.	01/17/00
		59.	02/18/00
		60.	02/25/00

STATEMENT OF THE FINANCIAL POSITION
FISCAL YEAR 2000

STATEMENT OF FINANCIAL POSITION FISCAL YEAR 2000						
Fiscal_Year	Appropriation	Account Name	Obligation	Expended	Balance	
2000	08100000	DEPARTMENT OF THE ATTORNEY GENERAL	19,169,105	19,009,494	159,611	
2000	08100003	CHILD PROTECTION UNIT	250,000	164,349	85,651	
2000	08100014	EXPENSES OF PUBLIC UTILITY PROCEEDINGS	1,620,156	1,244,168	375,988	
2000	08100017	JUDICIAL PROCEEDINGS RELEVANT TO THE FUEL CHARGE C.6A,S.9A,MGL	75,000	22,853	52,148	
2000	08100021	FOR ADMINISTERING THE MEDICAID FRAUD CONTROL UNIT	1,758,222	1,536,785	221,437	
2000	08100045	FOR THE WAGE ENFORCEMENT PROGRAM EXPENSES INCURRED IN ADMINISTRATIVE OR JUDICIAL PROCEEDINGS	3,093,976	2,982,700	111,276	
2000	08100201	AUTOMOBILE INSURANCE FRAUD INVESTIGATION& PROSECUTION	1,449,971	1,234,665	215,306	
2000	08100338	WORKERS' COMPENSATION INSURANCE FRAUD PROSECUTION	248,276	233,793	14,483	
2000	08100399	COVENANT NOT TO SUE	480,333	451,295	29,038	
2000	08100411	COMMISSION ON UNIFORM STATE LAWS	1,982,409	52,442	1,929,967	
2000	08300100	TOTAL, DIRECT APPROPRIATIONS:	30,161,848	26,966,617	3,195,230	

TRUST RECEIPTS AND DISBURSEMENTS
FISCAL YEAR 2000

TRUSTS					
FISCAL YEAR 2000					
Fiscal Year	Appropriation	Account Name	Obligation	Expended	Balance
2000	08100033	LOCAL CONSUMER AID FUND, REIMBURSEMENT FOR SERVICES	1,231,589	696,454	535,135
2000	08100034	STUDENT CONFLICT RESOLUTION EXPERTS (SCORE)	244,394	201,080	43,314
2000	08100041	CONFLICT INTERVENTION TEAM PROJECT ADMIN	26,600	26,566	34
2000	08100042	CONSUMER PROTECTION TRANSLATION INITIATIVE	3,994	0	3,994
2000	08100043	SEARS TRANSLATION INITIATIVE	30,000	20,870	9,130
2000	08100050	PRUDENTIAL INSURANCE SETTLEMENT ACCOUNT	25,882	11,964	13,918
2000	08100301	BLUECROSS BLUESHIELD TOBACCO LITIGATION	553,683	2,649	551,034
2000	08100409	W.K. KELLOGG FOUNDATION GRANT	57,082	35,556	21,525
2000	08100414	STATE FORFEITURE	165,915	3,121	162,793
2000	08100415	EXPENDABLE TRUST	79,192	0	79,192
2000	08100416	CONFERENCE ACCOUNT	81,301	16,542	64,758
2000	08100417	NATIONAL ASSOC OF ATTORNEYS GENERAL	5,683,707	0	5,683,707
2000	08100444	FEDERAL FORFEITURE	450,451	255,668	194,783
2000	08106614	ATTORNEY GENERAL TRUST ACCOUNT	80,732	0	80,732
		STUDENT CONFLICT RESOLUTION EXPERTS (SCORE)			
2000	08106656	FORD FOUNDATION GRANT	581	0	581
2000	08106659	JOHN HANCOCK MUTUAL SETTLEMENT ACCOUNT	426,364	182,006	244,358
2000	08107009	MERRILL LYNCH FEDERAL FORFEITURE	165,662	0	165,662
2000	08107027	ST VINCENT LLC EXPERT ANALYSIS	46,179	29,088	17,092
2000	08107053	COMM VS CARLYLE IND; SPORTS WORLDS TOUR	23,063	7,742	15,321
2000	08107060	METLIFE SETTLEMENT	150,000	147,926	2,074
		TOTAL, TRUSTS	9,526,369	1,637,234	7,889,135

INTERDEPARTMENTAL FUNDS AND FEDERAL GRANTS
FISCAL YEAR 2000

INTERDEPARTMENTAL FUNDS FISCAL YEAR 2000						
Fiscal_Year	Appropriation	Account Name	Obligation	Expended	Balance	
2000	8101969	AGO CA/THT OVERSIGHT COORD. COMMISSION (ANF)	65,946	64,549	1,396	
2000	08100020	CRIMINAL TAX UNIT (DOR)	165,000	155,280	9,720	
2000	08100300	ENFORCEMENT OF SMOKING RELATED LAWS (DPH)	200,000	158,342	41,658	
2000	08100310	HILLARD LITIGATION TRAVEL REIMBURSEMENT (DMA)	30,000	30,000	0	
2000	08100311	ROLLAND V CELLUCCI USDC NO. 98-30208-KPN (DMA)	10,000	812	9,188	
2000	08100316	EMINENT DOMAIN CASE DEFENSE - LANDSTAMP (FWE)	15,000	4,030	10,970	
2000	08103382	LIABILITY MANAGEMENT REDUCTION FUND (OSC)	50,000	41,297	8,703	
2000	08105920	ROLLAND LITIGATION REIMBURSEMENT (DMR)	14,200	8,520	5,680	
2000	08107981	SAK RECYCLING CASE LITIGATION SUPPORT (ANF)	200,000	111,573	88,427	
2000	08108190	MHD EXPENSES INCURRED BY AGO/NON FED-AID (MHD)	25,736	24,442	1,294	
2000	08108208	EMINENT DOMAIN ACQUISITIONS LITIGATION (MHD)	445,370	206,198	239,172	
2000	08108872	WORCESTER SH LITIGATION EXPENSES (DCAM)	57,225	52,271	4,954	
2000	08108937	SPECIAL ASSISTANT ATTORNEY GENERAL (MDC)	7,500	7,500	0	
2000	08108938	LEGAL SERVICES FOR PARKS & WATERSHED (MDC)	511,203	118,010	393,193	
2000	08108964	LEGAL SERVICES FOR PARKS (MDC)	250,771	124,250	126,521	
2000	08109081	AGO REIMBURSEMENT FOR LEGAL SRV TO DET (DET)	278,548	257,487	21,061	
2000	08109614	CA/T EXPENSES INCURRED (MHD)	737,129	593,063	144,066	
2000	08109702	LITIGATION COLUMBUS OHIO US DISTRICT CT (EQE)	22,000	0	22,000	
2000	08109711	AGO AIR POLLUTION CONTROL ENFORCEMENT (EQE)	6,969	0	6,969	
2000	08109712	HAZARDOUS WASTE CONTROL LAWS ENFORCEMENT (EQE)	8,673	0	8,673	
2000	08109717	MHD EXPENSES INCURRED BY AGO (MHD)	465,000	160,648	304,352	
		TOTAL, ISAS	3,566,270	2,118,273	1,447,997	

BUDGET OVERVIEW

FEDERAL GRANTS FISCAL YEAR 2000						
Fiscal Year	Appropriation	Account Name	Obligation	Expended	Balance	
2000	08100022	STOP VIOLENCE AGAINST WOMEN ACT	96,706	28,491	68,215	
2000	08100096	DORCHESTER COMMUNITY HEALTH INITIATIVE	250,000	250,000	0	
2000	08106657	GROVE HALL SAFE NEIGHBORHOOD INITIATIVE	12,442	0	12,442	
2000	08106658	WEED AND SEED	175,000	144,799	30,201	
2000	08106666		50,000	117	49,883	
		TOTAL, GRANTS	584,148	423,407	160,741	

SUSPENSE FUNDS
 RECEIPTS AND DISBURSEMENTS
 FISCAL YEAR 2000

Fiscal_Year	Appropriation	Account Name	Obligation	Expended	Balance
2000	08100400	CHARLES GEORGE LANDFILL (MMDT # 0011-00044031292)	160,615	0	160,615
2000	08100401	TOWN OF METHUEN LANDFILL (MMDT # 0011-00044036531)	102,836	0	102,836
2000	08100402	MLA/MCFT CIVIL ACTION 90-2274 (MMDT # 0011-00044195931)	324,911	0	324,911
2000	08100403	94-1645	11,327	0	11,327
2000	08100408	PROCEEDS OF ACCOUNT DOCKET #99-06SW026	5,843	0	5,843
2000	08100526	ATTORNEY GENERAL UNCLAIMED MINIMUM WAGECLAIMS	505,202	357,935	147,267
2000	08106862	COMM. OF MASS. VS CENTURY AUTO APPRAISE. INC., RP STONE JR. & PETER SLATE	6,800	0	6,800
2000	08106885	COMM. OF MASS. VS ERIC BARTLETT D/B/A BARTLETT ASSOC. & BARTLETT FINANCIAL	2,000	0	2,000
2000	08106887	COMM. OF MASS. VS BRUCE LEDBURY D B A CARS INTERNATIONAL LTD.	11,287	0	11,287
2000	08106915	COMM. OF MASS. VS BARRY CUSHNER D/B/A NORTH SHORE ROOMMATES SERVICE	1,088	0	1,088
2000	08106917	COMM. OF MASS. VS DIAMOND CHEVROLET	7,396	0	7,396
2000	08106919	COMM. OF MASS. VS RUSTY JONES INC.	2,263	0	2,263
2000	08106925	COMM. OF MASS. VS A. J. LONG'S INC. D/B/A ECONOMY AUTO SALES ETC.	7,137	0	7,137
2000	08106941	COMM. V. MARIO CHIEREGHIO D/B/A LEE AUTOSALES	3,302	0	3,302
2000	08106943	COMMONWEALTH VS WILLIAM WOLF	518	0	518
2000	08106946	COMMONWEALTH VS TUJANA GOLDSTEIN STAR, ET AL	2,032	0	2,032
2000	08106950	ABRAMS ET AL VS HERTZ CORP	4,584	0	4,584
2000	08106952	COMMONWEALTH VS MISSIONS OF MERCY, INC	1,865	0	1,865
2000	08106953	COMMONWEALTH OF MA VS OUTDOOR WORLD, INC	16,474	0	16,474
2000	08106954	COMMONWEALTH VS EUROPEAN HEALTH SPA	1,323	0	1,323
2000	08106957	COMMONWEALTH VS MICHAEL COLLINS	1,397	0	1,397
2000	08106966	COMM OF MASS VS RAYMOND A. NOYES	2,500	0	2,500
2000	08106967	GETTY PETROLEUM VS. COMM OF MASS	75,000	0	75,000
2000	08106979	COMM OF MASS VS NATIONAL FINANCIAL CORP	15,000	0	15,000
2000	08106980	COMM OF MASS V. ROY PARKES D/B/A SHOPPERS SAMPLERS	2,200	0	2,200

SUSPENSE FUNDS
 RECEIPTS AND DISBURSEMENTS
 FISCAL YEAR 2000

Fiscal_Year	Appropriation	Account Name	Obligation	Expended	Balance
2000	08106982	COMM VS CAREFREE BUILDING PRODUCTS, INC.	6,250	0	6,250
2000	08106991	COMM OF MASS VS LIFETIME NUTRITION, INC. ET AL	9,968	0	9,968
2000	08106994	COMM OF MASS VS NNLC D/B/A LECTRA CITY	4,207	0	4,207
2000	08106996	COMMONWEALTH VS GEORGE MUIR D/B/A JOURNEYS ON DIALYSIS	1,000	0	1,000
2000	08107000	COMM OF MASS VS PAUL E. MORRISON	1,200	100	1,100
2000	08107005	COMM VS SUZANNE BANNISTER & DIRECT LINK	1,695	0	1,695
2000	08107010	COMM VS ROBERT PORE, D/B/A NATIONAL CITIZENSHIP & IMMIGRATION, AND FLEET BANK	576	0	576
2000	08107013	COMM VS RESORT PROPERTIES	16,504	0	16,504
2000	08107014	COMM OF MA VS NICKERSON ENTERPRISES, INC/DANIEL NICKERSON AND AMERICAR SUPERSTORE	2,187	0	2,187
2000	08107017	COMM VS MASSDENT BUSINESS MANAGEMENT INC/D/B/A DDS DENTAL CENTER	34,947	8,513	26,435
2000	08107018	COMM OF MASS VS SEARS ROEBUCK & COMPANY	9,279,029	377,645	8,901,384
2000	08107019	COMM OF MASS VS SEARS ROEBUCK & COMPANY	151,659	3,931	147,729
2000	08107022	COMM OF MASS VS NORTH SHORE ATHLETIC CLUB, INC., AND KENNETH P. MAGNO	3,000	2,499	501
2000	08107023	COMM OF MASS VS DANIEL BUCK, D/B/A CLEARINGHOUSE PUBLICATIONS	7,217	0	7,217
2000	08107024	COMM OF MASS VS PAUL E. JONDLÉ, ET AL	10,000	0	10,000
2000	08107029	COMMONWEALTH VS CAPITAL FUNDING CORP	15,900	0	15,900
2000	08107032	COMMONWEALTH VS HIDE-A-WAY HEALTH CLUB LEANN M. KELLY & CAROL J. FOSDICK	5,070	0	5,070
2000	08107034	COMMONWEALTH VS BOSTON ROAD MOTORS CORP, TOUCHDOWN LEASING CORP AND MARK AXENROTH	8,385	8,164	221
2000	08107035	COMMONWEALTH VS PAUL J. PEREIRA, & D/B/A FRANTERNAL INSURANCE/DENTAL/TRAVEL GROUP	2,000	0	2,000
2000	08107038	COMMONWEALTH VS SECOND FEDERAL CREDIT INC (CORP) AND FRANK DEMAIO (INDIVIDUAL)	1,000	0	1,000
2000	08107039	COMMONWEALTH VS HENRY J FRATTAROLI, JR., INDIVIDUAL WORK AS CREDIT REPAIR NETWORK	4,435	0	4,435

SUSPENSE FUNDS
 RECEIPTS AND DISBURSEMENTS
 FISCAL YEAR 2000

Fiscal Year	Appropriation	Account Name	Obligation	Expended	Balance
2000	08107038	COMMONWEALTH VS SECOND FEDERAL CREDIT INC (CORP) AND FRANK DEMAIO (INDIVIDUAL)	1,000	0	1,000
2000	08107039	COMMONWEALTH VS HENRY J FRATTAROLI, JR., INDIVIDUAL WORK AS CREDIT REPAIR NETWORK	4,435	0	4,435
2000	08107040	COMMONWEALTH VS PHILLIPS HALL INC. CORP. D/B/A ALLIED CREDIT SRVICE & HOWARD HALL	1,500	0	1,500
2000	08107042	FORFEITURE PENDENCY PROCEEDS 58-954-3 ACCOUNT # 58-954-3	7,817	0	7,817
2000	08107045	COMM VS TOWER CLEANING SYSTEMS	5,010	0	5,010
2000	08107048	COMM VS PAUL ELLIOT GIBBONS SPECIALTY CARS OF NEW HAMPSHIRE	10,000	0	10,000
2000	08107049	COMM VS ANDREW RUDNICK & MEDICAL WEIGHT LOSS CENTER, INC.	8,980	5,934	3,046
2000	08107051	COMM VS TRAVEL OPPORTUNITIES, INC.	25,000	0	25,000
2000	08107052	COMM VS 1ST NETWORK INC, & RANDY DOMINGS	2,320	750	1,570
2000	08107054	COMM VS MICHAEL MORRIS D/B/A NORTHEAST SASH AND DOOR CO.	5,500	5,500	0
2000	08107055	PROCEEDS OF ACCOUNT #0190219121 CHRISTOPHER DESIMONE	15,307	0	15,307
2000	08107056	COMMONWEALTH VS R & R INTERNATIONAL D/B/A TAKE A BREAK STUDENT TRAVEL, ET AL	10,000	9,538	462
2000	08107058	CLAIMED WAGES ATTORNEY GENERAL	985,210	985,123	87
2000	08107059	COMM VS AYAL ABRAMS D/B/A NATIONAL COUP-ON NETWORK, AMERICAN PUBLISHERS, ETC...	1,500	1,487	13
2000	08107061	COMM VS EQUINOX INTERNATIONAL CORP, WILLIAM GOULD, DAVID ISAACS.	100,000	0	100,000
		TOTAL, SUSPENSE	1,183,579	1,008,332	10,252,156

EXECUTIVE BUREAU

LEGAL COUNSEL

HUMAN RESOURCE MANAGEMENT OFFICE

BUDGET OFFICE

INFORMATION TECHNOLOGY DIVISION

OPERATIONS DIVISION

EXTERNAL AFFAIRS DIVISION

COMMUNICATIONS DIVISION

EXECUTIVE BUREAU

The Executive Bureau provides the overall administration, policy-setting, supervision, and staff training for the Office of the Attorney General. The Bureau also handles a number of specialized functions, including the coordination of legislative affairs, community outreach, constituent relations, administrative and technical support, and all internal and external communications.

The Executive Bureau is designed to develop and maintain the agency's infrastructure, enabling all of the Attorney General's Office to function productively and effectively for the benefit of the Commonwealth's citizens. The Bureau consists of the Office of the First Assistant Attorney General which includes the Legal Counsel, and the Chief of Staff's Office which includes the Human Resource Management Office, Budget Office, Information Technology Division, Operations Division, External Affairs Division, the Communications Division, the Bellotti Law Library and Support Services Division.

AG Tom Reilly hosted a "Youth Listening Conference" as part of the two day Eastern Regional NAAG conference attended by AGs from around the country. The Youth Listening Conference was also part of a year long NAAG "youth issues and violence prevention" initiative that took place in 1999 — another Youth Listening Conference was attended by AGs at the Winter Conference in Arizona. At the Youth Listening Conference held at Fanueil Hall on October 28 and attended by students, parents, and teachers from the cities and towns in Massachusetts, AG Tom Reilly moderated a student panel designed to solicit input from them on a range of issues, including sexual harassment, weapons, security measures, feeling safe, domestic violence, dress codes, and bullying. In a second panel, experts including school superintendents, principals, teachers, and counselors identified and considered the issues raised by the students in the first panel. After a short recap of the day's highlights, the students were presented with certificates in recognition of their participation and were treated to lunch.

The Executive Bureau included the following staff members: Meredith Baumann; Nancy Gromofsky; Susan Kenneally; Diane MacDonald; Pasha Polihronidis; Sharon Scott; Denise Snyder; and Mary Wollenhaupt.

LEGAL COUNSEL

The office of the Legal Counsel provides recommendations on legal and policy matters to the Attorney General, the First Assistant Attorney General, the Chief of Staff and all other Attorney General's Office

staff. The office is comprised of five attorneys - each of whom is assigned general and specific areas of responsibility - one paralegal and a secretary.

Specific areas of responsibility include applying the Rules of Professional Conduct and the State Ethics Law; providing legal advice and assistance to the non-legal operational divisions of the office, including Human Resources Management and Operations (Support Services, Information Technology and Budget); managing Special Assistant Attorney General (SAAG) appointments; approving Contracts for Legal Services by state agencies; reviewing and circulating Petitions and Notices from the Board of Bar Overseers; coordinating the officewide review of Department of Revenue tax settlements with individuals who have failed to pay taxes; reviewing and coordinating responses from bureau chiefs regarding civil amicus briefs circulated by the National Association of Attorneys General (NAAG) for submission to the First Assistant; reviewing and distributing requests from NAAG that the Attorney General sign on to letters in support of or in opposition to proposed legislation or regulations; and representing the Office of Campaign and Political Finance before the Superior Court.

The office of the Legal Counsel responds to questions and complaints from the public about the Open Meeting Law, as it applies to state agencies, and reviews public records law referrals from the Supervisor of Public Records in the Secretary of State's Office to determine whether the Attorney General should seek to enforce the Supervisor's order. The Legal Counsel serves as the Public Records Officer for the Executive Bureau, and coordinates the handling by the office's public records officers of public records requests applicable to other Attorney General's Office bureaus. The Legal Counsel also provides advice to Assistant Attorneys General on public records law and records retention issues.

In addition, the office of the Legal Counsel handles a variety of matters that do not fall within one of the bureaus or which require the input of the Executive Bureau. In this regard, the Office handles special projects assigned by the First Assistant and assists the Chief of Staff with legal issues relative to the administrative and finance responsibilities of the office. Special projects initiated during FY 2000 included assuming responsibility for evaluating the Attorney General's role in enforcing the public records law; issuing memoranda to all staff about public employees' responsibilities under the State Ethics Law on receiving gifts and disclosing their personal interest in matters in which the state has substantial interest; preparing a proposal to institute a comprehensive training program for all OAG employees; working with Human Resources to plan and put in place a monthly anti-discrimination training program for all OAG supervisors and staff; and creating the Attorney General's Fellowship Program and coordinating the interviewing and hiring for the first class of legal fellows, scheduled to begin serving the Attorney General's Office in September 2000.

HUMAN RESOURCE MANAGEMENT OFFICE

The revised Human Resource Manual was released and distributed to the staff in December 1999. The contents of the manual were intended to easily inform staff about the Attorney General's policies and procedures, and the format was improved to include all forms in the Appendix of the manual.

Some of the substantive changes that were made to the manual include incorporation of the Diversity Mission Statement in the Human Resource Manual to emphasize the Office's commitment to diversity; creation of the Domestic Violence Prevention Policy to provide guidance to management and employees to address the occurrence of domestic violence and its effect in the workplace; adoption of a Part-Time Status Policy to acknowledge the independent needs of staff members and to attract and retain top-notch employees; the awarding of paid Cancer Screening Leave for employees to schedule medical screenings; and the adoption of an Inclement Weather/Snow Policy to provide helpful information to employees regarding office closings.

The Attorney General's Office vacation policy was revised so that employees earned vacation leave on a monthly basis after working the complete month. This change was made for both administrative reasons and in preparation for conversion to the state's new payroll system, the Human Resource/Compensation Management System (HR/CMS) in April 2000. The Attorney General's Office also revised its time and attendance system to be consistent with the implementation of HR/CMS, developing a new time reporting system by which employees report their days worked and paid leave days taken on a weekly basis.

Following the release of the Anti-Discrimination and Sexual Harassment Policy in the Spring of 1999, the Office designed and conducted comprehensive training sessions for both supervisors and staff. All newly hired managers were trained first, then numerous sessions were conducted throughout the year to train all staff members. This is the first time in the history of the Attorney General's Office that this task has been undertaken.

The Attorney General's Office has consistently reissued this important policy each April to highlight its commitment to a workplace free of discriminatory or illegal behavior.

The Diversity Committee is a cross-bureau initiative aimed at raising awareness of diversity, tolerance and cultural sensitivity. Attorney General Reilly has wholeheartedly supported and expanded the efforts of the Diversity Committee in order to foster a welcoming work environment, where people of diverse backgrounds are valued and respected.

In conjunction with the Diversity Committee, the Human Resource Management Office sponsored its second annual Diversity Reception in an effort to attract and retain employees of diverse backgrounds and experiences. As a result, five new staff attorneys were recruited and hired.

Due to the size and various geographical locations of the Attorney General's Office, the Human Resource Management Office held monthly meetings with all bureau and division Administrative Assistants to inform them of policy or procedural changes in the Office and provide a forum for discussion.

The Human Resource Management Office included the following staff members: Diana LaRochelle, Director; Luna Bacon; Joyce Delgado; James Donovan; Doris Donovan; Debra Lacross; Sandra Macdonald; Rosemary Miller; Meade Munroe; Joseph Shea; Ina Tall; and Dazlee Vega.

BUDGET OFFICE

During Fiscal Year 2000, the Budget Office issued a Revenue Receivable Manual and an updated Internal Control Policy, seeking the advice of both the Office of the State Comptroller and the State Auditor's Office to issue them.

The Budget Office also worked with the State Comptroller to resolve an issue involving the Department of Employment and Training (DET). DET provides direct funding to the Office of the Attorney General to support investigation and prosecution of unemployment fraud. DET also was charged approximately \$500,000 in the Statewide Cost Allocation Program, a program administered by the State Comptroller to recover federal funds not recovered through other mechanisms. DET believed this was a duplicate charge and, after the Budget Office provided information DET had requested in the past, these charges were removed.

In addition, the Office submitted four years of outstanding Drug Forfeiture Certification Reports to the Department of Justice.

In order to effectively manage funding received from other state agencies to support litigation costs, the Budget Office recruited an experienced Contract Manager and began conducting internal training about the requirements of state purchasing and state finance law.

The Budget Office also began electronically tracking payroll expenditures by cost center. Prior to Fiscal Year 2000, only hard copy records of payroll costs were maintained. This made historical tracking of costs difficult to maintain.

Working with the Human Resource Management Office, the Budget Office successfully made the transition to a new payroll system instituted by the Executive Office of Administration and Finance. Converting from the 'CAPS' monthly payroll system to the new Human Resource/Compensation Management System (HR/CMS) has enhanced the ability of the office to track costs.

The Budget Office included the following staff members: Ellen Donaghey, Director; Kristine Hill; James Creedon; Tamika Eutsay; Mary Jane Grace; Michael Guarin; India McConnico; Penny Michalski; Gail Samo; and Vincent Shanley.

INFORMATION TECHNOLOGY DIVISION

Attorney General Tom Reilly's Office recognizes the importance of today's government law office and its impact upon this agency's ability to efficiently deliver information and services to Massachusetts' citizens. Understanding also the need to keep pace with the rapid changes imposed by technology, the Attorney General's Office is committed to providing its employees with quality technology resources and solutions. To do that, the Information Technology Division (ITD) continues to upgrade and enhance the agency's computer systems and network operations.

In Fiscal Year 2000, ITD first concentrated on completing network upgrades to ensure Y2K compliance. The division then focused its efforts on upgrading the level of desktop computing by acquiring and installing more than 300 high performance personal computers. Improvements in printing quality and capabilities, as well as reductions in repair costs, were gained by the replacement of several printers.

To meet the increasing needs of legal and investigative staff, the Attorney General's Office took steps in Fiscal Year 2000 to acquire a number of notebook computers and mobile printers. Mobile computer equipment plays an essential role in the work of Attorney General Reilly's High Tech and Computer Crimes Division, and provides increased flexibility to other legal and investigative staff.

Portable computing equipment also plays an important role in the courtroom since the use of multimedia and presentation technology to present evidence has become more common in both civil and criminal cases. As a result, in addition to notebook computers and portable printers, the Attorney General's Office has widened its scope of technology resources to acquire equipment such as portable projectors, document display devices, digital cameras, document scanners and presentation monitors.

The Information Technology Division also worked with members of the High Tech and Computer Crimes Division and the Public Protection Bureau to acquire the equipment and resources necessary to create an independent computer network. This network is used exclusively by law enforcement and investigative staff to conduct investigations into Internet-related crimes and computer forensics.

The Attorney General's network communications were also upgraded and expanded in Fiscal Year 2000. A new T1 connection was installed between the main office in Boston and the Western Massachusetts Regional Office in Springfield, providing vastly increased data transmission speed between the two sites. This upgrade provides the Springfield Office staff with fast and easy access to network applications that were previously unavailable to them.

Attorney General Reilly also opened two more regional offices in Fiscal Year 2000, in New Bedford and in Worcester. ITD configured and installed a local area network in each office. Both new sites communicate with the main office through T1 connections that provide full access to all network applications and resources.

During Fiscal Year 2000, IT also worked on a variety of other projects and initiatives, such as creating and issuing the Attorney General's Acceptable Use Policy for Information Technology Resources, software compliance enforcement, the use of adaptive technologies and assisting the Human Resource Management Division in implementing a new applicant tracking system.

The Information Technology Division includes the following staff members: Paula Durant, Director; Ronald Rossetti, Claudette Clement; Jean Exantus; Christine Heneghan; Kwong Ma; Amy Oppici; Ronald Perreault; Visakha Samaraweera; Thomas Smith; David Spector; and Charles Sullivan.

OPERATIONS DIVISION

During Fiscal Year 2000 the Operations Division's function was to provide stability and support to all parts of the Office of the Attorney General including the Regional Offices. In keeping with Attorney General Tom Reilly's desire to make this Office more responsive to the citizens of the Commonwealth, plans were formulated in late 1999 to open full-service offices in Central and Southeastern Massachusetts. Despite large population concentrations in these parts of the state, access to AGO services had historically been difficult or impossible for a large number of residents.

At the start of Fiscal Year 2000, a temporary office was opened in Worcester in space furnished by the Office for Development for the city of Worcester. Following the Division of Capital Asset Management's (DCAM) procedures for the procurement of leased space, space was secured at One Exchange Place in downtown Worcester. The new Central Massachusetts Office of the Attorney General was opened on May 15, 2000.

During Fiscal Year 2000 a temporary office was opened in New Bedford in space furnished by the University of Massachusetts at Dartmouth. Following DCAM procedures, leased space was secured in New Bedford in a building owned by the United Way of Greater New Bedford, located at 105 William Street. The new Southeastern Massachusetts Office of the Attorney General was opened on June 29, 2000. These two offices are functioning in a full service capacity and have become important to the citizens and regions in which they are located.

Support Services, part of the Operations Division, upgraded their copiers during Fiscal Year 2000. Eight analog copiers were replaced with digital machines increasing copying productivity as well as positioning the office for future copying and printing automation.

In order to improve our data storage and retrieval systems, the Operations Division began using Iron Mountain Records Management Incorporated. The use of this off-site storage center allowed us to better utilize our limited administrative space and provides attorneys rapid access to critical information.

The Operations Division includes the following staff members: Frank Velluto, Director; Christy Adams; Michael Ball; and Kevin Nolan. The Support Service Office includes the following staff members: William Coughlin, Manager; Nestor Morales; Stephen Cress; Sean Donovan; Pier Minghetti; David Scafati; Andrew Smith; Dennis Smith; and Harold Tafler.

The smooth operation of the Attorney General's Office is also reliant on the dedicated professionalism of the following staff members, in the Belotti Law Library and the Telecommunications Division, respectively: Karin Thurman, Law Librarian; Lori Dyson; Paula Hartman; and Catherine Douglas; Susan Lindsey; and Charlene Wilson.

EXTERNAL AFFAIRS DIVISION

The External Affairs Division responds to the public's inquiries, and serves as a liaison between the community and the Attorney General's Office. The External Affairs Division consists of the Office of Community Partnerships, Intergovernmental Affairs and the Community Liaison.

Attorney General Tom Reilly created the Office of Community Partnerships to work with Massachusetts mayors, urban leaders and local town officials to address issues that relate to our cities and towns, particularly as they affect the health and safety of our children, environmental concerns and housing issues. The office acts as a direct liaison between the Attorney General's Office and the state's cities and towns.

In Fiscal Year 2000, the Office of Community Partnerships worked with the state's mayors, school superintendents, urban leaders and local officials in an effort to develop ways in which state and local government can partner in the public interest. To this end, the Office of Community Partnerships teamed with cities and towns to establish School Safety Programs, Abandoned Housing Initiatives, Brownfields Projects as well as offering insight to a broader range of Municipal Law matters.

The Community Liaison deals with constituents through telephone inquiries, written requests and walk-in visits to the office. In Fiscal Year 2000, the Community Liaison fielded and resolved issues resulting from approximately 2000 telephone inquiries, 300 written requests and 150 walk-in visitors.

The Intergovernmental Affairs Office acts as the liaison to other state and federal government offices and officials, including the state Legislature, members of the Massachusetts congressional delegation and other elected officials from across the country. The Intergovernmental Affairs Office works with other bureaus in the Attorney General's Office to develop and file legislative proposals, and monitors legislation and budget items relevant to the Office.

In Fiscal Year 2000, Attorney General Tom Reilly, through the Intergovernmental Affairs Office, filed a legislative package directed toward updating the Commonwealth's laws to reflect changes in technology, and to provide better tools to protect the state's children, consumers, elderly residents, working families, victims of crime and the environment.

The Intergovernmental Affairs Office worked closely with the Legislature in Fiscal Year 2000, providing testimony at legislative hearings and technical support to members of the legislative committees on issues related to the Attorney General's legislative package.

The Intergovernmental Affairs Office also acts as the contact for members of the Legislature and their staff who have questions or need assistance from the Attorney General's Office on behalf of their constituents. In Fiscal Year 2000, the Office handled more than 500 inquiries from members of the state Legislature and congressional delegation pertaining to a wide range of matters handled by the Office.

The External Affairs Division included the following staff members: Teresa Polhemus; Jason Queenin; John Towle; Susan Beer; Karen Charles; Brigid Crowley; Janis DiLoreto; Leonard Lopes; Jerry Shipman; Daniel Szostkiewicz; and Elissa Torto.

COMMUNICATIONS DIVISION

The Communications Office coordinates all media related matters for the Attorney General's Office. The chief responsibility of the Communications Office is to serve as a centralized public voice for the agency. To that end, the Communications Officers work with executive staff and bureau chiefs to ensure the Attorney General's priorities are reflected in all public statements and materials, including press releases, advisories, public statements, interviews, the Attorney General's Web site and other public appearances and events.

Addressing that need to improve communication within the agency, the Communications Office has established protocols for handling the various ways in which the office communicates with the public, including dealing with the media, creating publications and brochures and placing materials on the Attorney General's Web site.

The Communications Office included the following staff members: Jill Reilly; Brian Heffron; Stephen Bilafer; Marsha Cohen; Ann Donlan; Michael McCann; and Adam Needles.

WEB SITE

During December, 1999, Attorney General Reilly announced the launch of the new AGO Web site. The Web site is organized by topic and covers the following main areas: Children; Civil Rights; Consumer Protection; Crime Prevention; Elders; The Environment; Government; Healthcare; High Tech; Victims' Services; and Workers' Rights. Information is also available on public events, press releases, employment opportunities, legislative and community initiatives, and various publications printed by this Office. Citizens are able to access many of the services of the Attorney General's Office by downloading and viewing forms, contact information, and relevant statutes and regulations.

In addition to providing information on topics of concern to our citizens such as consumer rights, victim compensation information, and health care concerns, it is our goal to have this site be more interactive in the near future. We intend to make this Web site a place where citizens can not only obtain valuable information, forms, and complaints, but where they can also submit these forms and applications online.

BUSINESS AND LABOR PROTECTION BUREAU

FAIR LABOR AND BUSINESS PRACTICES DIVISION

INSURANCE AND UNEMPLOYMENT FRAUD DIVISION

MEDICAID FRAUD CONTROL UNIT

BUSINESS AND LABOR PROTECTION BUREAU

The Business and Labor Protection Bureau is a bureau of over one hundred lawyers, investigators, and administrative staff that is responsible for policing and prosecuting a variety of business crimes and related civil wrongs. The Bureau consists of the Fair Labor and Business Practices Division, the Insurance and Unemployment Fraud Division, and the Medicaid Fraud Control Unit. The Bureau's mission is to use its enforcement responsibility and public education initiatives to prosecute and deter fraud in the marketplace and to create a fair environment in which businesses and workers can mutually participate. The Bureau employs staff operating out of all three of the Attorney General's Regional Offices.

The Bureau's primary offices are located at 200 Portland Street, Boston. The Bureau also staffs the Attorney General's Regional Offices in Springfield, Worcester, and New Bedford, as well as its part-time satellite locations in Fall River and Pittsfield.

The Bureau included the following staff members: David Nalven, Chief; Constance McGrane; Antonetta Barone; Barbara Keating; and David Marks.

FAIR LABOR AND BUSINESS PRACTICES DIVISION

The Fair Labor and Business Practices Division (FLBP) consists of approximately 50 full-time staff members: a division chief, deputy division chief, chief of investigations, and a staff of assistant attorneys general, inspectors, paralegals, hotline/intake staff, outreach personnel, and administrative staff. FLBP maintains full-time staff in all three regional offices, as well as in the satellite offices in Fall River and Pittsfield.

FLBP is responsible for enforcing the Massachusetts wage and hour laws, including the prevailing wage, minimum wage, and overtime and nonpayment laws. FLBP is also charged with enforcing the child labor and workplace safety laws, and laws concerning adherence to public contracting requirements. FLBP staffs a public contracts protest unit that investigates allegations of improper public works bidding practices, holds hearings, and issues written decisions concerning public construction bid disputes. FLBP is also responsible for reviewing and ruling on applications by businesses for waivers from compliance with certain workplace laws.

FLBP's telephone hotline, which serves as a workplace law information center for workers and businesses, received nearly 80,000 inquiries in Fiscal Year 2000. FLBP also received and investigated in excess of 3,500 formal complaints in that period. In many instances, FLBP's investigators resolved these complaints informally, often with payment of full restitution or provision of another appropriate remedy to the aggrieved employee. In many other cases, consistent with its law enforcement mission and approach, FLBP's staff employed its prosecution authority to pursue instances of unlawful conduct and regularly sought civil and criminal sanctions to be imposed on workplace law offenders. During Fiscal Year 2000, FLBP recovered in excess of \$2 million in wages that were owed, but unpaid, to Massachusetts workers, as well as administrative fines, through these efforts.

HIGHLIGHTED EFFORTS & SIGNIFICANT ACTIVITIES

PAYMENT OF WAGES ENFORCEMENT

In November 1998, significant new amendments to the wage and hour laws were enacted, enhancing criminal penalties for violations of certain wage and hour laws, giving the Attorney General the authority to issue civil citations for such violations. Pursuant to this new legislation, FLBP was also authorized to issue citations to employers who fail to pay wages, overtime, the minimum wage, or prevailing wages, or who fail to provide certified payroll or other employment records required to be maintained and produced under Massachusetts law. Under the law, a civil citation issued by FLBP can require the employer to comply with the law, pay restitution to the employees, and pay a civil penalty. During Fiscal Year 2000, FLBP implemented enforcement using this new legislation, and issued more than 135 civil citations for violations of the payment of wages and prevailing wage statutes.

PREVAILING WAGE ENFORCEMENT

FLBP places a high priority on enforcement of the prevailing wage law. Well-documented complaints often form the basis for FLBP's most effective prosecutions and wage recoveries. FLBP inspectors also conduct unannounced site inspections at numerous public construction projects. During Fiscal Year 2000, FLBP investigators conducted hundreds of site inspections throughout the Commonwealth. This proactive approach not only assists in the discovery of unlawful conduct, but also serves the important public purpose of deterring workplace misconduct that might otherwise take place.

PUBLIC CONTRACT OVERSIGHT

The Attorney General's Office serves to provide a professional and accessible forum for the resolution of public construction bidding disputes. The Attorney General's primary enforcement efforts in this area are undertaken by FLBP's Public Contracts Unit. The tools employed by the Public Contracts Unit include providing informal advice by telephone to the Commonwealth's awarding authorities and contractors who bid on public works projects, adjudicating public works bidding disputes, and, when appropriate, investigating allegations of impropriety in connection with public works project bidding.

FLBP's public contracts enforcement efforts also include an educational component that provides public contracting participants with information regarding the public bidding laws. Among other things, the Attorney General's Office compiles and makes available the written public contracts bid protest decisions issued by FLBP in the Francis X. Bellotti Law Library of the Attorney General's Office. In addition, FLBP's staff participates in educational programs that provide the substantive and procedural information to the construction industry and their counsel necessary to properly solicit or submit public works construction bids. Such proactive efforts serve many useful purposes, not the least of which is to decrease the number of bid protests.

The receipt of, and response to, telephone and written inquiries and correspondence also serve an educational function. During Fiscal Year 2000, the Public Contracts Unit received thousands of written and telephone inquiries. The Unit's telephone support has become an established resource for contractors and awarding authorities. Telephone assistance also provides a significant prevention tool, often delivering the information necessary to prevent (or quickly remedy) a violation of the public bidding laws.

CHILD LABOR

The Massachusetts child labor laws protect workers under the age of 18. These workplace laws acknowledge the special vulnerabilities of young workers. The laws allow young workers to optimize their educational opportunities by restricting the number of hours minors of certain ages may work. In recognition of the increased rate of workplace injury among teenage workers, they also shield minors from working on hazardous tasks and equipment. In addition, the permitting process, in which FLBP's specially trained child labor inspectors are closely involved, creates a structure for school superintendents who issue permits to review the intended employment to ensure that it is safe, consistent with the child labor laws, and serves the best interests of the minor.

FLBP investigates reports of child labor violations, conducts workplace site inspections, and educates employers about their legal obligations. During Fiscal Year 2000, FLBP inspectors visited many businesses where minors were employed, noting violations, and advising employers of their responsibilities under the child labor laws.

WORKPLACE SAFETY

FLBP investigates reports of fatalities and serious injuries that occur in the workplace. FLBP inspectors work in conjunction with the United States Occupational Safety and Health Administration (OSHA), the Massachusetts Department of Public Health's Fatality Assessment and Control Evaluation Program, the State Police Crime Prevention and Control Unit, local police and fire departments, and other federal, state and local agencies.

In addition, the FLBP investigates reports of serious injuries and safety risks that occur in the public sector. FLBP retains statutory authority to enforce safety standards in municipal and county workplaces. During Fiscal Year 2000, inspectors investigated workplace safety issues at a variety of construction sites, service and manufacturing facilities, restaurants, and governmental offices.

WAIVERS AND INDUSTRIAL HOMEWORK

FLBP is charged by statute with the authority to waive certain requirements of the labor laws under certain conditions. Each request for a waiver is carefully evaluated before a determination is made to grant or deny the request. FLBP enforces the industrial homework laws (work performed for a company in the employee's home) by issuing permits to the employers and certificates for each employee. FLBP also monitors these companies to ensure compliance with the minimum wage and overtime laws. In this Fiscal Year, FLBP processed hundreds of waiver applications and industrial homework certificate requests.

AFFIRMATIVE LITIGATION

The following provides an overview of cases undertaken by FLBP during Fiscal Year 2000.

PREVAILING WAGE PROSECUTIONS

- **Commonwealth v. O'Donnell Sand and Gravel/Mary O'Donnell** (Suffolk Superior Court) O'Donnell pleaded guilty to charges of failure to pay prevailing wage and overtime. The

company and its principal were also ordered to pay restitution to 10 employees in the amount of \$63,189.

- **Commonwealth v. Crystal Construction** Crystal Construction and its president pleaded guilty to prevailing wage violations on three public works projects. Defendants were debarred from public works for six months, ordered to pay \$20,041 in restitution and additional victim witness fees, and sentenced to one year probation.
- **Commonwealth v. Classic Siding** This window contractor was prosecuted for failing to pay its employees prevailing wages. The matter was resolved with an agreement that required the contractor to pay full restitution to the employees in the amount of \$42,000, plus a fine of \$30,000, and to be debarred from participation in public works construction projects for a period of six months.
- **R.H. White Construction** Settlement was reached in this prevailing wage investigation with a contractor that had misclassified and underpaid workers who worked on a sewage treatment facility in Belchertown. The company paid \$56,995 in restitution to the underpaid workers.

NON-PAYMENT OF WAGES ENFORCEMENT ACTIONS

- **Commonwealth v. Adrian and Marina Morgado/Morgado & Sons, Inc.** These defendants were charged with non-payment of wages, failure to pay prevailing wage and overtime, failure to provide records, worker's compensation insurance premium evasion, motor vehicle insurance fraud, and other crimes. The court ordered restitution to four complainants in the amount of \$15,000, with additional fines assessed of \$25,000. The Court further imposed a three-year debarment upon the defendants and their company.
- **Commonwealth v. Alan Darulla/Almighty Courier Services, Inc.** This case involved nonpayment of wages to eight employees who worked as baggage delivery drivers and "sweepers." The Court ordered unsupervised probation for one year, and restitution in the amount of \$10,007.
- **House of Blues** This case began as a small nonpayment of wage case, but through investigation, FLBP discovered that the employer failed to pay over a portion of the 15% service charge to its employees. An audit was conducted, and the company agreed to pay \$39,000 in restitution to 53 employees.

- **Commonwealth v. M&M Printing** (Salem District Court) Following a two-day jury trial in Salem District Court, the company was found guilty of failing to pay commissions earned by a salesman in April and May 1998. The company was sentenced to one year probation, restitution of \$3,000, and a fine of \$750.
- **Commonwealth v. Ed Yu** The defendant was convicted of nonpayment of wages and ordered to pay \$14,705 in restitution to former employees. He was also sentenced to probation for two years.

CHILD LABOR SUPERVISION

- **Six Flags of New England** Pursuant to a statute enacted in May 2000, FLBP was authorized to waive compliance with the child labor laws for applicants such as Six Flags of New England, an amusement park in the Springfield area that employs a large number of minors during the summer. Six Flags petitioned to allow minor employees to work until midnight. After an investigation, a public hearing, and other efforts, FLBP issued a waiver permitting minors to work until 11:00 p.m.

REGULATORY ACTIVITY

- **Center for Living and Working** FLBP gave significant attention to non-payment complaints by home health aides known as Personal Care Attendants (PCAs). These non-payment problems arose in large measure from structural problems inherent in the relationship between the PCA, the Medicaid patients they serve, and the home health aide agencies that act as a fiscal intermediary with the Commonwealth's Department of Medical Assistance. FLBP expects to play a role in shaping the law and protocols concerning this program, and in training PCAs and fiscal intermediaries on compliance strategies to avoid non-payment complaints.

OUTREACH

Attorney General Tom Reilly believes that public education is the first step in promoting compliance with workplace law. Accordingly, outreach to the employee and employer communities, their unions, trade associations, counsel, and other advocates, is a FLBP priority. During this Fiscal Year, FLBP staff made more than 70 presentations to bar association and continuing legal education groups, professional organizations, trade associations, labor unions, and employee advocacy groups. These presentations range from nuts and bolts primers on the Commonwealth's wage and hour laws, and employee and employer

rights and responsibilities under these laws, to sophisticated presentations on such topics as worker classification under the prevailing wage law and treatment of accrued vacation times as wages. During this period, FLBP also launched a special outreach effort to immigrant workers and their families who, because of language barriers and lack of familiarity with the laws of the Commonwealth, may be especially vulnerable to mistreatment in the workplace.

FLBP also seeks to educate the relevant communities through the production and distribution of advisories and other publications. During Fiscal Year 2000, with new minimum wage legislation having been enacted, FLBP designed and distributed to 10,000 Massachusetts employers, a new minimum wage and workplace rights poster. FLBP also worked with the Commonwealth's Division of Occupational Safety on the compilation and distribution of a Compendium of Massachusetts Prevailing Wage law, for use by awarding authorities, contractors, workers, and other participants in Massachusetts public works construction projects.

FLBP also seeks to communicate with the community with the Worker's Rights section of the Attorney General's Office's Web site. The Web site contains basic summaries of Massachusetts workplace law, many of the Attorney General's workplace related advisories and publications, and other resources.

The Division includes the following staff members: Daniel Field, Chief; Luz Arevalo; Francis Flaherty; Barbara Piselli; John Baker; Jeremy Banks; Philip Beattie; Kyle Beverly; David Bieksha; Maria Blanciforte; Richard Bothwell; Arthur Butler; Cecile Byrne; Ronald Cabezas; Nicholas Carboni; George Clark; Mary Dullinger-Cunha; Patrick Faherty; Robert Galvani; Shirley Garutti; John Gatti; Paul Gordon; Richard Hartigan; Marsha Hunter; William Hurley; Barbara Kane; Patricia Kelleher; Valerie Mabry; Anita Maietta; Michael Mard; Laura Miller; M. Katherine Mulligan; Kristin Naugler; Jean O'Brien; Joan Parker; Iona Powell-Headley; Gregory Reutlinger; Tyrone Robinson; Mario Rosado; Eulalee Rose; Palmer Santucci, Jr.; Pasqua Scibelli; Steven Spencer; Bruce Trager; Steven Troiano; Theresa Ukleja; Theresa Vadala; Richard Yorra; Karla Zarbo; and Michelle Zelinski.

INSURANCE AND UNEMPLOYMENT FRAUD DIVISION

The Insurance and Unemployment Fraud Division (IUFD) consists of approximately 20 staff members, including a division chief, a deputy division chief, assistant attorneys general, a paralegal, investigators, and administrative staff. IUFD's mission is to investigate and prosecute fraud against insurers in Massachusetts, and against the Commonwealth's unemployment security fund. IUFD prosecutes these crimes to protect Massachusetts' businesses, consumers, and taxpayers from the hidden tax that fraud on these systems imposes.

IUFD's cases vary widely, including multi-million dollar workers' compensation premium fraud cases, conspiracies by medical and legal professionals, fraud in auto repair businesses, staged motor vehicle accidents, inflated claims against homeowner's policies, cases involving claimants working while collecting workers' compensation benefits, fraud by businesses on the Commonwealth's unemployment security fund, and fraud by individuals who collect unemployment compensation while working. IUFD gives special attention to policing fraud by insurance industry insiders, including insurance agents, claims adjusters, and damage appraisers, whose frauds can have an especially corrosive effect on public confidence in the insurance and unemployment compensation systems.

IUFD receives referrals from a number of sources. The largest source of referred cases is the Massachusetts Insurance Fraud Bureau, a non-governmental entity created by the Massachusetts Legislature and funded pursuant to statute indirectly by the Massachusetts insurance industry. In addition, IUFD receives referrals from the Commonwealth's Human Resources Division, the Governor's Auto Theft Strike Force, the Department of Industrial Accidents, the Workers' Compensation Rating and Inspection Bureau, the National Insurance Crime Bureau, and the Social Security Administration. IUFD also receives complaints and referrals from concerned citizens, private attorneys, and court personnel. This exemplifies that IUFD's efforts in fighting insurance fraud are appreciated throughout the Commonwealth.

HIGHLIGHTED EFFORTS & SIGNIFICANT ACTIVITIES

IUFD obtained indictments or district court charges in 40 new cases in Fiscal Year 2000 and closed 56 cases. In this same period, IUFD also handled dozens of cases of fraud against the unemployment compensation system, including cases involving substantial orders of restitution to the Commonwealth. As of the close of Fiscal Year 2000, IUFD's inventory of active matters included 60 cases that had been charged and 87 cases under active investigation.

The following are representative cases that were concluded in Fiscal Year 2000:

- **Ellis Cases** The most prominent matter in IUFD during Fiscal Year 2000 was the trial of James N. Ellis, Jr., a partner in the Worcester family law firm of Ellis & Ellis. The Ellis cases as a whole involved 246 indictments brought against numerous Ellis family members, their clients, consultants, and other joint ventures. The case tried against James N. Ellis, Jr., the first of what are expected to be a series of trials, alleged that James N. Ellis, Jr. had knowingly submitted a fraudulent claim for worker's compensation insurance on behalf of a client. The central proof of the fraud was that Ellis had previously submitted a claim for the identical injury for the same client, but using the client's alias. The defense argued that the claim was for an aggravation of the injury upon which the first claim was based, and was therefore appropriate for submission;

and that because the client's true identity was not material to the claim, the submission under the alias identity did not constitute a fraud. The trial began in early January and ended in mid-March, with a hung jury. Retrial was scheduled for early in the next fiscal year.

During this period, other Ellis & Ellis matters moved forward, as follows:

- **Commonwealth v. Leo Biliouris** (Worcester Superior Court) After a three-week trial on workers' compensation fraud charges, the defendant, a former Ellis & Ellis employee, client, and business associate, was convicted and sentenced to three years in state prison followed by four years' probation. He was also ordered to perform 800 hours of community service and pay \$240,000 restitution to four insurance companies.
- **Commonwealth v. Jay Rosenfield** (Worcester Superior Court) Former Ellis & Ellis client and employee pleaded guilty to multiple counts of workers' compensation and other insurance fraud and was sentenced to a term of imprisonment of two and a half years in the Worcester County House of Corrections. He was also ordered to pay fines and full restitution.
- **Commonwealth v. James Reilly** (Worcester Superior Court) This former Ellis & Ellis client pleaded guilty to workers' compensation insurance fraud. He was sentenced to a term of imprisonment of 18 months in the Worcester County House of Corrections and ordered to pay restitution in the amount of \$25,000.
- **Commonwealth v. James Economou** (Worcester Superior Court) This former Ellis & Ellis employee and business associate, and owner of a Worcester doughnut shop, pleaded guilty to participating in a scheme to assist doughnut shop employees in submitting fraudulent workers' compensation claims. The defendant was sentenced to a term of incarceration of 12 months in the Worcester County House of Corrections.
- **Ellis Habeas Corpus Challenge** (Supreme Judicial Court) In the last fiscal year, the Massachusetts Supreme Judicial Court, by a vote of 7-0, rejected the Ellises' appeal from a motion to dismiss the indictments returned against them on the grounds that the Attorney General's Office, having received funding, pursuant to a statutory scheme enacted by the Massachusetts legislature, for prosecution of insurance fraud in Massachusetts, was not disinterested with respect to its prosecutions. The defendants sought further relief from the Supreme Judicial Court's ruling via a habeas petition to the United States District Court. In that proceeding, the United States District Judge ordered discovery to proceed, but via a writ of mandamus, the Attorney General requested that the United States Court of Appeals for the

First Circuit review the decision. By unanimous vote, the federal appeals court dismissed the Ellises' federal challenge and allowed the Attorney General's prosecutions to proceed.

- **New England Job Center** This case charged a temporary employment agency and its principal, Richard Purtell, with misclassifying its employees as independent contractors in order to avoid contribution into the unemployment security fund and purchase of workers' compensation insurance. The corporation entered a plea of guilty, and the principal was placed on pretrial probation for one year. Both were ordered to pay restitution and fines in excess of \$650,000.
- **Commonwealth v. Gary Sbordonne** (Middlesex Superior Court) Boston area chiropractor was charged with multiple counts of submitting fraudulent claims for treatment of motor vehicle and workers' compensation insurance claimants. In Fiscal Year 2000, the defendant pleaded guilty and was sentenced to serve 30 days in the Middlesex County House of Corrections and two years' probation, and to pay approximately \$10,000 in restitution and fines. During the term of probation, the defendant was also prohibited from reapplying for his chiropractic license.
- **Commonwealth v. William Jerome** (Middlesex Superior Court) The defendant, a Boston lawyer, was convicted after trial of submitting false statements to an insurer in connection with his client's fraudulent motor vehicle insurance claim. He was sentenced to six months in the Middlesex County House of Corrections, 30 days to serve, and ordered to pay approximately \$12,000 in restitution.
- **Commonwealth v. Celise Dessin** (Middlesex Superior Court) The defendant, the owner and operator of an auto driving school, was convicted after trial on charges of motor vehicle insurance fraud and sentenced to serve two years in the Middlesex County House of Corrections, three years probation, and ordered to pay \$40,000 in restitution.
- **Commonwealth v. Nadia Jean-Michel** (Plymouth District Court) Following a one-week jury trial, the defendant was convicted of multiple counts of fraud and larceny arising from numerous fraudulent insurance and welfare benefit claims. The defendant was sentenced to serve six to ten years in state prison and ordered to pay \$66,000 in restitution.
- **Operation Overdue** Following an undercover investigation conducted by the Governor's Auto Theft Strike Force and the Massachusetts State Police, the Attorney General prosecuted nine individuals who had falsely reported that their automobiles had been stolen and had

submitted fraudulent stolen vehicles claims to their insurers. As of the close of Fiscal Year 2000, eight of the nine defendants in this investigation had pleaded guilty and were sentenced generally to suspended or probationary sentences, and were also ordered to pay restitution and fines.

- **Commonwealth v. Donald Bolster** (Norfolk Superior Court) In this prosecution, an independent insurance investigator bribed an insurance company adjuster for work assignments and then inflated his bills to the insurance company to cover the cost of the payoffs. The defendant pleaded guilty and received a two-year state prison sentence.
- **Commonwealth v. Walter Lewinski** (Brookline District Court) The defendant was charged with workers' compensation insurance fraud. He pleaded guilty and was sentenced to serve six months in the Norfolk County House of Corrections, suspended for 18 months, and was ordered to pay full restitution.
- **Commonwealth v. Scott Gaumond, Robert Newell, and Stephen Todd** (Essex and Suffolk Superior Courts) These defendants were charged with insurance fraud and larceny in connection with the establishment of a home repair contracting business and frauds against elderly consumers. The defendants were sentenced in Essex and Suffolk Superior Courts to terms of incarceration ranging from three years to seven years in state prison.

OUTREACH

IUFD is an active participant in insurance industry outreach and training activities. During Fiscal Year 2000, IUFD staff participated in numerous training events with the Massachusetts Insurance Fraud Bureau, National Insurance Crime Bureau, Northeast Insurance Auditors' Association, and other organizations. IUFD continues to work insurance industry and law enforcement personnel to augment its own anti-fraud efforts.

The Division included the following staff members: William Weinreb; Eliot Green; Martha Bower; Gina Walcott; John Ciardi; Erin Olson; David Andrews; Anne Berlin; Brian Burke; John Crimmins; John Curseaden; Martin Flood; Jeannette Frey; Rafael Garcia; Aisling Kennedy; Joshua Krell; Catherine McClure; Shauna Neuhauser; John O'Leary; James Paikos; Lena Robinson; and Amy Sharff.

MEDICAID FRAUD CONTROL UNIT

The Attorney General's Medicaid Fraud Control Unit (MFCU) consists of approximately 30 full-time members, including a division chief, a chief of investigations, a staff of assistant attorneys general, financial investigators and auditors, pharmacists, nurses, a dental investigator, and administrative staff.

MFCU's mission is to protect the Massachusetts Medicaid program, which administers the provision of approximately \$5 billion of health care services to 700,000 indigent and disabled recipients in Massachusetts. In addition to prosecuting corporate and individual health care providers who commit crimes against the Medicaid program, MFCU is also responsible for prosecuting companies and individuals who abuse, neglect, or mistreat elderly and disabled residents of the Commonwealth's 550 Medicaid funded long term care facilities, most of which are funded extensively, if not exclusively, by the Medicaid program.

Recognizing that Medicaid fraud is complex and costly to prosecute, the federal government provides approximately 75% of the funding for MFCU's operation. Among its counterparts in other states across the nation, Attorney General Tom Reilly's MFCU is a leader in the number of successful criminal prosecutions and affirmative civil actions it produces.

Consistent with its mission to protect the Medicaid program on a statewide basis, MFCU uses a team approach, through staff in the Attorney General's Boston and Springfield offices, to both deter and prosecute fraud on the Commonwealth's taxpayers. Through the extensive use of a Special Grand Jury sitting in Boston, as well as its statutory and regulatory discovery authority, MFCU has obtained convictions and recovered funds for the Medicaid program well in excess of its budget.

During Fiscal Year 2000, MFCU brought both criminal and civil enforcement actions against hospitals, nursing home owners, pharmacies, physicians, dentists, home health care companies, billing intermediaries, and other medical providers. These enforcement actions focused on providers that misrepresented the services they provided to the Medicaid program, inflated the costs of their services, provided medically unnecessary services, or violated Medicaid's anti-kickback laws. As a result of its efforts, MFCU initiated and completed 38 investigations, obtained 28 indictments, secured convictions against three corporate and seven individual defendants and recovered in excess of \$3.1 million.

MFCU also investigated reports of patient abuse and financial exploitation in the Commonwealth's long-term care facilities. During the Fiscal Year 2000, MFCU investigated more than 500 reports of patient abuse, and brought several significant prosecutions against nursing home providers.

In addition, MFCU investigated physicians and psychiatrists that prescribe controlled substances for non-medical reasons, or not supported by medical diagnosis or necessity. MFCU investigated dentists and durable medical equipment companies for upcoding and unbundling their services. It investigated pharmacy chains and pharmaceutical companies that overcharge the Medicaid program and inflate the costs of prescription drugs. And, in Fiscal Year 2000, MFCU investigated the relationships between physicians, hospitals, and laboratories to detect illegal referrals, kickbacks and conflicts with patient care.

HIGHLIGHTED EFFORTS & SIGNIFICANT ACTIVITIES

CRIMINAL CASES

The following provides an overview of cases undertaken by MFCU during Fiscal Year 2000.

- **Commonwealth v. Harold Goodman, M.D.** (Norfolk Superior Court) A Quincy orthopedic surgeon was convicted in Norfolk County Superior Court after a three-week jury trial of providing medically unnecessary treatment to ten patients. The jury found that the physician had performed medically unnecessary x-rays or injections and knowingly billed the state's Medicaid program nearly \$40,000 for these treatments. Evidence introduced at trial showed that one patient received 71 x-rays and 96 injections over a two-year period and another received 74 x-rays and 112 injections during less than three years of treatment. The physician was sentenced to a term of imprisonment of six months in the House of Corrections, and, along with his corporation, was fined a total of \$62,500.
- **Commonwealth v. Acton Medical Supply Company** An Acton medical supply company pleaded guilty in Suffolk Superior Court to 16 counts of Medicaid fraud and larceny and paid more than \$160,000 in restitution and fines for engaging in several fraudulent billing schemes. From 1990 to 1994, the medical supply company billed both Medicaid and Blue Cross/Blue Shield for delivery of the same products and for more goods than it actually delivered.
- **Commonwealth v. Byron Robinson D.M.D.** (Suffolk Superior Court) A Roxbury dentist pleaded guilty in Suffolk Superior Court to practicing without a license and committing Medicaid fraud. The dentist admitted that he provided dental services to Medicaid patients after the Massachusetts Board of Registration in Dentistry had suspended his dental license. He was sentenced to a nine-month suspended jail sentence and fined \$13,750, the maximum allowable

by law. The dentist also agreed to repay the Medicaid program \$161,250 in civil restitution, plus investigative costs of \$25,000, and to permanently relinquish his license to practice dentistry in Massachusetts and every other state.

- **Commonwealth v. Hanson Medical Supply Company** (Suffolk Superior Court) A Hanson medical equipment company and its president pleaded guilty in Suffolk Superior Court to charges that they allegedly stole thousands of dollars from the state's Medicaid program and from Tufts Health Plan. The medical supply company's president was sentenced to two years in the House of Correction, suspended for two years, with probation. In addition, she was ordered to pay \$50,000 in restitution to the Medicaid program and \$10,000 in restitution to Tufts Health Plan. The company also was fined \$25,000.

CIVIL ENFORCEMENT ACTIONS

- **Lionel Lyon, Ph.D.** Four greater Boston public school systems recouped more than \$10,000 and a nonprofit literacy program for disadvantaged youth received \$25,000 as part of a \$275,000 Medicaid fraud settlement against a Newton psychologist. In a four-count complaint filed against the psychologist and his business, the Attorney General alleged that the psychologist and his business falsely billed Medicaid for psychological testing services performed to evaluate public school children in Everett, Lynn, Revere, and Waltham. The complaint also alleged the psychologist billed both Medicaid and the school systems for the same service. As part of the settlement of the charges, the psychologist also agreed to withdraw permanently as a Medicaid provider.
- **Genentech, Inc.** The Medicaid program recovered more than \$500,000 as part of a \$50 million settlement of charges of illegal marketing practices by a pharmaceutical manufacturer. The manufacturer pleaded guilty to federal charges that the company had actively promoted the human growth hormone Protropin for uses that had not been approved by the FDA. The restitution agreements between the pharmaceutical manufacturer and the state Medicaid programs across the country were facilitated by the National Association of Medicaid Fraud Control Units, in which the Massachusetts MFCU actively participates.
- **Family Dental Care** A Fall River dental group agreed to pay a civil penalty and to resign from participation in the state's Medicaid program to settle allegations of fraud in their billing practices. MFCU alleged that the provider billed Medicaid for services not approved or reimbursable by Medicaid. The settlement, filed with a consent judgment in Suffolk Superior Court, required the dental group to pay \$86,500.

- **Pondview Nursing Home** A Jamaica Plain nursing home and its director agreed to settle charges that the facility overcharged the state's Medicaid program, rewrote patient records, and misrepresented the level of care provided to patients. Under the agreement filed in Suffolk Superior Court, the nursing home paid \$194,100 to the state's Medicaid program.
- **Goldstar Medical Services** A Connecticut oxygen and respiratory equipment supply company paid \$160,000 in restitution for improperly billing Medicaid nursing home patients. The settlement, filed in Suffolk Superior Court, resolved charges that the provider had committed fraud and breach of contract.
- **Jewish Memorial Hospital** A Roxbury hospital agreed to pay more than \$250,000 in restitution to the state's Medicaid program, perform community service, and adhere to tough compliance standards to resolve past billing problems. A 1998 internal audit by the hospital's new administration found that previous employees had improperly altered certain Medicaid billing forms that allowed the hospital to receive payments for psychiatric services. Under the settlement, which followed the new administration's voluntary disclosure, the hospital also agreed to employ an independent certified public accountant to audit its Medicaid billing practices and to submit an annual report for review by MFCU.
- **Nicholas Franco** An East Boston dentist agreed to pay \$38,000 in civil penalties to settle allegations of fraud in his billings to the Medicaid program. MFCU alleged that from August 1995 through December 1998, the dentist billed Medicaid for canceled appointments, services not reimbursable through the Medicaid program, and more expensive services than he actually performed.
- **Knoll Pharmaceutical Company** MFCU participated in a multi-state settlement with a New Jersey pharmaceutical company that allegedly tried to dominate the market with its own brand of a prescription drug to treat hypothyroidism. The company's misrepresentations caused the Medicaid program to pay more than it would have paid for a less expensive generic equivalent. Massachusetts received more than \$1 million in the settlement.

PATIENT ABUSE

- **Thia Koroma, CNA** A former nurse's aide from Dorchester was convicted in Dedham District Court for assault and battery on a nursing home patient. While assisting the victim into bed, the aide slapped and kicked a 92-year-old patient under her care. The aide was

sentenced to a 60-day suspended sentence with one year probation. As a condition of probation, she is prohibited from working in a nursing facility.

- **Rita Nambi, CNA** A former certified nurse's aide from Holliston pleaded guilty in Dedham District Court to patient abuse and assault and battery on an elderly Alzheimer's patient living in a nursing home. The aide punched and dragged the woman, who had resisted being placed in a whirlpool bath. The aide was sentenced to eleven months supervised probation.
- **Pedro Rivera, CNA** A former certified nurse's aide from Worcester was found guilty by a Worcester District Court jury on one count of assault and battery on an Alzheimer's patient living in a nursing home. On two separate occasions, the aide assaulted and physically abused the 72-year-old man. The aide was sentenced to ten days in the House of Correction, suspended for one year.

OUTREACH

MFCU works closely with other state offices involved in the administration and supervision of health care services in Massachusetts. This cooperative approach helps maximize resources and assure the benefits of intra-governmental efforts to the citizens of the Commonwealth. Some of the more significant associations between MFCU and other state offices are as follows:

- **Division of Medical Assistance (DMA)** MFCU meets monthly with the Division of Medical Assistance (DMA) to discuss provider fraud referrals and prosecution. Both MFCU and the DMA have worked to enhance their professional working relationship in an effort to maximize their effectiveness in detecting fraudulent providers within the Medicaid system. Part and parcel of MFCU's cooperative effort is its work with DMA to implement a fraud detection system scheduled to go online during the next fiscal year. This new computer system will increase the capacity for detection of aberrant billing and potential fraud.
- **Department of Public Health (DPH)** The Department of Public Health's patient abuse staff and MFCU's patient abuse investigators meet regularly to discuss case referrals and issues affecting the investigation and prosecution of caretakers who mistreat patients of long-term care facilities. Together, DPH and MFCU have implemented a nursing home investigators' training program for investigators from each agency.

- **Commonwealth Bureau of Special Investigations (BSI)** MFCU meets regularly with the Massachusetts Bureau of Special Investigations officials to coordinate investigations that affect welfare fraud, Medicaid recipient fraud, and drug diversion activities.
- **Commonwealth Board Of Registration In Medicine (BORIM)** MFCU meets with the Massachusetts Board of Registration in Medicine's director of enforcement and investigators to share investigative findings pertaining to physicians who engage in fraudulent practices. These discussions promote both thorough and appropriate dispositions including medical license suspensions and revocations.
- **Division of Registration (DIR)** MFCU meets regularly with the Division of Registration's chief prosecutor to share investigative information. These meetings promote health care fraud prosecution and assist the Division's efforts to suspend or revoke the licenses of health care providers who commit fraud.

MFCU also continues to forge associations with other law enforcement offices to increase its health care fraud and elder protection enforcement initiatives. Some of these important associations are:

- **National Association of Medical Fraud Control Units (NAMFCU)** Attorney General Tom Reilly's MFCU is a leader in the National Association of Medicaid Fraud Control Units and meets regularly with its counterparts across the nation to share the latest learning on enforcement approaches, promote training programs, and recommend legislation. In conjunction with the NAMFCU and United States Department of Justice, in Fiscal Year 2000, MFCU participated in several significant multi- state enforcement initiatives. MFCU expects its participation in large-scale, multi- state actions to increase in the next fiscal year.
- **New England Healthcare Law Enforcement Working Group** This organization consists of all chief investigators from MFCUs from the New England states and New York and New Jersey, as well as investigators from several federal law enforcement agencies. This regional working group develops joint state/federal investigations throughout the Northeast and training programs for healthcare fraud investigators and prosecutors.
- **Massachusetts Working Group on Nursing Home Abuse and Neglect** The United States Department of Justice requested state health care fraud prosecutors to establish joint state-federal working groups that would continue to meet and collaborate on local issues of nursing home abuse and neglect. MFCU, along with Division of Medical Assistance, Department of Public Health, the Elder Affairs Ombudsman, HCFA, Department of Health and Human Services, and lawyers from

the United States' Attorney's Office, meet monthly to review and examine current issues regarding the quality of care in Massachusetts nursing homes.

The Unit includes the following staff members: Nicholas Messuri; Steven Mccarthy; Steven Devlin; Ann Ackil; Kristine Barrett; Alvin Brown; James Caruso, Jr.; Eileen Casey; Peter Clark; Tanya Clement; John Comerford; John Curley; Day Devine-O'Toole; Elaine Duffy; Verdell Elder-Hayes; Catherine Fielding; Elizabeth Ann Foley; Caryn Gordon; Teresa Liu; Anthony Megathlin; Mark Mellberg; Mark Muldoon; Janice Paterna; Robert Patten; Shirley Rokosz; Michael Russo; Robert Russo; Vanessa Sanchez-Gasparro; Susanne Snow; Christine Soloperto; and Bernard Vivolo.

COMMUNITY-BASED JUSTICE BUREAU

VICTIM COMPENSATION AND ASSISTANCE DIVISION
SAFE NEIGHBORHOOD INITIATIVE DIVISION

COMMUNITY-BASED JUSTICE BUREAU

The mission of the Community-Based Justice Bureau (CBJB) is to develop strategies, structure policies and offer recommendations that prevent crime and promote the safety, health and welfare of Massachusetts residents and those who live and work in the Commonwealth. The Bureau focuses particular attention on the needs of children, crime victims and victims of domestic violence. The Bureau also administers the Victim Compensation and Assistance Division and the Safe Neighborhood Initiative Division. Formerly called the Family and Community Crimes Bureau, the name of the bureau was changed in January 2000 to better reflect the core functions of the bureau and to emphasize the community-based justice approach of Attorney General Tom Reilly. Beth Merachnik was named Bureau Chief on April 13, 1999, after having served as an Assistant District Attorney in the Middlesex County District Attorney's Office for eleven years. During her tenure there, she also served as Director of the Office's Domestic Violence Unit. Cheryl Watson was named Division Chief of the Victim Compensation and Assistance Division and Marcia Jackson was named Division Chief of the Safe Neighborhood Initiative Division.

The Bureau develops and coordinates initiatives through training and education, publications and guidelines, programs, community outreach and legislation. Working closely with law enforcement, agencies and community programs, CBJB concentrates its efforts in the areas of child protection, including juvenile justice, education and school safety, family violence, community safety, victim rights, and criminal justice policy. CBJB advises Attorney General Tom Reilly on policy and legislative matters in these areas.

The Bureau included the following staff members: Beth Merachnik, Chief; Barbara Berenson; Michelle Booth; Jill Foley Butler; Janine Gannon; Elizabeth Medvedow; Emily Paradise; and Maria Vega

HIGHLIGHTED EFFORTS & SIGNIFICANT ACTIVITIES

SCHOOL SAFETY

- **National Association of Attorneys General Listening Conference on School Safety** CBJB staff organized and executed "A Massachusetts Approach to Supporting Safe Schools," the first in a series of national Listening Conferences, which was hosted by Attorney General Tom Reilly at the October 1999 meeting of the National Association of Attorneys General (NAAG). During the conference, students from six high schools across the state, including Boston High School in Boston, the Log School in Dorchester, Somerville High School in Somerville, Northeast Metro Regional

Vocational School in Wakefield, Burncoat Senior High School in Worcester and William Dean Technical High School in Holyoke, participated and discussed issues pertaining to school safety, school-based violence, and their own personal experiences. School-based professionals also offered views on these same issues. Seventeen Attorneys General or their representatives attended this major conference, including those from Arizona, Delaware, Florida, Georgia, Kansas, Maine, Michigan, Mississippi, New Hampshire, Ohio, Oklahoma, Pennsylvania, Rhode Island, Utah, Vermont, Washington and West Virginia, and were able to ask questions of the participating students, school-based professionals and other invited guests.

Bureau staff produced a conference manual outlining Attorney General Tom Reilly's initiatives on safe schools and distributed it to conference participants, District Attorneys, and the NAAG audience at a subsequent Listening Conference. The Bureau also produced and distributed an Executive Summary of the Boston Listening Conference.

- **Safe Schools Newsletter** Bureau staff produced and distributed the *Safe Schools Newsletter* to school administrators, police chiefs and District Attorneys throughout the state. Topics included truancy prevention, crisis management guidelines, physical security in schools, violence prevention, conflict resolution, student discipline, and legal updates concerning issues applicable to schools.
- **Crisis Management Plan Guidelines** Bureau staff developed guidelines for schools for a crisis management plan and an accompanying curriculum. The guidelines addressed critical elements of a comprehensive crisis management plan, including: developing a Memorandum Of Understanding (MOU) with outside agencies; designating school leadership during a crisis; establishing a crisis response team; designing crisis response procedures; developing specialized procedures for events such as bomb threats; planning for building access by public safety responders; planning for internal and external communication; training staff in crisis procedures; designing evacuation strategies; designating a family reunification center; and providing support services for students, staff, and parents.

CHILD PROTECTION

- **Children's Protection Project** Attorney General Tom Reilly inaugurated the Children's Protection Project, which reflects his commitment to addressing the needs of the children of the Commonwealth. The initiative, which draws on the expertise of staff in all bureaus, is housed in the Community-Based Justice Bureau. The cross-bureau initiative addresses issues concerning children -- including violence prevention strategies, health care, legislation, education, juvenile justice and gang violence,

child labor, tobacco prevention efforts, gun safety, and other topics that impact children. In addition, the Children's Protection Project serves as an avenue for bureaus within the Attorney General's Office to focus their resources and consider the issues that affect children.

- During the first quarter of Fiscal Year 2000, CPP formed a number of legislative subcommittees to review current statutes and pending bills and to recommend new legislative initiatives to Attorney General Tom Reilly. CBJB staff developed a priority list, procedure, and time line for the development of a legislative package for children, to be presented to the Attorney General in the Fall of 2000. Among other topics, the initiatives addressed issues of child abuse, child enticement and child pornography.
- In December 1999, CPP sponsored a highly-successful toy drive which provided approximately 300 toys to children at the Colonel Daniel Marr Boys & Girls Club for holiday celebrations.
- **Violence Prevention Month Art Contest** With other CPP members, CBJB organized and implemented a statewide art contest for students in schools that participate in the Student Conflict Resolution Experts (SCORE) program. Titled *By Children for Adults: What Kids Can Do to Prevent Violence*, the students' art work was displayed in the lobby of One Ashburton Place for the month of May 2000. Students attended a reception on May 31, 2000, with Attorney General Tom Reilly and a poster was developed, selected from among the submissions, for distribution to schools throughout Massachusetts.
- **Prevention Resource Guide** Bureau staff developed and disseminated Volume I of the Prevention Resource Guide.
- **Youth Empowering Skills (YES)** In December 1999, CBJB and Safe Neighborhood Initiative (SNI) staff began planning and developing an after-school, life skills curriculum for teens. The YES Project, funded by a \$100,000 Byrne Memorial Grant awarded by the Executive Office of Public Safety and \$33,000 in matching funds from the Office of the Attorney General, was established in October 2000 in response to a need for after-school and violence prevention programming identified by the Dorchester SNI. The project is hosted by, and was created in partnership with, the Daniel Marr Boys and Girls Club of Dorchester. Through the YES Project, Attorney General Tom Reilly seeks not only to provide teens with supervised, after-school activity, but also offer at risk youth a meaningful life skills education that helps them to avoid risky behavior which may lead to school failure, substance abuse, involvement in the criminal justice system, and victimization by crime.

COMMUNITY-BASED JUSTICE BUREAU

The goal of the YES Project is to provide extensive training and educational opportunities to both Attorney General's Office staff and youth at the Paul McLaughlin Center.

- Bureau staff developed and disseminated Volume I of the Prevention Resource Guide.
- **Citizen Schools** Bureau staff spearheaded Attorney General Reilly's Office participation in the Citizen Schools mock trial apprenticeship program.
- **Mayor's Task Force on After-School Time** Bureau staff participated in monthly task force meetings sponsored by Mayor Thomas Menino. Meeting participants included Executive Office of Health and Human Services, foundations, colleges and Parents United for Child Care. The initiative focused on identifying funding sources and strategies for after-school programs in the City of Boston. The Task Force issued its report and recommendations to the Mayor in May 2000.
- **Juvenile Firesetters** A bureau member attended monthly meetings of the Juvenile Firesetters Roundtable convened by the Department of Social Services and the Executive Office of Public Safety. The Roundtable engages in ongoing dialogue concerning the special concerns raised by juvenile firesetters.

DOMESTIC VIOLENCE

- **Child Witness to Domestic Violence Project** The Child Witness to Domestic Violence Project, a collaboration of the Office of Attorney General Tom Reilly and the Child Witness to Violence Project at Boston Medical Center, continued the trainings that began in Fiscal Year 1999. Clinical trainings for social service providers, which addressed the impact of exposure to domestic violence on children, took place during the first quarter of Fiscal Year 2000. Over 100 social service providers attended the trainings. A bureau member served as project director and organized the training series along with Boston Medical Center staff.
- For the final phase of the project, which ended during the second quarter of Fiscal Year 2000, the project director developed, in collaboration with Boston Medical Center, curriculum and materials for three half-day trainings for law enforcement on child witness to violence issues. The trainings, titled *Police Interventions with Children Exposed to Domestic Violence*, took place in early 2000. The trainings addressed the effects of witnessing domestic violence on children and how children perceive police officers. More than 250 police officers attended the trainings.

- ***Building Bridges of Support for Moms*** A new Violence Against Women Act (VAWA) grant program initiative was also designed, submitted and awarded to the Office of the Attorney General during the first quarter of Fiscal Year 2000. The new grant award of approximately \$96,000 was to develop and implement a training program for prosecutors, victim-witness advocates, police officers and battered women's programs on the special needs of battered women who have children. CBJB staff began developing this new initiative as a collaborative project and utilized a multi-disciplinary steering committee to design training activities. The steering committee, comprised of members of the Victim Compensation and Assistance Division, the Child Witness to Violence Project at Boston Medical Center, the Violence Against Women Training and Policy Institute of the Massachusetts District Attorneys Association, the Norfolk County District Attorney's Office, the Suffolk County District Attorney's Office, the Domestic Violence Unit of the Massachusetts Department of Social Services, Jane Doe, Inc. and the Medford Police Department, played a critical role in identifying training topic areas and speakers.
- **Governor's Commission on Domestic Violence Legislative Subcommittee** Bureau staff chaired regularly scheduled meetings of the subcommittee with a designee from Representative Francis Marini's office. The subcommittee reviewed pending domestic violence legislation and made written recommendations to the full Commission.
- **Boston/Haifa Domestic Violence Training Program** In November 1999, the Office of the Attorney General hosted approximately 22 Israeli women and presented a half-day training on domestic violence. This program was a follow up to the 1998 domestic violence training program presented in Haifa, Israel by, among others, CBJB staff, the Jewish Community Relations Council and the Combined Jewish Philanthropies. CBJB staff organized the training and moderated a panel on which a bureau member served. The program included an evening presentation on domestic violence at Congregation Mishkan Tefila.
- **Statewide Prosecutors and Advocates Domestic Violence Conference** CBJB staff played an integral role in planning the Massachusetts District Attorneys Association's Fifth Annual Domestic Violence Conference, in November 1999. Staff members developed programs for the conference and moderated a panel presentation titled *Assisting Victims Beyond Investigation and Prosecution*. Staff were similarly involved in planning the 2000 conference.
- **Domestic Violence Training in Volgograd, Russia** A CBJB staff member planned and implemented 17 separate trainings for diverse audiences in Russia on domestic violence, including programs on identifying and intervening safely with women and children; safety planning; history of response and legal developments in the United States; the U.S. child protection system; and strategic

COMMUNITY-BASED JUSTICE BUREAU

planning for the Volgograd community. A report of the trip was submitted to the U.S. State Department. CBJB staff also conducted a domestic violence presentation for government officials and providers from Russia and the Ukraine on their visit to the United States.

- **MDAA Meetings** A bureau attorney participated in monthly meetings of the Massachusetts District Attorneys Association Domestic Violence Subcommittee.

INTERNET SAFETY

- **CBJB/Criminal Bureau Collaboration** CBJB staff and the High Tech and Computer Crimes Division of the Criminal Bureau collaborated on the issue of Internet Safety and developed safety brochures and a curriculum for training parents.

SUBSTANCE ABUSE

- **Attorney General's Statewide College and University Coalition on Underage and Problem Drinking** CBJB staff led the coalition on underage and problem drinking. The Coalition, comprised of representatives from approximately 25 colleges and universities throughout the state, focused on developing creative solutions to the problem of underage and binge drinking on college and university campuses throughout the state. The objective of the Coalition was to develop a cooperative agreement committing the colleges and universities to undertake specific prevention, intervention and enforcement efforts concerning alcohol abuse on campus. The Coalition worked on drafting a cooperative agreement modeled after The Boston Coalition's historic agreement signed by 24 college/university presidents committing their institutions to take certain actions to address alcohol-related problems. The Coalition met monthly at different schools throughout the Commonwealth.
- **Governor's Advisory Council on Substance Abuse** A bureau member attended monthly meetings of the Governor's Advisory Council on Substance Abuse.
- **Mothers Against Drunk Driving** A Bureau member participated in Mothers Against Drunk Driving public policy meetings and advised on developing legislation to strengthen laws on motor vehicle homicide, repeat offenders, and implied consent.

HATE CRIMES

- **Attorney General's Hate Crimes Task Force** CBJB staff actively participated in the Attorney General's Hate Crimes Task Force. Initiatives included developing and implementing a series of proposals focusing on education and training, publications and community involvement. One particular proposal consisted of model documents intended for use by schools, including model memorandum of understanding, a discipline code and protocol. CBJB staff served as co-chair of the Subcommittee on Training, Education and Prevention.
- **Massachusetts Hate Crimes Training Team** A CBJB staff person served as a member of this U.S. Department of Justice Initiative. The team conducted a two-day training conference for police, prosecutors and advocates in November 1999. In addition, the CBJB representative, as part of the team, conducted hate crimes training for local area police departments at the Reading Police Academy.

LEGISLATION

- **Legislative Activity** Bureau staff members drafted, reviewed and commented upon legislative proposals. Some examples include:
 - drafting and reviewing comments on proposed Child Enticement Legislation, which would criminalize the physical or electronic enticement of a child for the purpose of committing or facilitating the commission of any unlawful sexual act or any crime involving force;
 - examining newly-enacted Domestic Violence Confidentiality Legislation and drafting corrective legislation, in conjunction with the Trial Court, the District Court, the Massachusetts District Attorneys Association, the advocacy community, and the Massachusetts Office for Victim Assistance, which became effective August 10, 2000, mandating confidentiality of addresses of domestic violence victims who obtain protective orders pursuant to G.L. c. 209A;
 - drafting, in conjunction with the Appeals Bureau, a letter in opposition to the proposed Parent-Child Privilege Legislation;
 - collaborating, with the Office of the Attorney General's Budget Office and the State Treasurer's Office, on the drafting of successful legislation which enables the Attorney General's Office to assume fiscal responsibility for victim compensation funds; and

- working on Internet Privacy Protection Legislation with the Public Protection Bureau.
- **MDAA Meetings** A Bureau attorney participated in monthly meetings of the Massachusetts District Attorneys Association Legislative Subcommittee to review and prioritize pending or proposed Criminal Justice Legislation.

SIGNIFICANT CASE SUMMARIES & COURT ACTIVITY

- **Commonwealth v. Marshall Daughtry** (Lawrence District Court) AAG Emily Paradise, in collaboration with AAG Elisabeth Medvedow of the Criminal Bureau, prosecuted this domestic violence trial in Lawrence District Court in October 1999. The defendant was convicted in two of three cases on charges of assault and battery and assault and battery with a dangerous weapon. He was sentenced to 18 months in jail.

OUTREACH & EDUCATION INITIATIVES & TRAINING

INTERNET SAFETY

Attorney General Tom Reilly has made Internet Safety one of his top priorities, with Bureaus throughout the Office focusing on the issue.

- CBJB staff, in conjunction with the staff of the High Tech and Computer Crimes Division, conducted trainings for parents on Internet Safety. Staff presented *The Internet: What Every Parent Should Know* at Quabbin Regional High School in early 2000. CBJB also coordinated a CBJB/High Tech *Internet Safety* presentation to parents of Natick Public School students at the Morse Institute Library.

SAFE SCHOOLS/SCHOOL VIOLENCE

- Bureau staff presented *Developing a Crisis Management Plan and Recommendations for Safe School Programming* to the Massachusetts Association of School Business Officials Conference and to the Joint Annual Meeting of the Massachusetts Association of School Superintendents and the Massachusetts Association of School Committees.
- A bureau member staff served as a panelist at the Massachusetts School of Law Symposium on School Violence.

- Staff facilitated workshop discussions with students at the Annual Peacemakers' Summit on school safety issues.

HATE CRIMES

- Bureau staff, in conjunction with the Civil Rights Division, began developing draft outreach materials and cost estimates for the proposed *Protecting Students from Harassment and Hate Crimes* training series, scheduled for 2001.

DOMESTIC VIOLENCE

- **Task Force on Children Exposed to Domestic Violence** - A staff member served as a consultant and editor on the task force, which developed a training curriculum for day care providers concerning children exposed to domestic violence. Trainings were conducted in Spring 2000.
- **Development of Support Groups for Victim-Witness Advocates** - CBB staff consulted with Beth Israel Hospital's *Safe Transitions* program to develop and implement support groups for victim-witness advocates who work on domestic violence, sexual assault and child abuse cases. The groups, aimed at promoting professional longevity, addressed issues of secondary trauma and burnout and discussed coping strategies with participants. CBB staff was involved in the initial pilot program.
- **Training for Guardian Ad Litem** - Bureau staff planned and conducted training on the dynamics of domestic violence for volunteer Guardians Ad Litem through the Court Appointed Special Advocate Program (CASA), based in Suffolk Juvenile Court.
- Staff participated in planning Corporate Citizenship Initiative, sponsored by the Family Violence Prevention Fund, to reach out to employers across the state about domestic violence workplace policy and training programs.
- CBB members participated in a discussion on domestic violence with graduate students at the Kennedy School of Government.
- Staff provided training on domestic violence issues to graduate and medical students at Boston University School of Public Health.

TEEN DATING VIOLENCE

- Staff developed and presented a teen dating violence workshop to high school students at Xaverian Brothers High School.
- Staff provided informal assistance on a teen dating violence videotape at a Task Force meeting sponsored by a Department of Education consultant.

ALCOHOL-RELATED ISSUES

- A CBBJ member conducted a presentation on alcohol-related legislation at Springfield Community Technical College.
- Staff participated in planning and facilitated workshops at *Preventing Alcohol Problems on College Campuses*, a widely-attended conference sponsored by Attorney General Tom Reilly's Office, the Department of Public Health, the Governor's Advisory Council on Substance Abuse, and others.

SEX OFFENDER LAW

- A Staff attorney collaborated with the Massachusetts District Attorneys Association in planning a Fall 1999 training on the newly-enacted civil commitment legislation for sex offenders. The staff attorney presented at the training.

CRISIS RESPONSE TRAINING

- CBBJ staff organized a Crisis Response Training, held for members of CBBJ, Criminal Bureau victim-witness advocates, the U.S. Attorney's Office, and the Massachusetts Office for Victim Assistance.
- A staff member served as members of the Cambridge Health Alliance Community Crisis Response Team, which provides crisis response in the aftermath of trauma to communities in crisis.
- A staff member served on the Department of Mental Health's Disaster Mental Health Services Committee, which works on identifying service providers and creating memorandum of understanding for providing mental health services in the event of a disaster.

INTERNAL TRAININGS

- **Gang Awareness Training** - CBJB staff, along with Criminal Bureau staff, planned a Gang Awareness training for presentation to Children's Protection Project members, SCORE coordinators, and Attorney General's office staff.

INTERNAL WORKING GROUPS

Attorney General Tom Reilly places a high priority on creating a strong, cohesive workforce. In an effort to eliminate barriers and encourage collaboration among the several bureaus and divisions within the Office, the Attorney General created a number of internal working groups. CBJB staff participated in several of those groups, among them:

- CBJB members participated in the Attorney General's Education Working Group.
- Bureau members participated in developing a Racial Profiling cross-bureau initiative to develop policy and training.
- A bureau attorney was involved in developing office policy on firearms correspondence, reviewing regulations, and addressing firearms issues as part of newly-established Interoffice Gun Task Force.
- Bureau staff participated in the development of the Attorney General's "Kids" Page. When that section is fully operational, the page will allow youth to access information that supports their safe and healthy development as citizens of the Commonwealth of Massachusetts.

PUBLICATIONS

- **Law Enforcement Newsletter** - A staff attorney produced the Spring 2000 edition of the *Law Enforcement Newsletter*, which was distributed to approximately 1,500 law enforcement officers, judges, prosecutors, and private citizens. Topics addressed matters of interest to the law enforcement community including, among other things, newly enacted laws, case law updates, domestic violence, high tech and computer crimes update and health care. Bureau attorneys also drafted the Domestic Violence Update for the Fall 1999 and Spring 2000 editions of the *Law Enforcement Newsletter*.
- **Safe Schools Newsletter** - Staff coordinated and drafted articles for the Fall 1999 and Spring 2000 editions of the newsletter. The newsletter was distributed to an audience of over three thousand, including school administrators (public and private), police chiefs and District Attorneys.

- ***Guidelines for School Crisis Management Plan*** - As part of an initiative developed by Attorney General Tom Reilly, CBJB staff developed *Guidelines for School Crisis Management Plan* and distributed them to all school superintendents, principals of public and private high schools, police chiefs, and District Attorneys throughout the Commonwealth.
- ***Teen Dating Violence & Restraining Orders*** - Staff began developing a brochure on teen dating violence and restraining orders scheduled for a Fall 2000 publication.
- ***Employers Against Domestic Violence Newsletter*** - Staff attorney drafted the Legal Update for the Fall 1999 and Winter 2000 editions of the *Employers Against Domestic Violence Newsletter*, covering recent case law and legislation addressing issues of victim confidentiality, abuse prevention orders and probate court, firearms and stalking.
- ***Children's Protection Project Prevention Resource Guide*** - In the summer/fall of 1999, CBJB staff surveyed Massachusetts school superintendents, principals and police chiefs in an effort to gather information for the *Prevention Resource Guide*, which would address local programs for youth. The *Prevention Resource Guide* offers a brief description of over 100 school, after-school and community-based programs, including initiatives addressing school safety, child protection, conflict resolution, dating violence prevention, substance abuse prevention, peer leadership, violence prevention, truancy, and gang prevention. The *Resource Guide* also specifies the program location, contact person and telephone number. In the spring of 2000, Attorney General Tom Reilly distributed the *Prevention Resource Guide Volume I*, to school superintendents and police chiefs across Massachusetts.
- In the last quarter of Fiscal Year 2000, the bureau initiated its outreach to schools and police departments in anticipation of Volume II of the *Prevention Resource Guide*.
- ***The Internet, Your Child and You: What Every Parent Should Know and Internet Safety: Advice from Kids Who Have Faced Danger Online*** - Bureau staff developed both brochures which address Internet Safety and initially disseminated over 6,000 copies to school superintendents, principals (public and private schools), District Attorneys, police chiefs, victim-witness advocate programs, and libraries. Throughout the remainder of the year, in response to requests from schools, police departments, and communities, the Bureau produced an additional 10,000 copies of the parent guides, and 20,000 copies of the children's guides.

VICTIM COMPENSATION AND ASSISTANCE DIVISION

The Victim Compensation and Assistance Division provides financial compensation, referrals and other assistance to victims of violent crime. Most significantly, it assists qualifying victims and their families in paying for out-of-pocket medical expenses, lost wages, funeral and burial and other crime-related expenses. Since 1994, the Division has assumed legal and administrative responsibility for receiving, investigating and determining all compensation claims in accordance with the requirements of G. L. c. 258C. Previously, compensation claims were determined through a litigation-based process in the district courts. In addition, in an effort to centralize reporting requirements and expedite payment of claims, the Office of the Attorney General and the State Treasurer's Office successfully sought passage of legislation which transferred responsibility for the payment of claims from the State Treasurer's Office to the Office of the Attorney General.

HIGHLIGHTED EFFORTS & SIGNIFICANT ACTIVITIES

CLAIMS ACTIVITY

During the fiscal year, the Victim Compensation and Assistance Division undertook efforts to increase public awareness of the program through training, publications and new outreach materials. The Division received 1,524 new claims in Fiscal Year 2000. This figure reflects a 35% increase over the previous fiscal year (1,125 claims).

Under G. L. c. 258C, claimants who are not satisfied with decisions made on their claims, either to award or deny compensation, have the opportunity to request an administrative and/or judicial reconsideration of their claim. In Fiscal Year 2000, 53 claimants, approximately 3.5% of all claimants, requested administrative review. Twenty-nine of those claims were reviewed and decisions were affirmed. The remaining 24 were modified or reversed. Only three claimants requested judicial review.

The number of homicide claims increased from 116 last year to 140 this year.

EXPENDITURES

In Fiscal Year 2000, the Commonwealth paid a total of \$2,875,000 in compensation claims to crime victims, with \$1,405,000 coming from state funds and \$1,470,000 from federal funds. This marks an increase of \$628,046 from last year. FY 2000 represented the fifth consecutive year that the Division had adequate funding to support its expenditures.

Although claimants are statutorily eligible to receive up to \$25,000 for compensable expenses, only 20 claimants received the maximum allowed during Fiscal Year 2000. Compensation for lost wages and loss of support continued to be the categories of expense with the highest expenditure (48%). Hospital, medical and dental was the second highest expenditure (27%), and mental health counseling expenses next (13%).

PROGRAM EVALUATION

An applicant survey is sent to each claimant with decisional letters. The Division received 562 completed surveys from claimants. Surveys were overwhelmingly positive, with more than 86% of claimants agreeing or strongly agreeing that applications are easy to complete, letters easy to understand, victim compensation staff treated them with courtesy and respect, their questions were answered, they were satisfied with the decision on their claim and the amount of time it took to process their claim.

FEDERAL REPORTING REQUIREMENTS

The Division submitted its annual Certification Report and Quarterly Reports to the Office for Victims of Crime during Fiscal Year 2000. The Division worked with the State Treasurer's Office to complete these reports. In addition, in an effort to centralize reporting requirements, the Office of the Attorney General and the State Treasurer's Office successfully sought passage of legislation which transferred responsibility for the payment of claims from the State Treasurer's Office to the Office of the Attorney General.

VICTIM WITNESS DIRECTORS MEETING

The Attorney General participated in the Division's luncheon meeting for statewide directors of victim service programs to foster enhanced collaboration and awareness of the Attorney General's Victim Compensation and Assistance Program. Approximately 15 directors attended the meeting.

LEGISLATIVE ACTIVITY

A bill to further amend the Victim Compensation Law was filed jointly by the Office of the Attorney General and the Massachusetts Office for Victim Assistance (MOVA). This bill would expand certain benefits under G. L. c. 258C. The Division will continue to seek passage of this bill which would assist crime victims to pay for most requested crime-related costs.

GRANT ACTIVITY

The Division applied for and received an annual grant from the Department of Justice through the Victims of Crime Act (VOCA) for Fiscal Year 2000 in the amount of \$959,000. These funds are used to supplement state payments of awards made directly to crime victims. A small portion of the grant is used for program administration.

OUTREACH & EDUCATION INITIATIVES & TRAININGS

Outreach and training about the program and its benefits remained a primary focus for Fiscal Year 2000, and was extensive. Victim compensation training was provided to:

- Bristol, Hampden, Norfolk and Northwestern District Attorney's Offices;
- Middlesex District Attorney's Office Domestic Violence Roundtable and Domestic Violence and Elder Abuse Units;
- Executive Office of Public Safety and Department of Public Health, for hospital and health center emergency room staff;
- Annual Conference of New England States Police Information Network (NESPIN);
- Roxbury Comprehensive Community Health Center, to victim service providers;
- Enhanced Advocacy Subcommittee of the Dorchester Domestic Violence Roundtable, to court, police department and health center advocates;
- Domestic violence programs at First Step in Arlington and at Independence House in Hyannis;
- Boston Area Rape Crisis Center;
- Mothers Against Drunk Driving;
- Braintree Rehabilitation Hospital;
- Worcester Youth Guidance Center;

- Salem and Haverhill Department of Social Services staff and police domestic violence advocates;
- Massachusetts Office for Victim Assistance (MOVA), for statewide victim-witness advocates;
- Living After Murder Program in Dorchester;
- Staff of Brockton and Community Resources, an agency providing mental health counseling;
- Flaschner Institute Child Abuse and Neglect Conference;
- Cambridge Health Alliance Community Crisis Response Team;
- Women's Resource Center in Lawrence;
- Women's Place in Brockton;
- Survivor Assistance Program in Fall River; and
- Our Sister's Place in Fall River.

In addition, staff attended the annual Victims of Crime Act (VOCA) Victim Assistance and Victim Compensation Conference. The conference, sponsored by the U.S. Department of Justice and the National Association of Crime Victim Compensation Boards, focused on, among other topics, outreach, claims processing and automation. Division staff also received in-service training throughout the year.

With VOCA funding, additional outreach materials were produced including: 20,000 applications in English and 8,000 in Spanish, 5,000 pens, 2,500 post-its and 5,000 notepads.

Victim compensation materials were distributed to all VOCA-funded homicide and child witness to violence programs, as well as all Department of Transitional Assistance, Department of Social Services and police domestic violence advocates.

SIGNIFICANT CASE SUMMARIES & COURT ACTIVITY

During Fiscal Year 2000, three cases proceeded to the judicial review stage. In one, the trial court upheld the Division's decision; in another, the court remanded the case to the Division for further investigation; and the third was still pending as of the end of the fiscal year.

The Division includes the following staff members: Judith Beals, Director; Sandra Clark; Diane Pepe Deangelis; Gael Decolero; Alice Fernandes; Yvonne Lamoreaux; Frank Perry; Priscilla Russeli; James Sinagra; Cheryl Watson; and Jennifer Wilson.

SAFE NEIGHBORHOOD INITIATIVE DIVISION

In recognition of its focus on revitalizing urban centers and empowering communities, the Safe Neighborhood Initiative (SNI) moved from the Criminal Bureau to the Community-Based Justice Bureau in August 1999. Established initially in February 1993 by the Attorney General's Office, the Suffolk County District Attorney's Office, the Mayor's Office of the City of Boston and the Boston Police Department, the first SNI program, in Dorchester, celebrated its seventh anniversary this year. Over the course of the past seven years, the Office of the Attorney General has dedicated the services of eight Assistant Attorneys General and two community liaisons to SNI communities across the Commonwealth. Successful SNI models have been subsequently established in Grove Hall, Brockton, Taunton and the Turner Falls Village of Montague. At present, the SNI has programs in five locations — Dorchester, Grove Hall, Brockton, Taunton and Montague, with prosecutors located in Dorchester, Grove Hall, Brockton, and Montague.

The SNI has developed into an effective coalition, among community residents, state and local government officials, law enforcement personnel and human service providers, to solve a variety of community problems. Through SNI, communities and law enforcement work together to improve the quality of life for community residents throughout the Commonwealth. Based on the premise that no single group can solve all the problems faced by urban neighborhoods, the SNI model works to stem violence and improve the quality of life by developing multi-disciplinary approaches to community issues.

Since those who live in a community know best what problems neighborhoods face and how they can be addressed, residents are vital members of SNI partnerships. Each SNI has a different approach to problems - some are law enforcement driven while others are community driven, but all of the programs are infused with the three core principles: neighborhood revitalization, coordinated law enforcement and prevention, and intervention and treatment.

HIGHLIGHTED EFFORTS & SIGNIFICANT ACTIVITIES

SAFE NEIGHBORHOOD INITIATIVE (SNI) JOBS FOR YOUTH PROGRAM

One of the major efforts aimed at prevention and intervention is the SNI Jobs for Youth Program. The program, which started in 1996, has grown from employing 23 youth in five communities to employing more than 75 young people in nine communities throughout the state. The JOBS FOR YOUTH sites offer job opportunities throughout the year, and are not limited to summer employment. There are JOBS FOR YOUTH programs at the following sites:

- **Boston** - Forty-six youth from SNI target areas in Grove Hall, Fields Corner and Uphams Corner were employed through the City of Boston's Community Centers (BCC) program during this fiscal year. Partnering with local businesses and agencies, BCC placed young people in a variety of capacities allowing them to learn skills including entrepreneurship, leadership and civic duty. The goal is to provide employment opportunities, hands-on training, safe havens and adult support. Placements included local community centers, police stations, middle schools, local restaurants and neighborhood social service agencies.
- **Holyoke** - Holyoke's JOBS FOR YOUTH program is administered by the Holyoke Youth Alliance, which serves youth from low-income neighborhoods, particularly in downtown Holyoke. This program reinforces literacy skills, education and responsible work behavior and placed 12 youth ages 15-18 during the year. Youth assisted as readers and mentors, and read to young children at sites including youth centers, family shelters, YMCAs and day care centers.
- **Worcester** -The JOBS FOR YOUTH program in Worcester, run by the YMCA of Greater Worcester, serves at-risk youth in the Lakeside Public Housing community. Twenty-five youth, ages 14-18, participated during the year and were employed as YMCA camp counselors, office assistants and in other positions.
- **Brockton** -The Old Colony YMCA in Brockton just completed its fourth year of JOBS FOR YOUTH funding. The program serves teens in the Brockton area who are enrolled in school or another educational program. The program's goal is to provide job opportunities, educational trainings, and recreational activities. This year the program employed 8 teens ages 14 -16 in local after-school community centers and day care centers.

- **Lynn** -Lynn’s program is administered by the Community Minority Cultural Center and serves disadvantaged and at-risk youth. During this fiscal year, the program employed six teens who worked in various positions, including after school programs and arts programs.
- **Taunton** -Seven youth ages 16 - 17 were placed through the Taunton Department of Human Services during this fiscal year. The youth were assigned to the Boys and Girls Club, the Taunton Public Schools, Taunton Public Library, Head Start and the City Engineer’s Office. The program’s goal is to provide employment and educational opportunities to youth for skill-building and future employment capability.
- **Springfield** -The Springfield SNI JOBS FOR YOUTH program is administered through the Springfield Southwest Community Health Center and serves youth from low-income families. Eight youth ages 13 - 17 participated this fiscal year. The program provides youth with opportunities to increase their employability, self-esteem, and knowledge and skills in the area of health promotion. The youth were employed as peer health educators. Youth participated in delivering health education, including violence prevention, to other youth at local community centers, the Salvation Army and other human service providers.
- **New Bedford** -Fourteen at-risk youth in New Bedford received training through the University of Massachusetts/Dartmouth Division of Continuing Education. The goal of the program is to provide training and support for youth to become employed or to continue their education. Internship placements included local businesses, courthouses, colleges, social service agencies and the City of New Bedford.
- **Chelsea** -This year marked the fifth year of funding for the Chelsea JOBS FOR YOUTH program. The City of Chelsea administered the program and provided positions for seven Chelsea teens at several area businesses and city agencies, including Chelsea City Hall, Chelsea Public Library, Chelsea Housing Authority and Chelsea Cable TV. In addition to employment, the program offered opportunities for recreational team building and for helping the youth develop skills to choose challenging careers.

DORCHESTER SNI

The Dorchester SNI continued to focus on issues that have consistently plagued the area — truancy, youth violence, and a lack of job placements and training. The Boston Police Department targeted truancy while other subcontracted programs provided opportunities for young people to effectively use the time when they are not in school by offering recreational, educational and job training programs. Additionally,

community workers were actively involved with the Cape Verdean and Vietnamese communities, working to address their needs. Through the work of a Cape Verdean Youth Outreach worker, funded by SNI and contracted through the Bowdoin Street Health Center, the SNI has been able to address issues facing Cape Verdean youth. Issues of violence, family, education, health and job opportunities are regularly addressed in the Cape Verdean youth groups which meet weekly. The Dorchester SNI has also created a strong network of support for other emerging immigrant groups, children who witness violence, and the local business community.

The Dorchester SNI Advisory Council continued to meet regularly to identify the most pressing needs of the Dorchester SNI community. The Office of the Attorney General completed its sixth year of funding for subcontracted programs in the Dorchester SNI, offering assistance to law enforcement efforts as well as enrichment, educational and recreational programming for children, youth and adults. Offered through direct service providers in the community, programming includes youth safe haven activities at the Dorchester Youth Collaborative, education and training programs for local small business owners, police training, and clinical assistance for children who witness violence.

- **Funding RFP** -The Dorchester SNI conducted its first Request for Proposal (RFP) process and awarded approximately \$50,000 for FY2000 to fund six additional local organizations for programs aimed at youth violence prevention, including counseling, safe haven opportunities, art programs for young girls, and after-school tutoring.
- **Legislative Breakfast** -The Dorchester SNI held a legislative breakfast at the Log School's BIG DIG DINER, attended by three state representatives and senators representing the SNI area. The goal of the breakfast was to showcase the achievements of the SNI and to urge local legislators to support the development and continuation of SNI collaboratives statewide.
- **Proposal for Jobs Training Program** - The SNI Division Director, along with other Dorchester SNI representatives, served on a community-wide committee to assist in the development of a proposal to the Rockefeller Foundation for the development of a jobs training program for Dorchester youth.

GROVE HALL SNI

During Fiscal Year 2000, the Grove Hall Safe Neighborhood Initiative received \$225,000 in its fifth year of funding from the Department of Justice, Executive Office for Weed and Seed. The money funded several community-based programs that helped address needs and concerns identified by the community.

In addition, the Grove Hall SNI/Weed & Seed Coordinating Council Members began work on the Weed & Seed Re-Designation Application due in Fiscal Year 2001.

- **Weed and Seed Grant** - This year, as a part of the Weed and Seed grant, the Grove Hall SNI funded several programs through both the Seed Mini-Grant and the Special Emphasis Initiative grant funds. Seed Mini-Grants were awarded to We're Educators - A Touch of Class (WEATOC), the Grove Hall Residents' Association's Youth Development and Early Intervention Program, the Roxbury Multi-Service Center's Community Program Against Sexual Assault, Quincy-Geneva Housing Corporation's Creative Learning After-School Program, Women of Color AIDS Council's Women Connecting Affecting Change, Children's Services of Roxbury, the Roxbury Community Comprehensive Health Center's WAR Project, and the Jewish Memorial Hospital and Rehabilitation Center's Violence Prevention Program for Seniors. Special Emphasis Initiative grant funds were provided to Quincy-Geneva Housing Corporation's GIRLS on the Move! and the Roxbury Multi-Service Center's Teens Networking Teens Project.
- **Youth Re-Entry Program** - SNI staff participated in planning sessions with representatives from the Suffolk County District Attorney's Office to discuss possible collaboration on a youth re-entry program for DYS-committed youth returning to the Grove Hall neighborhood.
- **Grove Hall SNI Senior Information Fair** - This day-long event featured information and services for seniors in the Grove Hall Community. Approximately 200 people attended the program. A Senior Empowerment Resource Directory was also published.

SIGNIFICANT CASE SUMMARIES & COURT ACTIVITY

- **SNI Community Prosecution** - SNI's Community Prosecution Program is critical to its coordinated law enforcement component. SNI lawyers at the Superior and District Court levels continued to serve in non-traditional roles, acting as prosecutors and working with the community. SNI prosecutors attended community meetings, participated in special events, and responded to inquiries from law enforcement, residents, and social service agencies. As a result of their direct community involvement, the SNI lawyers were able to determine which issues were of most importance to the neighborhood and how resources from Attorney General Tom Reilly's office could best be used to address those concerns. In addition, the assigned Assistant Attorneys General developed joint initiatives with other law enforcement agencies, and utilized sentencing and probation options so as not only to punish offenders but also to rehabilitate them. SNI prosecutors also worked closely with federal law enforcement authorities for enhanced federal prosecutions.

DORCHESTER

The Assistant Attorney General assigned to Dorchester prosecuted major felonies in Superior Court, consisting primarily of repeat drug offenders, large-scale drug seizures, armed robberies, and firearm offenses. Some examples include:

- **Commonwealth v. Derek Belcher** Following the denial of a motion to suppress, the defendant pled guilty to distribution of cocaine and received a three year to three years and one day sentence to MCI Cedar Junction;
- **Commonwealth v. Edward Nugent** The defendant pled guilty to breaking and entering a building and a safe located therein. He was sentenced to three consecutive 2 ½ year House of Correction commitments; and
- **Commonwealth v. Corey Sullivan** The defendant was charged with possession of a firearm and based on his record, further charged with being an armed career criminal. The defendant was arrested after he was observed attempting to discard a loaded .357 magnum firearm. His prior record included two armed robbery convictions. As a result of the new armed career criminal statute, which allows for enhanced sentencing of repeat offenders, the defendant faced a 15 year mandatory minimum incarceration instead of the mandatory one year for possession of a firearm. This case illustrates the efforts being made by SNI prosecutors to use the new statute to charge repeat offenders who continue to victimize individuals and the community as a whole.
- **Community Involvement** - In addition to prosecutorial responsibilities, the Assistant Attorney General assigned to Dorchester attended monthly SNI Advisory Council meetings; met regularly with the Detective staff from Area C-11; and taught three “Legal Lives” classes at the John Marshall Elementary School in Dorchester, in conjunction with the Suffolk County District Attorney’s Office.

GROVE HALL

The Assistant Attorneys General assigned to Grove Hall as part of the SNI team prosecuted cases in Suffolk Superior Court and Roxbury District Court. The Superior Court caseload included trafficking in cocaine, armed robbery, breaking and entering, and firearm offenses. The SNI Assistant Attorney General

successfully prosecuted several Superior Court cases. SNI prosecutors routinely consolidate prosecutions involving the same defendant in order to enhance their effectiveness in advocating for an appropriate disposition. In Commonwealth v. Mathison, the SNI prosecutor targeted a string of incidents being prosecuted in different district courts across the city and consolidated those cases into one Superior Court case. This action helped prevent the possibility of any of the defendant's cases "falling through the cracks" and increased the likelihood that the defendant would receive a disposition commensurate with his criminal activity. Consolidating cases also allows the SNI prosecutor to tailor the disposition to fit the particular needs of the community, including the use of stay away orders, community service or other appropriate sanctions.

- **Community Involvement** - The SNI AAG regularly attended all Grove Hall SNI community and Coordinating Council meetings and maintained direct community contact.

BROCKTON

The Assistant Attorney General assigned to Brockton continued to focus on serious felonies, including major drug trafficking offenses, rape, armed assault with intent to murder, and breaking and entering/burglary. The AAG worked extensively with the Massachusetts State Police Crime Prevention and Control Unit (CPAC) assigned to the Plymouth District Attorney's Office to investigate and prosecute major drug-trafficking cases. Case highlights included:

- **Commonwealth v. Armando Quinones** A three-month investigation yielded the arrest of two individuals for trafficking in cocaine over 100 grams. A motion to suppress was successfully argued and a trial before a jury resulted in guilty verdicts and a sentence of 10 years in state prison.
- **Commonwealth v. Yero, Pimental & Lopez** The SNI AAG assisted State Police assigned to the Plymouth County District Attorney's Office in a month-long investigation into cocaine distribution in the Brockton area. The investigation resulted in the arrest of three defendants, both of whom were charged with trafficking in over 200 grams of cocaine.
- **Commonwealth v. Pagan** Following a jury-waived trial, the defendant was found guilty of trafficking in over 200 grams of cocaine. The defendant was sentenced to 15 years to 15 years and one day in MCI-Cedar Junction.

- **Community Involvement** - The AAG attended and reported on case activity at all SNI Advisory Council meetings. The AAG also regularly attended all Brockton Weed & Seed Coordinating Council meetings.

MONTAGUE

Attorney General Tom Reilly recognizes that issues of crime and neighborhood revitalization are not confined to the largest urban centers. Cities and towns across the Commonwealth confront similar issues regarding community disintegration and each location raises concerns particular to that region. The Montague SNI illustrates how the Attorney General is addressing these issues in Western Massachusetts. The SNI Assistant Attorney General assigned to Montague handled criminal prosecutions from Turners Falls in the Greenfield District Court, including narcotics and domestic violence violations. The AAG also worked closely with the local police department to target repeat offenders as well as quality-of-life prosecutions. A proposal to conduct training sessions for officers to improve handling and investigation of domestic violence cases was also undertaken.

TAUNTON

- **Community Involvement** - The Taunton SNI continued to focus on law enforcement and crime prevention. The Taunton SNI partners include a broad base of representatives, among them, law enforcement, prosecutors, probation, and direct service providers. The City of Taunton continued to play a major role in coordinating the efforts of the Taunton SNI partners. Representatives from Attorney General Tom Reilly's Office regularly attended SNI Advisory Council Meetings in Taunton and assisted the Taunton SNI in programmatic resources, including the Attorney General's JOBS FOR YOUTH program, which hired, trained and employed Taunton youth.

COMMUNITY POLICING

Another key element of the SNI's coordinated law enforcement component is community policing. High-ranking police officials were actively involved in SNI Advisory Councils and met regularly with community groups and individual residents to address concerns. Community policing projects of SNI target areas have demonstrated a strong impact on crime statistics in target communities. In addition to falling crime rates, an unprecedented level of cooperation and collaboration with the police is reported by residents, merchants and social service agencies.

Joint investigations with federal agencies were also a part of our coordinated law enforcement component. The Boston Police Department, Area B2, utilized the combined resources of state and federal agencies including the state police, the Drug Enforcement Agency, and the Bureau of Alcohol, Tobacco and Firearms to target the most serious offenders or high level drug distribution participants in the Grove Hall neighborhood.

NEIGHBORHOOD REVITALIZATION

- **Abandoned Property Project** - A major component of Attorney General Tom Reilly's urban focus is to promote neighborhood revitalization. The Abandoned Property project targets the revitalization of urban areas where the housing stock is often left abandoned or in a state of disrepair. The project seeks to use a receivership statute to undertake and oversee the rehabilitation of residential properties with persistent, unremedied code violations which are frequently used for illicit activities, such as drug dealing or prostitution. The legislation was originally intended to permit tenants and other occupants of residential properties to seek the appointment of a receiver who would have the independent authority to authorize repairs, after notice and an opportunity to cure was provided to the landlord and creditors of record. The most significant features of the statute are twofold: 1) it provides a limited scope of receivership liability related solely to the work actually undertaken at the property; and 2) the costs and expenses incurred by the receiver become a priority lien, recoverable against both the landlord and the property prior to any pre-existing liabilities other than outstanding real estate taxes. This project has been implemented throughout the state, in Dorchester, New Bedford, Roxbury (Grove Hall), Worcester, Orange, Chelsea, Montague, Taunton, Springfield, Brockton and Melrose. Individuals from throughout the Office of the Attorney General participated in these efforts in various cities and towns. Teams consisting of Assistant Attorneys General, civil investigators, paralegals and staff were assigned to specific communities in order to become familiar with the housing stock, local officials and neighborhood residents.

CONCLUSION

The Safe Neighborhood Initiative is an example of the importance of collaboration among government officials, law enforcement and community representatives. The SNI has successfully addressed the issues of crime, crime prevention and treatment and neighborhood revitalization in communities across the state. These partnerships have helped improve the quality of life for all residents of the Commonwealth.

The Safe Neighborhood Initiative includes the following staff members: Marcia Jackson, Director; Susan Spurlock; Linda DelCastilho; Christina DiForio-Sterling; Katherine Hatch; Shelley Richmond Joseph; Glenn MacKinlay; Sandra McCroom; Lori Parris; and Neil Tassel.

CRIMINAL BUREAU

APPELLATE DIVISION

HIGH TECH AND COMPUTER CRIME DIVISION

PUBLIC INTEGRITY DIVISION

VICTIM / WITNESS ASSISTANCE DIVISION

SPECIAL INVESTIGATIONS AND NARCOTICS DIVISION

ECONOMIC CRIMES DIVISION

ENVIRONMENTAL CRIMES STRIKE FORCE

FINANCIAL INVESTIGATION DIVISION

CRIMINAL BUREAU

The primary mission of the Criminal Bureau is to prosecute violations of state criminal laws resulting in or involving significant economic loss or injury, harm to the environment, misconduct by public employees or elected officials, crimes against public agencies, organized crime, drug trafficking, crimes involving computers and other forms of technology, and cross-jurisdictional criminal organizations. The Criminal Bureau also prosecutes criminal cases referred to it by district attorneys offices and cases which further priorities of the Attorney General, such as crimes against children, the elderly and other particularly vulnerable groups.

The majority of criminal cases prosecuted by the Criminal Bureau result from investigations conducted by police officers and investigators assigned to the Criminal Bureau. During Fiscal Year 2000, approximately thirty State Police Officers, four officers of the Environmental Police, and seven civilian criminal investigators were assigned to the Criminal Bureau. Additionally, in some instances, law enforcement officers from other local, state, and federal agencies participated in investigations conducted by the Criminal Bureau.

Another mission of the Criminal Bureau is to promote effective law enforcement and criminal justice in the state. The Criminal Bureau accomplishes this mission by maintaining partnerships with the Massachusetts District Attorneys Association, the Massachusetts Chiefs of Police Association, the Executive Office of Public Safety, and other law enforcement agencies and associations; developing criminal justice policy; proposing legislation; and participating in training programs for prosecutors, police officers, judges and others involved in the criminal justice system.

Assistant Attorneys General assigned to the Criminal Bureau represent the Commonwealth in criminal prosecutions throughout the state, handle proceedings in state and federal courts challenging criminal convictions, and represent prosecutors, judges and other state criminal justice employees who are sued in the performance of their duties.

During Fiscal Year 2000, the Criminal Bureau received more than 1,500 inquiries and complaints from citizens, and reviewed 132 rendition and extradition requests forwarded to it by the Executive Office of the Governor.

The Chief of the Criminal Bureau was Gerard T. Leone, Jr. The Deputy Chief of the Bureau was Kurt N. Schwartz.

The Criminal Bureau is organized into the following nine divisions, each of which reflects an area of specialization and expertise: Appellate, Criminal Investigations, Economic Crimes, Environmental Crimes Strike Force, Financial Investigations, High-Tech & Computer Crimes, Public Integrity, Special Investigations & Narcotics, and Victim/Witness Assistance.

The Division Chiefs within the Criminal Bureau during Fiscal Year 2000 were: Appellate Division, Pamela L. Hunt; Criminal Investigations Division, Detective Lieutenant Mark Delaney; Economic Crimes Division, Carol A. Starkey; Environmental Crimes Strike Force, Martin E. Levin; Financial Investigations Division, Paul Stewart; High-Tech and Computer Crimes Division, Gregory Motta, followed by John A. Grossman; Public Integrity Division, James H. O'Brien; Special Investigations and Narcotics Division, William T. Bloomer; and Victim/Witness Assistance Division, Kathleen Morrissey.

The Criminal Bureau also had two Bureau Attorneys during Fiscal Year 2000. Mary A. Phillips, Bureau Attorney for Training and Administration, coordinated the Attorney General's Grand Jury process throughout the Commonwealth, developed training programs for the criminal Bureau, served as the Chair of the Training Committee for the Office of Attorney General Tom Reilly, and advised the Bureau Chief on administrative and budgetary matters. Elisabeth J. Medvedow, Bureau Attorney for policy and legislation, developed and coordinated criminal justice initiatives, reviewed and drafted legislation affecting the criminal justice system, produced the Law Enforcement Newsletter, and served as Co-Chair of the Diversity Committee for the Office of the Attorney General.

During Fiscal Year 2000, the staff of the Criminal Bureau included the following: Gerard Leone, Jr., Chief; Kurt Schwartz; Jennifer Austin; Sandra Ciancarelli; Sabrina Davis; Rhonda Matthews; Joanne Quigley; Mark Smith; and Nancy Tavilla.

APPELLATE DIVISION

The Appellate Division handles a wide variety of criminal, federal habeas corpus, state habeas corpus and other civil cases which impact criminal prosecutions and the criminal justice system. The Division's caseload includes appeals and post-convictions matters in criminal cases prosecuted at the trial level by the Attorney General's Criminal Bureau and from convictions of criminal contempt throughout the Commonwealth, all habeas corpus petitions filed in federal court that challenge Massachusetts convictions, parole surrenders, civil commitments, and renditions, and appeals in the First Circuit Court of Appeals from the denial or granting of habeas corpus relief. The Division also engages in civil litigation defending judges, clerks, probation officers and other court personnel, District Attorneys, Assistant District Attorneys

CRIMINAL BUREAU

APPELLATE

and other prosecutorial personnel sued civilly in state or federal court for actions taken during the criminal justice process. The Assistant Attorneys General in the Division defend the constitutionality of criminal statutes, as well as other statutes, court rules, practices and procedures that concern all aspects of the criminal justice system; represent the interests of prosecutors when subpoenaed to testify or provide documents in federal civil cases; supervise agency staff attorneys handling litigation involving the Department of Correction, the Parole Board, and the Commission of Probation; and handle appeals and federal court litigation concerning the Parole Board.

In addition to their case work, Division attorneys participate in and present training programs both for the Criminal Bureau and office-wide, provide assistance to other Criminal Bureau attorneys on investigations, motions, trials, post conviction proceedings, and single justice actions and consult with or assist other bureaus in matters where the criminal justice expertise or perspective is important. The Division also works closely with the District Attorneys' Offices, especially their Appellate Divisions, in identifying and acting as a clearinghouse on criminal law issues of statewide importance and interest.

The Appellate Division files approximately 60 appellate briefs per year in the United States Supreme Court, Court of Appeals for the First Circuit, Supreme Judicial Court and Massachusetts Appeals Court. The Division also filed amicus briefs on behalf of Attorney General Reilly in cases having broad impact and importance to the criminal justice system, consistent with the Attorney General's statutory responsibility as the chief law enforcement officer of the Commonwealth. By way of example:

- **Commonwealth v. Bruno** 432 Mass. 489 (2000). The division filed an amicus brief in the Supreme Judicial Court in support of the position that the civil commitment provisions of G.L. c. 123A for sexually dangerous persons applies to persons who were convicted prior to the laws' enactment. The SJC adopted this position and rejected the defendant's claims that his commitment violated the Due Process and Ex post Facto Clauses of the Constitution.
- **Jake J. v. Commonwealth** 433 Mass. 70 (2000). The division filed an amicus brief in the Supreme Judicial Court in support of the position that a juvenile judge may release a juvenile on bail and at the same time set conditions for pre-trial probation, and that the judge may revoke the bail for violating those conditions. The SJC adopted this position and rejected the juvenile's claim that he was not on probation and that the judge lacked the authority to set conditions for his release.
- **Commonwealth v. Brown** 431 Mass. 772 (2000). The division filed an amicus brief in the Supreme Judicial Court in support of the position that one cannot be sentenced under G.L. c.

265, §18C to less than 20 years for his conviction of armed home invasion. We maintained that the plain language of §18C, *i.e.*, the defendant is to be “punished by imprisonment in the state prison for life or for any term of not less than twenty years,” established a mandatory minimum sentence. The SJC adopted this position, reversed the Appeals Court’s decision, and rejected the defendant’s claim that §18C merely set a range of punishment with 20 years being at the maximum end of the range.

STATISTICAL SUMMARY

	Cases Opened	Cases Disposed	Total Cases Handled
A. Federal Habeas	110	114	298
B. Federal Civil	17	22	39
C. State Civil	41	36	136
D. State Habeas	19	16	31
E. Criminal	37	34	73
F. 211 § 3 and Other Single Justice Cases	9	8	18
G. Other	1	0	1
TOTALS	234	239	596

CASE HIGHLIGHTS

- **Charles Vieux v. Peter Pepe** (First Circuit No. 98-1864). Appeal from district court’s denial of a federal habeas corpus petition which challenged rape conviction based on a claim of

ineffective assistance of counsel. On July 19, 1999, the First Circuit affirmed the denial of habeas relief.

- **Walter Palmer v. Tom Reilly** (USDC No. 99-11978-RWZ). Federal civil rights action against the Attorney General to enjoin the plaintiff's criminal prosecution by the Economic Crimes Division. On September 28, 1999, District Judge Zobel dismissed the complaint.
- **Commonwealth v. Cheryl Amirault LeFave** (SJC No. 07529). Commonwealth's appeal from allowance of defendant's second and third motion for new trial on the grounds of ineffective assistance of trial counsel. On August 18, 1999 the Supreme Judicial Court vacated the orders of the Superior Court and reinstated the defendant's convictions.
- **Kenneth P. Phoenix v. James Matesanz** (USDC No. 98-10171-RCL). Federal habeas corpus petition challenging petitioner's 1991 conviction for first degree murder. On December 9, 1999, after a remand from the First Circuit, Lindsay, D.J., denied the petition on the merits, and granted a certificate of appealability.
- **Matthew Healy v. Town of Hull, et al.** (USDC No. 97-11257-GAO). Federal civil rights action (§ 1983 and other tort claims) by the plaintiff who had been convicted of making annoying phone calls and stalking. We represented former ADA Geline Williams. On January 13, 2000 District Judge O'Toole entered summary judgment for all the defendants.
- **Albert Moore v. Joseph Ponte** (First Circuit No. 98-1292). Appeal from denial of federal habeas corpus relief challenging petitioner's 1976 first degree murder conviction based on a claimed due process violation resulting from petitioner placement in the "dock" during his trial. On August 2, 1999, the First Circuit affirmed the denial of habeas relief.
- **Commonwealth v. Perez** (Appeals Court No. 98-P-780). Appeal from AGO conviction for narcotics trafficking which alleged improper closing argument and prosecutorial misconduct. On July 16, 1999, the Appeals Court affirmed the petitioner's conviction.

NON-CASE HIGHLIGHTS

- Ongoing advice to State Police and laboratory re: DNA database, including assistance and advice to Suffolk County District Attorney's Office.
- Supreme Judicial Court Standing Advisory Committee on Criminal Rules.

- The Appellate Division hosted a quarterly meeting of Commonwealth's Appellate Attorneys Action Project (CAAAP), at which the creation of the Jean M. Kennett Scholarship for continuing legal education was announced.
- Lecture to District Court Judges. Invitation to address Region III District Court Judges on contempt procedures and options.
- Massachusetts District Attorneys Association Training for New Prosecutors, January 10-13, 2000.
- Massachusetts District Attorneys Association Conference, Springfield, MA, March 2-3, 2000.
- Massachusetts Bar Association; Massachusetts Law Review; Editorial Board
- Rendition training and lecture at Middlesex District Attorney's Office.

The Appellate Division includes the following staff members: Pamela Hunt, Chief; Daneka Barbour; Annette Benedetto; Steve Ehrenberg; Elizabeth Frumkin; Maureen Giacoppo; Bonny Gilbert; William Meade; Kelli Murray; Cathryn Neaves; Susanne Levens Reardon; Kenneth Steinfield; Catherine Sullivan; Joseph Thai; and Linda Wagner.

THE HIGH TECH AND COMPUTER CRIME DIVISION

The High Tech and Computer Crime Division (HTCC) is a priority of Attorney General Tom Reilly. The Attorney General devoted significant resources of the office to developing a cutting edge division for an ever changing world. The mission of the High Tech and Computer Crime Division is to provide high tech law enforcement expertise to the Commonwealth. In doing so, we serve three constituencies:

1. The individual citizens of the Commonwealth, particularly the children, who are increasingly communicating, buying and selling, and just passing time on the Internet;
2. The businesses and universities of the Commonwealth who drive our knowledge-based economy and who are dependent on computers and the Internet; and
3. Other law enforcement agencies (as well as other divisions within the Office of the Attorney General) which rely on our expertise to support them in the full range of crimes that they investigate and prosecute, from homicide to narcotics trafficking.

We serve these three constituencies in three interrelated ways:

1. Investigation and prosecution of cases in which computers or the Internet play a crucial role;
2. Investigative, legal and computer forensics support to other law enforcement agencies; and
3. Education, outreach and policy development.

Fiscal Year 2000 was a year of transition for HTCC. The commanding officer of the investigative team that is assigned to the division left in August and the Chief of the Division, who was at the time also the only prosecutor, left in October. Both positions immediately were filled but there was a period of several months during which the new Chief also had a nearly full time commitment to a major narcotics investigation. Fortunately, over the course of the year, the Division was able to increase its staffing from what amounted to 50% of the time of one prosecutor to three full time prosecutors. We also devoted substantial energy to the creation of a secure computer forensics lab which is now fully operational. At the close of Fiscal Year 2000, the HTCC was staffed by three Assistant Attorney Generals – Karen Kleiman, Julie Ross and John Grossman, the Division Chief – three members of the Massachusetts State Police – Sergeant Dermot Quinn, and Troopers Matthew Murphy, and David McSweeney – and a computer forensics expert, Eric Lundberg.

The HTCC handles a wide variety of cases in which computer technology or the Internet play a crucial role. The two areas that we focus on are preserving the integrity of the Commonwealth's knowledge based economy and protecting the well being of our children. The first category of cases involves intrusions to computer systems, related extortion attempts, theft of trade secrets and other intellectual property, such as trademarks and domain names, and the most egregious attempts to undermine the nascent Internet economy by defrauding consumers. The second category involves targeting child sexual predators on the Internet, dissemination and possession of child pornography and Internet threats to schools.

STATISTICAL SUMMARY

Following is a chart summarizing the case referrals that HTCC screened for possible investigation and prosecution in FY 2000.

Case Description	Number of Cases Screened
Theft of Trade Secrets and Other Intellectual Property	6
Computer Intrusions	18
Consumer Fraud	59
Child Exploitation	28
Threats/Cyberstalking	22
Other	9
Total	142

Of the 142 cases HTCC screened, approximately 30% matured into formal investigations.

Notably, towards the end of the fiscal year, HTCC received an extraordinarily high number of consumer fraud complaints; this in part reflects the severity of the problem and in part the success of the Internet Fraud Complaint Center (IFCC), a joint project of the National White Collar Crime Center (of which the Attorney General's Office is a member) and the Federal Bureau of Investigation to consolidate all such complaints in one database. IFCC began referring every complaint about a Massachusetts target or filed by a Massachusetts victim to HTCC in the last quarter of the year. HTCC screens all of the cases and targets the most compelling; these are typically those with targets in the Commonwealth who have defrauded a substantial number of people. The remaining IFCC cases are referred for review to the Attorney General's Public Protection Bureau's Consumer Protection Division. Another important trend is the growth over the course of the year in the number of referrals involving complex technical issues, such as computer intrusions; this, we believe, is the direct result of the growing reputation of HTCC within the business community and law enforcement.

During Fiscal Year 2000, HTCC charged 6 individuals with various crimes including unauthorized access (computer hacking), threats to commit a crime, larceny, and disseminating child pornography.

During Fiscal Year 2000, six individuals pled guilty or otherwise admitted to sufficient facts in Superior, District and Juvenile courts across the Commonwealth.¹ Additionally, HTCC prosecutors obtained guilty pleas against three narcotics defendants and against a former Taunton police captain in a public corruption case.

CASE HIGHLIGHTS

Highlights of the cases handled by HTCC in Fiscal Year 2000 are the following.

- **Commonwealth v. Christian Hunold** (Ayer District Court). Hunold, a Missouri resident, allegedly used the Internet to disguise himself as a student at Townsend's Hawthorne Brook Middle School and then allegedly proceeded to send the students of that school child pornography and to create a website that contained apparently credible threats to blow up the school and a "hit list" naming specific students and teachers. The hit list threatened to send those named "home with more holes than they came to school with." Hunold was tracked down as the result of a joint effort between Massachusetts and Missouri law enforcement authorities and faces charges in both jurisdictions.
- **Commonwealth v. Christopher DeHaven** (Middlesex Superior Court). DeHaven of Pennsylvania allegedly solicited sex from three Belmont teenagers whom he met on the Internet and sent them various sexually graphic images. After the activity was discovered, an undercover Massachusetts State Trooper assumed the on-line identity of the girls and arranged to meet DeHaven. DeHaven was arrested when he arrived in South Station on a train from Philadelphia allegedly on his way to meet his victims at a local hotel.
- **Commonwealth v. Sud** (Middlesex Superior Court). This defendant used the perceived anonymity of the Internet to attempt to blackmail a colleague at a high tech company into engaging in a sexual encounter with him. State Police assigned to HTCC took over the identity of the victim and arranged a meeting for the requested sexual encounter. When the defendant arrived, he was arrested and shortly thereafter was charged with extortion. The defendant pled guilty and after spending nearly two months in jail, received a suspended sentence.
- **Commonwealth v. Aherrera** (Boston Municipal Court). The defendant was an employee of Massachusetts Lawyers' Weekly's information technology department. After his termination,

¹ Some of the cases charged during Fiscal Year 2000 are still pending, just as some of the cases resolved during this fiscal year were charged during previous fiscal years.

he hacked into his former employer's computer system and destroyed thousands of dollars worth of data. He admitted to sufficient facts to accessing a computer system without authorization and received a continuance without a finding for two years.

In addition to the cases that we investigated and prosecuted within HTCC, the Division assisted other Divisions within the Attorney General's Office, or District Attorneys' Offices, in over 49 separate matters. In some cases, this assistance consisted of legal advice and reviewing search warrants; in others it was performing computer forensics. Notably, the expertise of HTCC has been called on in several of the most high profile cases of the last year from around the Commonwealth. Three such cases are summarized below:

- **Commonwealth v. Arrighi, et al.** (Suffolk Superior Court). The High Tech and Computer Crime Division played an important role in the Criminal Bureau's investigation of a \$9.4 million larceny from the Commonwealth's Treasury. State Police and other investigators assigned to HTCC assisted in searches at 8 locations and the seizure of 18 computer systems, and forensically examined all seized systems through the use of keyword searches. These keyword searches produced hundreds of thousands of "hits" which were then, in conjunction with investigators assigned to the Economic Crimes Division, analyzed to determine if they were located within relevant documents.
- **Commonwealth v. Greineder** (Norfolk Superior Court). At the request of the Norfolk County District Attorney's Office, a State Trooper assigned to HTCC worked closely with the team from the District Attorney's Office in the investigation of this defendant who eventually was convicted of murdering his wife. As a team, the investigators analyzed the contents of the defendant's computers and located key evidence of his motive to commit the murder. HTCC lawyers also assisted the District Attorney's Office in successfully defending the lawfulness of the computer seizures and searches.
- **Commonwealth v. Reardon** (Essex Superior Court). At the request of the Essex County District Attorney's Office, two HTCC investigators worked with a team from that office in preparing the case against Christopher Reardon, a church youth worker who eventually was convicted of sexually assaulting over 15 children. HTCC's role in this case involved recovering sexually graphic material and a list of his victims that were stored on Reardon's computers.

NON-CASE HIGHLIGHTS

Finally, HTCC devoted a substantial amount of energy and resources to training and outreach. These efforts allow us to leverage our relatively limited resources to (a) teach people and institutions how to avoid becoming victims of high tech crimes and (b) where we cannot prevent the crimes from happening, assure that law enforcement has the capacity to respond.

Highlights in this area during Fiscal Year 2000 were: a conference with the high tech industry sponsored by Attorney General Tom Reilly's Office, the Office of the United States Attorney for the District of Massachusetts and the Boston Bar Association to discuss the growing problem of computer crime; the publication of Internet safety brochures for parents and children; participation in a number of law enforcement training conferences including the Massachusetts District Attorneys' Association (MDAA) annual meeting, a two day cybercrime seminar sponsored by Attorney General Reilly's Office, the Bristol County District Attorney's Office and the MDAA, and a meeting of the Greater Boston Police Council; and presentations at a number of schools.

The High Tech and Computer Crime Division included the following staff members: John Grossman, Chief; Eric Lundberg; T. Gregory Motta; and Julie Ross.

PUBLIC INTEGRITY DIVISION

The primary mission of the Public Integrity Division (PID) is to investigate and prosecute crimes committed by and against public employees and agencies that either compromise the public's confidence in government or harm public agencies. In Fiscal Year 2000, prosecutions included crimes committed against state and local public agencies and government-funded organizations as well as crimes committed by government employees, agents, and contractors.

Members of the Public Integrity Division investigate cases with the assistance of Massachusetts State Troopers and forensic financial investigators assigned to the Criminal Bureau. In addition, PID attorneys often work with local police departments, other State Police officers, federal law enforcement officers, and investigators assigned to other government agencies.

The Public Integrity Division maintains close working relationships with other state and federal agencies involved in either investigating crimes by and against public employees and agencies, or enforcing laws concerning the conduct of public employees and agencies. These agencies include the State Ethics

Commission, the Department of Revenue, the Office of the State Auditor, the Office of the Inspector General, the United States Attorney's Office, the Federal Bureau of Investigation, the Federal Department of Transportation, local district attorneys' offices, various retirement boards and local town counsels and city solicitor's offices.

During all or part of Fiscal Year 2000, the members of the Public Integrity Division were AAG Jim O'Brien, AAG Pam Wechsler, AAG Eugenia Carris, AAG James O'Connell, AAG Stephen Prunier, and AAG Andy Lawlor. During the fiscal year, Sandra Ciancarelli replaced Sheila Connolly as the Division secretary.

STATISTICAL SUMMARY

During Fiscal Year 2000, the Public Integrity Division reviewed 143 new allegations of criminal conduct and disposed of 147 cases (some of which were received in prior fiscal years). During the fiscal year, six people were indicted by PID and 12 criminal cases resulted in guilty pleas. Of the 12 pleas, 7 were handled in superior courts and 5 in district courts. Crimes investigated and prosecuted by PID during Fiscal Year 2000 included: Obstruction of Justice, Perjury; Tax Evasion; Larceny; Bribery; Accepting Unlawful Gratuities; Identity Fraud; Conspiracy, and Embezzlement.

CASE HIGHLIGHTS

- **Commonwealth v. Robert Federico** (Suffolk Superior Court) Robert Federico, a former Boston Police officer, pled guilty to 5 counts of perjury for illegally receiving \$67,000 of disability pension benefits from 1992 through 1996. Federico was sentenced to 2 years probation, full restitution, and 250 hours of community service. This case represented the first prosecution of a case from PERAC's Pension Fraud Unit since the Legislature created that Unit in 1996.
- **Commonwealth v. Kevin Hayes** (Suffolk Superior Court) Kevin Hayes, a former employee of the City of Boston's Election Department, pled guilty to tax evasion and filing a false tax return in connection with unreported income from a ticket agency that he owned and helped operate during hours that he should have been working at his city job. Hayes was sentenced to two years probation, 250 hours of community service, a \$10,000 fine, and a \$60 victim/witness fee.

- **Commonwealth v. William Watson** (Norfolk Superior Court) William Watson was an employee of the Massachusetts Housing Finance Agency who stole confidential client information which he used to fraudulently obtain cellular phones and phone service. Watson pled guilty to larceny over \$250 and was sentenced to two years in the House of Correction, one year committed, the balance suspended for 3 years; \$3,000 restitution; and drug counseling.
- **Commonwealth v. Alita Bynoe** (West Roxbury District Court) Alita Bynoe, another employee of the Massachusetts Housing Finance Agency (MHFA), along with two co-conspirators, Frantz Cazeau and Marcus Hunt, also stole confidential identifying information of various MHFA clients to fraudulently obtain cellular phone service. Bynoe and Cazeau admitted to two counts of larceny over \$250, one count of conspiracy to commit larceny, and two counts of identity fraud. Hunt admitted to one count of larceny over \$250, one count of larceny under \$250, one count of conspiracy to commit larceny, and two counts of identity fraud. The defendants received a continuance without finding (CWOFF) with 2 years probation, 100 hours of community service, and restitution.
- **Commonwealth v. Cynthia J. Mello** (New Bedford Superior Court) Cynthia J. Mello, a New Bedford elementary school principal, pled guilty to charges of forgery and larceny in connection with the embezzlement of over \$20,000 of funds that elementary school students had raised. Mello was sentenced to two years probation, gambling addiction counseling, a stay away order from the interior of the Taylor School, \$20,000 restitution, and a \$60 victim/witness fee. A scholarship fund was set up with the restitution money.
- **Commonwealth v. Richard Pimental** (New Bedford Superior Court) Richard Pimental, a former Captain of the Taunton Police Department, pled guilty to two counts of obstruction of justice in connection with his role in fixing a criminal case against his nephew that stemmed from a barroom brawl. Pimental was sentenced to two-and-a-half years in the House of Correction, six months to serve of home confinement on an electronic bracelet, the balance suspended for two years, and 500 hours of community service.
- **Commonwealth v. Erica Johnson** (Suffolk County Grand Jury) Erica Johnson, a former administrative assistant with the Division of Registration, was indicted for ten counts of bribery and eleven counts of making false written reports for her role in accepting bribes and selling cosmetology licenses to unqualified individuals.

- **Commonwealth v. Trina Woods, Michael Wilcox, Latayna Jones, Doreen Hoey, and Charles Belim** (Suffolk County Grand Jury) These defendants were indicted in connection with a fraudulent check cashing operation that victimized elderly women. The defendants were charged with multiple counts of larceny, forgery, uttering, and receiving stolen property. The case, which was investigated by the Boston Police Department and is being prosecuted by this Office, was still pending in Superior Court at the end of the fiscal year.

NON-CASE HIGHLIGHTS & TRAINING

During Fiscal Year 2000, the Division joined with the State Ethics Commission and established a task force that met quarterly for the purpose of improving the coordination and cooperation of the law enforcement agencies who enforce the public integrity laws.

During Fiscal Year 2000, members of the Division both attended and taught training classes inside and outside the Office of the Attorney General, including:

- leading an in-house training on cross examination of expert witnesses;
- teaching an MCLE course on trial advocacy;
- participating in an MCLE panel which discussed trial tactics;
- participating in an educational seminar for the Massachusetts Chiefs of Police Association;
- attending an MCLE trial advocacy course;
- attending the AGO's two day trial advocacy program held at Boston College; and
- serving as members of the Attorney General Reilly's Child Protection Project, which is involved in developing legislative proposals on school safety issues, and on the Attorney General's office-wide Diversity Committee.

The Public Integrity Division included the following staff members: James O'Brien, Chief; Eugenia Carris; Sheila Connolly; Andrew Lawlor; Jonathan Mitchell; James O'Connell; Jeremy Silverfine; and Pamela Wechsler.

VICTIM/WITNESS ASSISTANCE DIVISION

The Victim/Witness Assistance Division of the Attorney General's Criminal Bureau was developed to meet the following goals: (1) to provide crisis assessment and intervention to crime victims and witnesses to facilitate their emotional, psychological, physical and financial recovery from victimization; (2) to reduce

the level of secondary victimization associated with victims' and witnesses' involvement in the criminal justice system and other collateral systems; and (3) to aid in the prosecution of criminal cases by ensuring that crime victims and witnesses are provided with the rights and services mandated by the Victim Rights Law (G.L. c. 258B). A second Victim/Witness Advocate position was added to the Criminal Bureau in FY99 due to the high volume of cases requiring victim/witness assistance. Advocates in the Criminal Bureau provide victim advocacy and witness management services to all of the Bureau's divisions: 1) Appellate; 2) Criminal Investigations; 3) Economic Crimes; 4) Environmental Crimes Strike Force; 5) Financial Investigations; 6) High Tech and Computer Crimes; 7) Public Integrity; and 8) Special Investigations and Narcotics. Advocates are occasionally assigned to prosecutions in other bureaus of the office when the need for victim/witness services is identified by the prosecutor. The nature of these cases varies depending on the referral source. Categories include Medicaid fraud, patient abuse, home repair fraud and insurance fraud. Advocates also provide victim/witness coverage on conflict cases referred to the Office of the Attorney General by the eleven district attorneys' offices across the Commonwealth. These referrals typically involve cases of violent crime. The Victim/Witness Assistance Division, in an effort to build community partnerships and to address victim issues identified as mandated priorities of Attorney General Tom Reilly, participates in a number of initiatives relating to children, safety in our schools, elders, health care, high tech and computer crime, domestic violence, diversity and curative legislation.

STATISTICAL SUMMARY

Fiscal Year 2000 ushered in a banner year for the Victim/Witness Assistance Division which responded to significant challenges to provide services to a high volume of victims and witnesses. Victim advocacy and witness management services were provided by the victim/witness advocates on 50 cases across the Commonwealth. The case breakdown is as follows:

REFERRAL SOURCE	NUMBER OF CASES
Economic Crimes Division	15
Public Integrity Division	14
Environmental Crimes Strike Force	5
High Tech & Computer Crimes Division	4
Appellate Division	3
Public Protection Bureau, Chief Prosecutor	4
Medicaid Fraud Control Unit, Business Labor & Protection Bureau	1
Civil Rights Division, Public Protection Bureau	1
Conflict Cases	3
<hr/>	
TOTAL	50

CASE HIGHLIGHTS

Five cases of particular note illustrate work in priority areas set by Attorney General Tom Reilly: (1) high tech and computer crime; (2) children and schools; (3) elders and fraud; (4) consumers and identity fraud; and (5) consumers and the environment.

- Commonwealth v. Rajesh Sud** (Middlesex Superior Court) (High Tech and Computer Crimes) The defendant, Rajesh Sud, pled guilty on August 12, 1999 before Judge Linda Giles in Middlesex Superior Court to one count of attempted extortion (sexual favors via e-mail). The victim was a colleague of the defendant at Digital (now Compaq). The victim transferred to Polaroid as a result of the victimization. On October 27, 1999, the defendant was sentenced in Fall River Superior Court before Judge Giles to 364 days, suspended, two years' probation, with significant probation conditions. AAGs Motta and Parks, VWA Morrissey and Trp. Bibeau handled this case.

- **Commonwealth v. J. Cynthia Mello** (Bristol Superior Court) (Public Integrity Division)
The defendant pled guilty on January 12, 2000 in Bristol Superior Court to larceny over \$250. Disposition - 2 years probation, \$20,000 restitution, stay away order, and counseling (gambling addiction). This case was significant from a child protection perspective because the defendant was a former elementary school principal who coerced numbers of children to fundraise and then spent the money to feed her gambling addiction. Kathy Morrissey worked closely with the parents, teachers and students who were inflamed about the situation. AAGs Wechsler, Carris, and VWA K. Morrissey handled this case.
- **Commonwealth v. Walter Palmer** (Suffolk Superior Court) (Economic Crimes Division)
The Palmer trial was heard before a jury at Suffolk Superior Court before Judge Joseph Grasso from October 18, 1999-November 1, 1999. On November 4, 1999 the jury found the defendant guilty of embezzlement, perjury, and larceny over \$250. The defendant was sentenced on November 5, 1999. Judge Grasso adjudicated the defendant to be a “common and notorious thief” and sentenced him to state prison for a term of 16-18 years.

This case was particularly challenging from a victim/witness advocate’s perspective due to the volume of victims, witnesses and other collateral parties involved. Prior to trial, Kelly Payne assisted with trial preparation interviews, including many home visits with elder victims, provided notification and status updates by telephone and mail, recorded confirmation calls regarding the receipt of subpoenas from over 85 witnesses, arranged travel plans for several out-of-state witnesses, and contacted all victims and witnesses regarding tentative line-up for trial. Following disposition, Kelly Payne sent out a disposition letter to over 20 victims and 70 witnesses and assisted in the Criminal Offender Record Information (CORI) certification application process. Kelly Payne also worked closely with a representative from the Client Security Board in helping the victims recover their losses. AAGs Brekka, McGovern, Victim/Witness Advocate Payne, and Financial Investigators McFadden and Baker worked on this case.

- **Commonwealth v. Alita Bynoe, Marcus Hunt & Frantz Cazeau** (Massachusetts Housing Finance Agency) (West Roxbury District Court) (Essex Superior Court) (Public Integrity Division); **Commonwealth v. William Watson** (Massachusetts Housing Finance Agency)

On January 10, 2000, defendants Bynoe, Hunt and Cazeau pled to sufficient facts before Judge Mary Ann Driscoll in West Roxbury District Court to the following charges: (1) larceny over \$250 (2 counts); (2) identity fraud (2 counts); and (3) conspiracy to commit larceny (1 count). Judge Driscoll continued each defendant’s case without a finding for two years and

placed each defendant on probation for two years to be supervised by the West Roxbury District Court Probation Department. Each defendant was also ordered to perform 100 hours of community service, pay a \$60 Victim/Witness Assessment Fee and pay restitution to Cellular One in the amount of \$3,247, and Radio Shack in the amount of \$380.

A status date has been scheduled by the West Roxbury District Court for January 10, 2002. At that time, if the defendants have not further violated the law and have met the conditions of the continuance, the charges will be dismissed.

The defendant, Watson, a former Massachusetts Housing Finance Association employee, pled guilty to larceny over \$250 on December 23, 1999 before Judge Fremont-Smith in Norfolk Superior Court. Judge Fremont-Smith sentenced the defendant to two years in the House of Correction, one year to be served and the balance suspended for three years with probationary conditions. The terms of the defendant's probation are full restitution to Cellular One in the amount of \$3,000 and drug counseling as deemed appropriate by the Norfolk Superior Court Probation Department. The defendant was also ordered to pay a statutory \$60 Victim/Witness Assessment Fee. One victim attended the sentencing and submitted a Victim Impact Statement to the court.

The Bynoe, Cazeau, Hunt and Watson cases involved the theft of the good credit and identities of approximately 15-20 people, most of whom applied for loans that were insured by and otherwise processed by the Massachusetts Housing Finance Agency (MHFA). The victims required guidance as to how to restore their credit histories and assistance with completing victim impact statements. The cases are significant because it was the first time the Criminal Bureau had sufficient facts to charge identity fraud. While identity fraud is one of the fastest growing white-collar crimes in the country, it is often difficult to bring charges in these cases because, by definition, we do not always know the name of the target or the jurisdiction involved. Identity theft and related fraud have become focal areas of Attorney General Tom Reilly's Public Protection Bureau and the Economic Crimes and High Tech and Computer Crimes Divisions of the Criminal Bureau. AAG J. O'Connell, Victim/Witness Advocate Payne and Trooper Donoghue worked on this case.

- **Commonwealth v. James M. Harrity d/b/a Stepping Stones Realty, Inc.** (Worcester District Court). (Environmental Crimes Strike Force) On October 12, 1999 the defendant pled guilty before Judge Eliot Zide in Worcester District Court to the charges of Violation of the Massachusetts Air Pollution Control Act and Violation of the Massachusetts Solid Waste Act.

Judge Elliott Zide sentenced the defendant to six months probation. As a condition of probation, Stepping Stones Realty, Inc. was ordered to pay for the lawful removal and disposal of asbestos containing material buried beneath the basement floor at 3 Crown Street, Worcester, Massachusetts (a primary residence) and for the repairs to the basement floor. Clean-up and repair of the damaged area in the victim's house took place on November 29, 1999 under the supervision of Greg Levins, Department of Environmental Protection. This case was handled by AAG Talbot, VWA Payne and Environmental Police Officers Moore and Levins, with the assistance of the DEP.

NON-CASE HIGHLIGHTS

- In addition to victim/witness services rendered on cases in the Criminal Bureau and throughout the Office of the Attorney General, the Victim/Witness Assistance Division also provided ongoing consultation to prosecutors, investigators and state troopers by screening and responding to duty calls and correspondence on 68 occasions from the public when victim/witness issues were identified.
- During Fiscal Year 2000, the Victim/Witness Assistance Division continued its momentum to build a statewide presence and to enhance training and development by attending 27 conferences across the Commonwealth relating to the following victim/witness issues: post-conviction victim services; the Sex Offender Registry; elder abuse; domestic violence; community crisis; check/credit card fraud; witness preparation; preparing for a lengthy trial; three-day Massachusetts Citizens for Children Summit; gangs; cybercrime; demonstrative evidence at trials; cross-examination of defense experts; motor vehicle homicide; anti-discrimination and sexual harassment; and closing arguments.
- The Director of the Division participated as a presenter in two trainings: (1) The Victim Rights Law (c. 258B), a training for new prosecutors in the Criminal Bureau; and (2) Gang Identification, Intervention and Prosecution, victim/witness issues relating to working with gang prosecutions.
- The Director of the Division attends bi-monthly meetings of the Victim and Witness Assistance Board which oversees the implementation of victim rights across the Commonwealth.
- The Division attended the Annual Victim Rights Conference in April, 2000 chaired by Attorney General Tom Reilly and the Massachusetts Office for Victim Assistance (MOVA).

- The Director of the Division is a member of MOVA's State of the State Working Group organized to assess the current delivery of victim services in the state.
- The Director of the Division is also a member of the Massachusetts District Attorneys Association's Domestic Violence Subgroup and the Boston Area Sexual Assault Coalition, a hospital-based forensic network.
- On a national note, in August, 1999, Kelly Payne represented the Attorney General at the 25th Annual National Organization for Victim Assistance Conference and International Summit. Topics discussed at the conference included identity theft and fraud, needs of elder crime victims, responding to multi-victim crimes, and violence prevention and intervention in schools.

The Division included the following staff members: Kathleen Morrissey, Director; and Kelly Payne.

SPECIAL INVESTIGATIONS AND NARCOTICS DIVISION

The Special Investigations and Narcotics (SI&N) Division coordinates and prosecutes a variety of complex, multi-jurisdictional criminal cases. The division also proactively investigates traditional criminal enterprises — including so-called organized crime families and large-scale drug trafficking organizations — as well as non-traditional criminal organizations such as local and national street gangs. A priority of the division is to identify and prosecute individuals and groups involved in the illegal sale or possession of firearms. SI&N prosecutors are also responsible for providing assistance in the drafting of legislation pertaining to narcotics, firearms, gangs, and child protection. Division members are encouraged to participate in the conception and implementation of community education and outreach programs.

The SI&N Division, through its Asset Forfeiture Unit, initiates and pursues civil and criminal forfeiture and nuisance actions of property related to the sale, distribution, and facilitation of drug related offenses. Funds recovered by the Unit are disbursed in accordance with the Commonwealth's forfeiture laws.

Among the general categories of crimes the SI&N Division investigated and/or prosecuted during Fiscal Year 2000 were the following: narcotics trafficking and related offenses, gaming, extortion and loansharking, firearms trafficking and related offenses, armed career criminal violations, identity fraud, organized larceny rings, arson, counterfeit currency possession, solicitation to commit murder, habitual criminal offenders, and a variety of conflict cases from district attorneys' offices across the state.

Attorneys and State Police Officers assigned to the SI&N Division, as well as investigators assigned to the Criminal Bureau, also continue to work with and provide technical, legal, and other forms of investigative support and assistance to numerous federal, state, and local law enforcement agencies. These agencies include the Drug Enforcement Administration, the Federal Bureau of Investigation, the Bureau of Alcohol, Tobacco and Firearms, United States Customs Service, Internal Revenue Service, United States Postal Service, Department of Corrections, district attorneys' offices, court house security personnel and various state and local police departments and task forces throughout the Commonwealth and in some circumstances across the country. These joint undertakings included investigations of major money laundering and drug distribution organizations, identification fraud enterprises, and counterfeit currency or check producers.

A significant weapon that the division utilizes to penetrate and dismantle complex illegal enterprises is electronic surveillance. Over the past year, troopers assigned to this division have on numerous occasions equipped themselves with electronic body wires, pursuant to so-called *Blood* warrants, to intercept and record criminal conversations with unsuspecting targets. Additionally, from July of 1999 through June of 2000, the SI&N Division executed forty court-authorized wiretap warrants on eight cellular telephones, two paging devices, and one facsimile machine. The warrants authorized law enforcement officers to intercept, monitor, and record criminal communications occurring over these electronic devices. These electronic surveillance measures, coupled with traditional investigative techniques, have proven invaluable in securing the convictions of narcotics and firearms traffickers. Because of their considerable expertise in this area, attorneys in the division are frequently recruited to train police officers and fellow prosecutors in the law of search and seizure and electronic surveillance.

STATISTICAL SUMMARY

From July 1, 1999, through June 30, 2000, State Police assigned to the SI&N Division made approximately ninety (90) arrests. Prosecutors in the division in turn initiated approximately sixty (60) new cases in Massachusetts Superior and District Courts while successfully disposing over fifty (50) pending prosecutions in those same courts. Of the number of drug cases initiated by the division, over one-third of these involved two controlled substances rapidly growing in popularity among young adults: oxycodone, a highly addictive painkiller, and Methylenedioxy-N-Methylamphetamine (MDMA), otherwise known as the designer drug ecstasy. The remaining percentage of narcotics cases included the more common street drugs such as heroin, cocaine, and marijuana. The vast majority of these cases involved trafficking quantities of these drugs.

From July 1, 1999, through June 30, 2000, State Police seized twelve (12) guns ranging from .38 caliber handguns to a "Tec 9" semi-automatic firearm to an easily concealed two-shot Derringer pistol. Based upon these seizures and undercover purchases, prosecutors in SI&N charged six individuals with a variety of firearms offenses including armed career criminal violations, possession of large capacity weapons, and receiving firearms with obliterated serial numbers.

During this same time period, the Asset Forfeiture Unit successfully concluded several pending civil actions that resulted in the forfeiture of a number of vehicles used to facilitate the distribution of drugs, including a 1995 Infiniti, a 1988 Mercedes Benz, a 1990 Honda Civic, and a 1996 Harley Davidson "Fatboy" motorcycle. Following the completion of a wiretap investigation in 1999, the Asset Forfeiture Unit filed in excess of one dozen civil complaints seeking the forfeiture of assets ranging from \$250,000 in cash to one Sea Ray Power Boat. The Unit also filed forfeiture suits against seven vehicles including a 1999 GMC Denali, a 1999 Lexus, a 1999 Toyota 4-Runner, a 1998 Dodge Ram Pick Up Truck, a 1997 Nissan Pathfinder, and more than one Mercedes Benz.

At any given time, the division generally has in excess of sixty (60) prosecutions pending in various courts throughout the Commonwealth, over 15 ongoing investigations, and a handful of post trial motions that require written responses and court appearances.

CASE HIGHLIGHTS

- **Commonwealth v. Keith Van Johnson & Tina Nixon** (Springfield Superior Court). In June of 2000, Sgt. John Gibbons from the Massachusetts State Police in the Attorney General's Springfield Office made three undercover buys of handguns and crack cocaine from two individuals named Keith Van Johnson and Tina Nixon. The buys were recorded by body wires following the issuance of *Blood* warrants. The investigation culminated in the execution of a search warrant at Van Johnson's and Nixon's Springfield residence. That dwelling was equipped with counter surveillance video equipment and several Rottweilers. Inside the dwelling police found three more firearms: a two-shot Derringer pistol, a shotgun, and a .38 caliber handgun. The defendants were arrested and charged with trafficking in firearms and crack cocaine as well as numerous other offenses. These two individuals literally held an entire neighborhood hostage with their illegal activities. On the day of the defendants' arrests, residents in the area actually stood outside their homes and applauded investigators. Through the efforts of AAG Matthew Shea, Van Johnson and Nixon would later plead guilty in Springfield Superior Court to more than 20 indictments, including gun and crack cocaine trafficking, school zone violations, possession of firearms with obliterated serial numbers, and

unlawful storage of firearms. Van Johnson will serve a nine-year mandatory minimum state prison sentence, while Nixon will serve no less than four years in jail.

- **United States v. Carlos Bello & Miraldo Lizardo** (U.S. District Court, Boston) From September 27, 1999 through January 10, 2000, forty wiretap warrants were issued by a Massachusetts Superior Court judge pursuant to the state wiretap statute. These warrants authorized members of the Massachusetts State Police and other law enforcement officers to secretly intercept, monitor, and record certain wire communications occurring over a variety of electronic devices attributable to an alleged major cocaine dealer and his drug distribution network in the Greater Lawrence area. The wiretap investigation was supervised by AAG John Grossman and AAG William Bloomer.

In the course of monitoring telephones, investigators learned that an Essex County Deputy Sheriff, who was assigned to the warrant apprehension unit, assisted the target of that investigation in his cocaine distribution enterprise by advising the target on certain courses of conduct, alerting him to the presence of undercover surveillance officers, and attempting to gather information from an unwitting police source regarding the existence of any investigation into the target for drug distribution. At the conclusion of the wiretap investigation, a federal grand jury indicted the target and the deputy sheriff for conspiracy to distribute cocaine. AAG William Bloomer, who is also cross-designated as a Special Assistant United States Attorney, is heading the prosecution against the defendants in federal court.

- **Commonwealth v. Richard Gaudet & Philip Kortesmacki** (Middlesex, Essex, Bristol, and Worcester Superior Courts). Starting in 1997, the SI&N Division initiated an investigation into a series of breaks into commercial establishments across Massachusetts as well as in Southern New Hampshire, Rhode Island, and Connecticut. The ring, which was masterminded by an individual named Richard Gaudet, had committed in excess of forty thefts of hi-tech computer equipment and software as well as precious metals valued at over two million dollars. These breaks spanned Essex, Middlesex, Bristol, and Worcester counties. In October of 1999, after two years of investigation, State Police assigned to the Attorney General's Office arrested Richard Gaudet and an associate in the act of breaking into a commercial establishment in Billerica, Massachusetts. Through the combined efforts of Assistant Attorneys General Kimberly Brooks and Peter Paulousky, Gaudet would later plead guilty in Middlesex Superior Court to over 100 consolidated indictments, including charges of larceny, possession of burglarious tools, breaking and entering, and being a common and notorious thief. Gaudet was sentenced to a term of five years in state prison with five years

supervised probation upon his release from incarceration. He was also ordered to pay restitution.

- **Commonwealth v. Robert Crowe** (Chelsea District Court), **Commonwealth v. Anthony Comita** (Malden District Court), **Commonwealth v. Edward Demars** (Malden District Court), **Commonwealth v. Paul Kinder** (Malden District Court), **Commonwealth v. Richard Maynard** (Malden District Court), **Commonwealth v. Stephen Munion** (Malden District Court), **Commonwealth v. Richard Pezzulo** (Malden District Court), **Commonwealth v. Maraya Pierro** (Malden District Court), **Commonwealth v. Arthur Tamasi** (Malden District Court), **Commonwealth v. Deborah Tello** (Malden District Court), **Commonwealth v. Phillip Watson** (Malden District Court). Commencing in April of 1999, the SI&N Division executed court-authorized wiretap warrants on four cellular telephones. Individuals from two separate, but related organizations utilized these telephones to further extortion activities and to distribute vast quantities of percocet pills, designer “ecstasy” pills, and hundreds of pounds of marijuana, in and around the Greater Boston area. At the conclusion of an investigation in June of 1999, State Police assigned to the SI&N division executed over twenty search warrants in the Greater Boston area. An additional five search warrants were executed in New Hampshire and Arizona with the assistance of the respective state and local police departments in those states. The participation of law enforcement in this collaborative effort resulted in the seizure of the following contraband and assets: approximately 1,000 pounds of marijuana; thousands of percocet pills; over 1,000 ecstasy pills; several handguns, with at least one bearing obliterated serial numbers; hundreds of steroid pills and needles; approximately \$250,000.00 in U.S. currency; approximately \$2,700.00 in counterfeit currency; one dozen motor vehicles; and one powerboat.

As a result, seventeen individuals were charged with a variety of offenses including trafficking in marijuana and percocets, possession of firearms and ammunition, conspiracy, and possession of counterfeit currency. During fiscal year 2000, ten of these individuals pled guilty to a variety of drug, firearm and counterfeit currency offenses. Assistant Attorney General Karen Wells spearheaded this prosecution.

- **Commonwealth v. Angel Class** (West Roxbury District Court). In February of 2000, after making several undercover purchases of fake Massachusetts licenses from an individual named Angel Class, State Police assigned to the Attorney General’s Office, with the assistance of Boston Police and the State Police Compliance Unit of the Registry of Motor Vehicles, executed search warrants at the defendant’s residence and a second location in Roslindale.

During the course of these searches, police discovered specially adapted computer equipment with software designed specifically for producing fraudulent identifications. Police seized high-end computer systems, scanning devices, printers, a digital camera, and hundreds of blank plastic cards that were consistent in appearance with Massachusetts licenses. Class was arrested and charged in West Roxbury District Court. AAG Alope Chakravarty later secured guilty pleas from Class, who also agreed to forfeit his computer equipment.

- **Commonwealth v. Arthur Hinnant** (Suffolk Superior Civil Session). In this case, North Carolina prosecutors sought rendition of Hinnant to answer on three counts of felony manslaughter following an automobile collision in which three women were killed and Hinnant himself suffered serious head injuries. A rendition order was entered and the defendant appealed. On appeal, the Supreme Judicial Court concluded that the defendant was entitled to a competency hearing to determine whether Hinnant was sufficiently competent to comprehend the rendition proceedings and consult with his attorney in connection with these proceedings. After protracted litigation, the defendant was found competent and extradited to North Carolina to answer on felony manslaughter charges.
- **Commonwealth v. Pablo Cruz** (Brockton Superior Court). After a one-week trial, a Plymouth County jury convicted the defendant of trafficking in over 200 grams of cocaine. Cruz was then sentenced to a mandatory term of 15 years in state prison. This case involved two purchases of substantial quantities of cocaine from the defendant by an undercover trooper assigned to the Attorney General's Office. It is indicative of the type of outstanding everyday work generated by investigators and prosecutors assigned to the SI&N Division.

NON-CASE HIGHLIGHTS

Assistant Attorneys General assigned to SI&N Division continue to provide service and assistance both in and out of the Office that exceed the scope of traditional prosecutorial responsibilities. During Fiscal Year 2000, training law enforcement personnel on a variety of topics either through presentations or the media was a priority of SI&N. In January of 2000, at the request of the Massachusetts Criminal Justice Training Council, AAG Bloomer published an article entitled *Search and Seizure: Controlled Substance Search Warrants* in the Controlled Substance Field Manual (2000 Edition). The publication discussed basic principles associated with search warrant preparation in narcotics cases.

In March and May of 2000, attorneys in SI&N conducted a statewide two-day search and seizure training program for police officers sponsored in the first instance by the Massachusetts Criminal Justice Training Council in Reading, and in the second instance by the Greenfield Police Department. The training

covered a wide variety of issues ranging from the law of threshold inquiry to the preparation of traditional search warrants to the complexities of electronic surveillance. The program proved such a success that police agencies have requested supplemental training from SI&N attorneys.

In November of 1999, AAG Bloomer conducted a training on *Gang Awareness, Prevention and Prosecution* for attorneys, investigators, and support staff within the Office of the Attorney General. The training featured three seasoned investigators: Sergeant John Gibbons, formerly with the Massachusetts State Police Gang Unit, and Detectives Phil Conroy and Stephen Beland of the Lowell Police Criminal Investigations Division. Attendees were exposed to the realities of gang existence through video tapes and photographic slides that depicted gang graffiti and members demonstrating identifying hand signs. The audience also had the opportunity to examine actual paraphernalia seized from gangs throughout Massachusetts, including make-shift weapons, articles of clothing and jewelry demonstrating different "colors", and official documentation belonging to the more prominent national street gangs.

In January of 2000, AAG Bloomer lectured on *Prosecuting Drug and Gang Cases* at a training program for new prosecutors conducted by the Massachusetts District Attorneys Association. The presentation covered the basics of prosecuting drug cases, including a demonstration of a direct examination of an expert in narcotics investigations, and dealing with informant issues.

Attorneys in SI&N are also strongly encouraged to participate in furthering Attorney General Reilly's priorities. To this end several members of the division joined Legislative Subcommittees formed by this Office to study the desirability and feasibility of introducing legislation on child protection. For example, AAG Eileen O'Brien served as chairperson of the Committee on Juvenile Justice. AAG Alope Chakravarty is a member on both the Child Abuse and Gang Violence Committees, and AAG Bloomer chaired the Committee on Gang Violence.

In addition to performing their traditional duties as prosecutors, Assistant Attorneys General assigned to SI&N Division also act as point persons for the office on a variety of topics that require specialized knowledge in certain areas of law. For instance, Assistant Attorneys General Peter Paulousky and Karen Wells provide advice and assistance to attorneys and police officers across the state in rendition matters. In addition, Assistant Attorney General Alope Chakravarty fields public record inquiries directed to the division on matters concerning the Criminal Offender Records Information (CORI) Act. Assistant Attorneys General Eileen O'Brien and Peter Paulousky also serve as the Division's Intern Coordinators. In that capacity, they supervise and monitor the progress of law student interns assigned to SI&N Division.

The Division included the following staff members: William Bloomer, Chief; David Breen; Kimberly Brooks; Alope Chakravarty; Carole Conley; Joanna Kennefick; Karen Kleiman; Eileen O'Brien; Peter Paulousky; and Karen Wells.

ECONOMIC CRIMES DIVISION

The Economic Crimes Division investigates and prosecutes all types of private sector, white collar and economic crime in state courts across the Commonwealth. The cases handled by the Division vary in size, from the \$50,000 theft from a single elderly victim, to the multi-million dollar theft from a large corporation. The seriousness of the cases prosecuted by the Division demonstrates the crippling impact of economic crime. The victims of these crimes take many shapes, from the vulnerable elderly individual, to the small business or large corporation. During Fiscal Year 2000, an emphasis was placed on cases involving financial crimes against the elderly or which directly or indirectly affected child welfare and protection.

The Division is charged with stemming the serious and egregious effects of private sector white collar crime within the state through pro-active prevention and aggressive prosecution. Goals of the Division include indicting and convicting people guilty of stripping their victims of their assets and assisting the public and private sectors in creating systemic change to prevent fraud.

The Economic Crimes Division consists of criminal prosecutors and one legal secretary. The prosecutors assigned to the Division have expertise in the following areas of criminal law: (1) fiduciary embezzlement, (2) complex financial organizational frauds, (3) securities violations, and (4) tax offenses. Each of these broad areas of financial crimes victimize vulnerable individuals and large corporations.

The Economic Crimes Division receives referrals from citizens; state and federal agencies; judges; attorneys; and local, state and federal law enforcement agencies throughout the Commonwealth. The Division's cases are investigated by civilian financial investigators and State Police officers assigned to the Criminal Bureau of the Attorney General's Office, and the Bureau's victim/witness advocates provide critical support to victims.

The Division maintains close working relationships with a number of state and federal agencies including the Board of Bar Overseers (BBO), the Client Security Board (CSB), the Criminal Investigations Bureau of the Department of Revenue (CIB of DOR), the FDIC, the Secretary of the Commonwealth (SOS), the United States Attorney's Office (USAO), and district attorneys' offices across the state.

The Division's cases tend to be difficult, complex white collar cases that involve the analysis and review of prolific documentation, tracing an economic crime by exposing the "paper trail" of evidence left by the white collar criminal. In order to conduct a thorough investigation of an economic fraud, extensive interviews and testimony must be obtained from people involved in, or affected by the theft. In addition, many cases require the use of an expert witness to evaluate the perpetrator's handwriting, the financial formula he employed, or the mental state which enabled him to perpetrate his crime. Most of the Division's cases fall within six specific categories of white collar crime: Organizational Fraud, Fiduciary Fraud, Investment/Securities Fraud, Health Care Fraud, Identity Fraud and Tax Fraud.

Organizational fraud refers to crimes committed by an employee, agent, representative or contractor of an organization. The victim of these schemes is the organization, whether it be a public, private, profit, or non-profit organization or business. Most often, the organization is a corporation. The crimes most commonly involved in these cases are larceny or embezzlement, false entry in corporate books, forgery and uttering, and identity fraud. The fraudulent conduct frequently appears in the form of a false billing scheme where the perpetrator uses his or her access to a payroll system or to the corporate payment documents, such as purchase orders, to cause payments for services not provided or to create unauthorized checks for his or her own personal use.

Fiduciary fraud refers to crimes committed by individuals in positions of trust, such as attorneys, trustees, executors and guardians. Typically, the victims in these cases either entrusted their assets to the fiduciary or were the beneficiaries of trusts or estates handled by the fiduciary. The crimes most often involved in these cases are larceny, embezzlement, forgery, uttering and perjury. These crimes are especially egregious because the perpetrator will often be a friend of the family or someone who has had a relationship with the victim for many years.

Investment and securities fraud cases involve crimes committed by individuals serving as financial advisers and organizations set up as fraudulent investment houses. The victims in these cases are individuals who have handed over money to the financial advisers based on the understanding that the money will be invested on their behalf. This type of financial fraud often involves a ponzie scheme where the perpetrator returns just enough money to his victims to persuade them that their investments are profitable, all the while depleting the majority of the equity for his own use. The fraudulent investment house conspirators accomplish their thefts by persuading the victims that they can be trained to make money through securities trading, all the while engaging the victim in a fixed market. This scheme also uses its victims to lure in others, such as friends and associates, by requiring them to recruit other investors, much like a pyramid scheme. The crimes charged in these cases include larceny, embezzlement, securities fraud, false statement of corporate assets, conspiracy, forgery and uttering.

Health care fraud cases involve crimes committed by individuals working on behalf of health and science foundations or health care providers who, through their position of authority, are able to convert monies for their own use. The perpetrator of these crimes generally is an individual in a position of high authority in the organization, such as a department chief, a member of the board of trustees or chairman of a foundation. The schemes include converting institutions' funds through false billing schemes, embezzling funds received for research purposes, or converting premiums paid for insurance coverage. The victims in these matters are the institutions and service providers such as physicians.

Identity fraud refers to crimes where the initial object of theft is the identity of the victim — their name, credit card number, social security number, bank account number, cell phone number or date of birth. Once the identity is usurped, it then becomes the instrument through which money is stolen or other crimes are committed.

Many of the tax fraud cases are referred to the Office of the Attorney General by the Criminal Investigations Bureau of the Department of Revenue, and investigators of that agency actively assist in the investigations and prosecutions. Tax fraud cases generally focus on the failure to file tax returns or pay taxes, and filing false returns.

While these categories of cases overlap in a number of ways, they are distinguishable by the position of the perpetrator within the criminal scheme, the type of victim and/or the manner in which the fraud is perpetrated.

STATISTICAL SUMMARY

During Fiscal Year 2000, the Economic Crimes Division commenced 34 criminal investigations, brought 49 indictments, and obtained convictions against 22 white collar criminals and corporations.

The table below shows a breakdown of the 49 indictments returned by grand juries during Fiscal Year 2000.

CRIME	COURT	# OF INDICTMENTS
Attempted Larceny	Suffolk Superior	2
Bribery	Suffolk Superior	2
Concealing Stolen Property	Suffolk Superior	2

Conspiracy	Suffolk Superior	5
Conspiracy to Commit Larceny	Suffolk Superior	2
Embezzlement by a Treasury Employee	Suffolk Superior	3
False Pretense	Essex Superior	1
Forgery	Middlesex Superior	3
Forgery	Suffolk Superior	2
Identity Fraud	Middlesex Superior	1
Larceny	Barnstable Superior	1
	Essex Superior	3
	Middlesex Superior	3
	Suffolk Superior	5
	Worcester Superior	2
Receiving Stolen Property	Suffolk Superior	1
Securities Fraud	Middlesex Superior	1
Solicitation	Suffolk Superior	1
Tax	Boston Municipal	2
	Middlesex Superior	1
	Suffolk Superior	2
Uttering	Essex Superior	2
	Suffolk Superior	1
Uttering Forged Documents	Essex Superior	1

The table below shows a breakdown of the convictions obtained by the Economic Crimes Division during Fiscal Year 2000.

CASE DISPOSITIONS	COURT	TOTAL CASES
Conspiracy to Commit Larceny	Suffolk Superior	1
Embezzlement	Suffolk Superior	1
Embezzlement/Perjury	Suffolk Superior	1
Forgery	Suffolk Superior	2
Larceny	Bristol Superior	2
	Norfolk/Brockton Superior	1
	Suffolk Superior	5
Receiving Stolen Property	Suffolk Superior	1
Securities Fraud	Norfolk/Brockton Superior	1
Tax	Boston Municipal	1
	Suffolk Superior	12
Unregistered Broker/Dealer	Bristol Superior	1
	Norfolk/Brockton Superior	1
Uttering	Bristol Superior	1
	Norfolk/Brockton Superior	1

CASE HIGHLIGHTS

- **Commonwealth v. Jack Trischitta, Robert E. Foley, Scot Butcher, Thomas Ciliberto, Martin Robbins, Richard C. Arrighi, Ronald A. Borino** (Suffolk Superior Court). On September 28, 1999, a Special Suffolk County Grand Jury returned 30 indictments against seven people alleging eight different criminal schemes involving thefts from the

Treasurer's Office between May of 1992 and February of 1998. The total amount of money stolen as a result of these alleged schemes was approximately \$9.4 million dollars. This was the largest theft of state funds in the history of the Commonwealth. The majority of the eight schemes involved thefts from the Treasury's Unpaid Check Fund (UPCF) through the filing of phoney heirfinder claims, or through alleged kickback arrangements involving employees of the Treasurer's Office and outside individuals operating as heirfinders. Money also was stolen from the Teller's Cage or vault area of the Treasurer's Office located at One Ashburton Place in Boston.

Three of the defendants in this case were high-level employees of the Treasury at the time of their alleged thefts. Robert Foley was hired by the State Treasurer as Director of Cash Management in 1991. Shortly after he was hired, he made John Trischitta solely responsible for handling all of the daily activity of the UPCF. Foley and Trischitta were indicted for stealing from the UPCF. A third person, Scot Butcher, was indicted for stealing from the Tellers Cage area of the Treasury while he was employed by the Treasury in a supervisory.

Indictments returned by the grand jury also alleged that Foley and Trischitta entered into unlawful agreements with heirfinders whereby they received a percentage of the income received by the heirfinders as a result of claims filed with the Treasurer's Office.

- **Commonwealth v. Frank Ardagna** (Suffolk Superior Court). Between August 27, 1997 and December 31, 1998, the defendant, Frank Ardagna was alleged to have stolen a **total of \$60,935.17** from the **Vietnam Veterans Workshop, Inc.**, d.b.a. The New England Shelter for Homeless Veterans, where he was employed in the position of Chief Financial Officer. The Shelter is a non-profit corporation whose mission is to help rehabilitate and reintegrate veterans who are homeless, unemployed or underemployed by providing support services including housing, counseling, vocational training, living skills and health-related programs. Funding for the Shelter comes from government agencies and private sources including foundations, corporations and individual donors. The shelter also accepts in-kind contributions such as food, clothing and furniture. The alleged thefts by the defendant involved three separate schemes in which he negotiated unauthorized checks or made fraudulent withdrawals from the corporate account, and fraudulently leased a car for his own personal use. The February 2000 sitting of the Suffolk County Grand Jury indicted the defendant on charges of larceny over \$250 (3 counts) and forgery (two counts).

- **Commonwealth v. Vincent Stolo** (Middlesex Superior Court). The defendant was charged in thirteen indictments with Larceny Over \$250 (5 counts), False Entry In Corporate Books (5 counts), Fraudulent Use of a Corporate Credit Card (2 counts), and Making a False Report to a Police Officer (1 count), in connection with his alleged larceny and embezzlement of over **\$1,400,000** from his former employer, Fieldwork Boston, Inc., during his employment as the President of the Boston based company.

The evidence demonstrated that the defendant committed those thefts through seven different schemes involving writing unauthorized corporate checks to himself, making corporate checks payable to his corporate credit card for unauthorized expenses, obtaining credit at casinos around the country for his own personal use and gambling debt, and stealing cash. The investigation also uncovered that Stolo made a false police report to the Waltham Police Department alleging that \$10,000 of company money had been stolen from the office, knowing full well that he had taken the money himself.

- **Commonwealth v. Dermot O'Brien** (Suffolk Superior Court). The defendant was indicted for stealing over \$250,000 from a non-profit charitable organization, Morgan Memorial Goodwill Industries, while operating as a Payroll Specialist, and then using the money to pay off his gambling debt.

The defendant pleaded guilty to all charges and was sentenced to house arrest for the first 6 months of his 3 year term of probation. He also was ordered to pay restitution to the victims, complete 2500 hours of community service, and submit to counseling for gambling and alcohol abuse.

- **Commonwealth v. Walter Palmer** (Suffolk Superior Court). The Defendant, Walter Palmer, a disbarred attorney, allegedly stole a total of over \$1.8 million dollars from six clients who had entrusted him with their life savings. The alleged victims were elderly individuals who entrusted their money to Palmer in his capacity as an attorney, guardian, trustee and/or an executor. Following a jury trial that lasted several weeks in Suffolk Superior Court, the defendant was convicted of being a Common & Notorious Thief under G.L. c. 266, section 40, and sentenced to state prison for 16 to 18 years.
- **Commonwealth v. Sean Murphy** (Essex & Middlesex Superior Courts). The defendant, Sean Murphy, is a disbarred North Shore attorney who allegedly embezzled clients' funds before and after being temporarily suspended from the practice of law. Sean Murphy, who specialized in bankruptcy cases, was indicted for stealing from ten people, nine of whom were

clients. The amounts stolen were quite significant given the financial straits of the victims. Two victims lost their homes to foreclosure, and the Commonwealth alleges that Murphy's thefts were either the direct cause or a substantial contributing factor to these losses.

The defendant is further alleged to have lied to a mortgage lender so that he could buy a half-million dollar home far beyond his own means, and then to have stolen funds entrusted to him by his clients to make payments on and furnish that home.

- **Commonwealth v. Charles Christy** (Worcester Superior Court). The defendant is a disbarred attorney who embezzled \$100,000 which he was supposed to hold in escrow for a client.
- **Commonwealth v. Douglas Schwartz** (Essex Superior Court). This matter involved a registered representative of Royal Alliance, acting as a broker/dealer for the firm, who is alleged to have stolen joint owner interests in corporate stock by forging securities documents, exceeded the scope of his trading license, and inappropriately influenced an elderly woman to sell approximately \$150,000 in securities. The proceeds of the stock sale were allegedly used to fund a fraudulent 20 year mortgage loan to the defendant's wife.
- **Commonwealth v. Leo Burns/Thomas J. Ribaga** (Plymouth Superior Court). Co-defendants Burns and Ribaga, who ran a financial services business called Pilgrim Financial Group, Inc., are alleged to have solicited funds from mostly elderly clients, purportedly to invest them, and instead used the money to defray business and personal expenses totaling well over \$560,000.
- **Commonwealth v. Jeffrey Gruber** (Norfolk & Brockton Superior Courts). Jeffrey Gruber pleaded guilty on February 21, 1997, to several counts of larceny, forgery, and uttering for activities dating back to 1990-1992. In this case, the defendant was sentenced to a forty month term in the House of Corrections and ordered to pay approximately \$194,000.00 in restitution. While these charges were pending, the defendant was again indicted for crimes committed against four of his former clients. The defendant, as the sole operator of Gruber Financial Services, was alleged to have stolen over \$350,000 which had been entrusted to him by the four victims. Several of the victims were elderly and the money which the defendant stole from them represented their life savings.

In this case, the defendant pleaded guilty and was sentenced to 5 years probation and ordered to pay full restitution including paying \$200,000 within six months. The defendant also

was ordered to have no contact with the four victims and prohibited from working as a financial advisor or securities broker.

- **Commonwealth v. Bernardo Nadal-Ginard** (Suffolk Superior Court). Dr. Nadal-Ginard was the Chief of Cardiology at Boston Children's Hospital, the President of the non-profit corporation known as the Boston Children's Heart Foundation, a tenured professor at Harvard Medical School and a Howard Hughes Investigator. In his various positions of authority, Dr. Nadal-Ginard was entrusted with hundreds of thousands of dollars to be used for the research and treatment of children with heart disease and defects. At the conclusion of a month-long jury trial in Suffolk Superior Court, Dr. Nadal-Ginard was convicted of twelve counts of larceny and adjudicated a Common & Notorious Thief. The defendant was sentenced to a year in the House of Correction with three years of probation and was ordered to complete two full years of community service, working full-time for free, and to pay full restitution to the foundation.
- **Commonwealth v. Kerrin Alfonso** (Suffolk & Norfolk Superior Courts). The defendant in this case, Kerrin Alfonso, was indicted for using the identities of family members, friends, former employers and acquaintances to create counterfeit checks and to open fraudulent credit accounts. Between October 30, 1998 and January 8, 1999 the defendant stole \$195,029.39 using three separate schemes all of which involved the use of identity fraud. The first scheme involved the theft and negotiation of corporate checks belonging to her former employer. A second scheme involved the fraudulent use of credit cards obtained in the names of others whom she impersonated. The third scheme involved the fraudulent leasing of 3 luxury automobiles by impersonating others.
- **Commonwealth v. China Wok/Shin Wong** (Suffolk Superior Court). China Wok was indicted for substantially understating its sales to the Department of Revenue and concealing the fraud by making up a false set of register tapes which were presented to the taxing authorities upon a visit to the restaurant. The Commonwealth's investigation indicated that sales were understated by \$450,000 on the restaurant books, resulting in a \$22,500 underpayment of taxes.
- **Commonwealth v. Arnold Brandyberry** (Suffolk Superior Court). As the President and CEO of Berkshire Paper Company in Western Massachusetts, the defendant failed to file non-resident income tax returns from 1993 through 1996. During this period of time he earned between \$145,000 and \$190,000 in salary which he failed to report as Massachusetts income. The defendant pled guilty and was sentenced to 1 year of probation and a \$10,000 fine.

- **Commonwealth v. Neil McCrystal/Jose Silva** (Bristol Superior Court). The defendant was a property manager for the Hamilton Company, who allegedly stole approximately **\$104,000** by (1) creating a fictitious company and approving payment by Hamilton clients of the invoices for work never performed or for work actually performed by employees on the company payroll, and (2) stealing various checks payable to Hamilton clients and depositing them directly to his personal bank account. The defendant pleaded guilty to failing to report the stolen money as income and was sentenced to 10 years of probation with special conditions. The special conditions of probation dictated that the defendant make restitution, file accurate amended tax returns and cooperate with DOR assessment and collection efforts, and continue psychological and alcohol abuse treatment.

NON-CASE HIGHLIGHTS

- AAG Carol Starkey was appointed to the Mass Bar Association's Criminal Justice - Section Council as a Council Member for 1999/2000, and to the Boston Bar Association's Criminal Law Section Steering Committee for 2000.
- Television Guest on the Boston community cable television show entitled, "*Legal Lines*," in October, 1999.
- Speaker for The Attorney General's Office Trial Training Program on the topic of "*Pretrial Discovery*," held at The Attorney General's Office on November 16, 1999.
- Speaker at Harvard Law School for the course entitled, "*The Government Lawyer*," on the topic of "*State Investigative Powers: White Collar Crime & High Tech Crime*," on November 22, 1999.
- Panelist Speaker for The New England School of Law Symposium entitled, "*Crimes for Economic Gain in the New Millennium*," held at New England Law School on February 7, 2000.
- The ECD has developed a cooperative relationship with the Office of Bar Counsel and the Client Security Board (CSB). To enhance communication, a financial investigator from the Criminal Bureau meets each month with the Bar Counsel's lead investigator and the Security Board's General Counsel. Purposes of these meetings include sharing information about pending investigation of attorney misconduct and the possibility of jointly-conducted community education initiatives directed

at prevention of attorney embezzlement and fraud, updated information on indicted cases, and (3) the ECD attorneys now notify the CSB of sentencing dates, so that the CSB may appear and address questions of restitution.

- AAGs Kevin Brekka and Mary Ruppert were involved in drafting and reviewing proposed legislation that affects the investigation and prosecution of economic crime. Two such legislative proposals dealt with electronic signatures and money laundering.
- AAG Carol Starkey has been meeting with these two industry associations for the purpose of developing an Organized Theft Task Force. The purpose of the task force would be to bring industry and the law enforcement community together to address the growing and significant issue of organized retail theft through education, proposed legislation, and enforcement activity. The Task Force has met regularly since its inception and has set proposed goals for each of these three enumerated focus areas.
- AAG Molly Parks submitted a detailed written brief responding to proposals by a committee appointed by the Supreme Judicial Court to changes to the Rules of Criminal Procedure.

The Division includes the following staff members: Carol Starkey, Chief; Olivia Blanchette; Kevin Brekka; Sarah Hartry; James Mcfadden; Philip McGovern; Mark Mulligan; Patrick Ormond; Margaret Parks; Stephen Prunier; and Mary Ruppert.

ENVIRONMENTAL CRIMES STRIKE FORCE

The Massachusetts Environmental Crimes Strike Force (ECSF) is a unique interagency enforcement tool used in the investigation and prosecution of violations of the Commonwealth's environmental laws. Through the cooperation of the Attorney General, the Secretary of Environmental Affairs, the Department of Environmental Protection (DEP), the Department of Fisheries, Wildlife and Environmental Law Enforcement and the Massachusetts State Police, the ECSF brings attorney, technical and police resources under a single umbrella. The ECSF provides the legal, scientific and investigative expertise necessary to identify environmental violations, evaluate their impact on public safety and the environment, and develop the evidence necessary to prosecute the environmental crimes. The types of cases prosecuted by the ECSF include illegal treatment and disposal of hazardous waste, failure to notify of hazardous material releases, air pollution cases resulting from burning of wastes and illegal removal of asbestos, illegal dumping, abandoned drums, tire piles, etc.

The staff of the ECSF Division is composed of three prosecutors, one secretary, four environmental police officers from the Department of Fisheries, Wildlife and Environmental Law Enforcement and a State Police Officer. DEP scientists working out of the DEP's Boston office, as well as its four regional offices located in Wilmington, Worcester, Springfield and Lakeville, make up the ECSF technical staff. These scientists span the gamut of environmental specialties and programs (e.g., air, water wetlands).

STATISTICAL SUMMARY

Between July 1999 and June 2000, the ECSF received 50 complaints of environmental crimes. Most of these referrals originated from the DEP. Other referrals came from Environmental Police in the field, local police departments, boards of health and conservation commissions.

During Fiscal Year 2000, four defendants were charged with environmental crimes in Superior Court:

- Efrain Ayala (Clean Air Act/Asbestos)
- Modern Aluminum Anodizing (Illegal Treatment/Disposal of Hazardous Waste)
- Antonio Bairos (Clean Air Act/Asbestos)
- Sanders Corbitt (Forgery of 21E Reports).

During Fiscal Year 2000, there were seven defendants charged in district courts with environmental crimes:

- Holland Company (Failure to Notify Hazardous Material Release/Sulfuric Acid);
- Craig Sigel (Pesticide Regulations)
- Derek Cavanaugh (Clean Air Act/Asbestos)
- McCoy Stevens (Clean Air Act/Asbestos)
- Dr. Elias Dow (Disposal of Infectious Waste)
- James Jordan (Clean Air Act/Asbestos)
- Stepping Stone Realty (Clean Air Act/Asbestos).

During Fiscal Year 2000, five cases were disposed of in district court (Craig Sigel; Derek Cavanaugh; McCoy Stevens, Holland Company and Stepping Stone Realty) and three cases were disposed of in Superior Court (General Electric, Schott Fiber Optics and Elite Chemical Co.).

During Fiscal Year 2000, dispositions of cases prosecuted by the Environmental Crimes Strike Force resulted in civil and criminal fines, penalties and restitution in excess of two million dollars.

CASE HIGHLIGHTS

- **General Electric** (Suffolk Superior Court - Civil). This case involved allegations that General Electric failed to comply with environmental reporting requirements relating to properties that received fill containing PCBs. This case was resolved by the entry of a consent judgment. Under the judgement, the defendant agreed to create a \$1 million fund establishing the Berkshire Environmental Fund to issue grants for environmental sampling, education and community improvements for the benefit of communities in Pittsfield and Berkshire County. The fund will be administered by appointees of the Mayor of Pittsfield, the Attorney General's Office and the State Department of Environmental Protection. GE also agreed to pay \$50,000 to the state Environmental Law Enforcement Fund and to pay a civil penalty of \$200,000.
- **Schott Fiber Optics** (Suffolk Superior Court - Civil). This case involved allegations that Schott Fiber Optics did not follow state regulations in disposing of broken glass fibers and glass particles that contained lead and cadmium. In the settlement reached between Schott Fiber Optics, the Office of the Attorney General and the Department of Environmental Affairs, Schott Fiber Optics agreed to pay \$150,000 to the state and \$50,000 to the town. This case was handled by AAG Martin Levin.
- **Elite Chemical Company** (Suffolk Superior Court - Civil). In this case, a civil complaint filed by the ECSF alleged that Elite Chemical Company, which manufactures bleach and other chemical products for consumer use, twice during its bleach manufacturing process discharged approximately 50 gallons each of acid and caustic waste to the sewer. Elite's unpermitted wastes caused corrosion of a sewer manhole and oil water separator, installed by Elite as part of its connection to the Springfield sewer system. While operating at its Springfield plant, Elite did not have a wastewater discharge permit for its acid and caustic waste, and did not neutralize the waste before discharging it to the sewer system. The Springfield wastewater treatment facility that received Elite's wastewater was not equipped to treat acid and caustic waste before discharging it to the Connecticut River.

Under the final terms of a settlement, Elite agreed to comply with state environmental laws and to pay \$425,000 in penalties and an additional \$110,000 to fund a watershed protection plan for the Connecticut River Basin.

- **Commonwealth v. The Holland Company** (North Adams District Court). This case involved allegations that this Adams company failed to notify state officials about a spill of more

than 50 pounds of sulfuric acid. The spill occurred in May 1994 during the transfer of sulfuric acid from a railroad car. The defendant pled guilty in District Court and received a \$20,000 fine.

- **Commonwealth v. Derek Cavanaugh** (Salem District Court). This case involved allegations that the defendant illegally removed and disposed of asbestos. The defendant pled guilty in district court and received a \$10,000 fine.
- **Commonwealth v. Stepping Stone Realty Inc.** (Worcester District Court). This Southbridge real estate company was charged with violations of the Clean Air Act and Solid Waste Act as a result of illegally burying asbestos-contaminated soil. The defendant pled guilty in district court and was placed on probation for six months and ordered to pay \$12,500 in restitution.

NON-CASE HIGHLIGHTS

During Fiscal Year 2000, Assistant Attorney General Martin Levin, Chief of the ECSF, participated in a Boston Bar Association panel regarding General Electric and 21E issues and attended the Northeast Environmental Enforcement Project conference. He also participated in the selection process of a new DEP Strike Force Director.

Assistant Attorney General Pamela Talbot represented the ECSF in meetings of the Multi-Agency Task Force on Schools, whose major undertaking during Fiscal Year 2000 was the preparation of and participation in the Waltham Public Schools Environmental Management Systems event in which Attorney General Tom Reilly was an active participant.

The Division included the following staff members: Martin Levin, Chief; Laura Dicenso; Michael Dingle; Pamela Talbot; and Brenda Toland.

FINANCIAL INVESTIGATION DIVISION

The Financial Investigation Division provides the Criminal Bureau with eight experienced civilian investigative professionals who investigate and assist in the prosecution of white-collar criminal cases. The crimes investigated by the division include larceny, public corruption, campaign finance violations, securities fraud, tax fraud and all other white collar frauds which are referred to the Division. The investigators bring

to the Division many years of experience from investigating cases in local, state and federal government as well as private sector venues.

Investigators assigned to the Financial Investigation Division work as part of the Bureau's team approach to criminal investigative work. Division members become involved in matters at the start of investigation and work closely with Criminal Bureau prosecutors and also Massachusetts State Police assigned to the Bureau's Criminal Investigation Division during the course of each investigation.

Investigators may also be asked to work on a case by case basis with investigative or audit personnel from referring agencies such as the Securities Division of the Secretary of State's Office (SOS), Board of Bar Overseers (BBO), Criminal Investigations Bureau of the Department of Revenue (CIB), and the Office of the State Auditor (OSA).

As part of the investigation and prosecution team, Division investigators assist in the design and implementation of an investigative plan for each investigation. The planning requires that each member of the division understand the nature of the allegation, elements of the crime and evidence required to prove the matter at trial.

Criminal Bureau investigations require Division investigators to perform extensive examination and analysis of business, personal and financial records to document the illegal activities of the white collar criminal. Additionally, Division investigators conduct interviews of victims, witnesses and targets, and provide summary witness testimony before special grand juries and in trial settings.

Further, utilizing modern computerized technology, investigators are able to scan a wide array of informational databases as well as the Internet to track and profile potential subjects of criminal investigations.

The majority of the Division's investigative assignments come from the Bureau's Economic Crimes Division. The Division works closely with the Economic Crimes Division Chief during the screening process and then with the assigned AAG when a matter has been accepted for formal investigation.

Another source of investigative assignments for the Division is from the Public Integrity Division. Our primary involvement in Public Integrity Division matters is in the screening and investigation of matters referred from the Office of the State Auditor.

With the Fiscal Year 2000 expansion of the Bureau's High-Tech and Computer Crimes Division (HT&CC) the Division received an increasing number of investigative requests from the HT&CC Chief.

During Fiscal Year 2000 the Division also committed investigative resources to the Special Investigations & Narcotics Division and to the Bureau's investigative efforts of the Central Artery Third Harbor Tunnel Project. The Division has also performed investigative assignments for the Bureau's Environmental Crimes Strike Force and the Appellate Division.

This fiscal year, the Division was comprised of three Certified Fraud Examiners, one Certified Public Accountant and four investigators with backgrounds from the banking industry, insurance industry, a private investigative firm and the Middlesex County District Attorney's Office.

CASE HIGHLIGHTS

Treasury Investigation (Economic Crimes Division) During this fiscal year approximately one-third of the Division's investigative resources were devoted to assisting in the investigation of this matter which involved investigating the theft of approximately \$9,500,000 from the Treasury of the Commonwealth. The investigation of this matter resulted in the indictments of seven individuals in September 1999.

Following are a list of some of the other matters investigated by Division members during the fiscal year which resulted in indictments. As with the previously referenced matter, the division requesting Financial Investigation Division involvement is listed parenthetically and more specific information about each of these matters can be found by referring to that division's section in the Bureau's report.

- **Commonwealth v. Douglas Schwartz** (Economic Crimes Division)
- **Commonwealth v. Pamela Lewis** (Public Integrity Division)
- **Commonwealth v. Frank Ardagna** (Economic Crimes Division)
- **Commonwealth v. Charles Christy** (Economic Crimes Division)
- **Commonwealth v. Kerrin Alphonso** (Economic Crimes Division)
- **Commonwealth v. Vincent Stolo** (Economic Crimes Division)
- **Commonwealth v. Leo Burns** (Economic Crimes Division)

NON-CASE HIGHLIGHTS

In addition to our investigative tasks, the Division also performs many administrative duties for the Bureau with respect to Bureau cars, seized evidence and the spending of forfeited funds. We are responsible for the assignment, maintenance and reporting on the usage of all Bureau cars; the Division maintains a log

of all money seized by the State Police in association with any arrest; and seized money is kept in safety deposit boxes and the contents are inventoried on a quarterly basis by Division staff. Additionally, we prepare an accounting of all forfeited funds of the Special Investigations & Narcotics Division which are disbursed in accordance with the Commonwealth's forfeiture laws.

OUTREACH

The staff of the Division is an integral part of the Bureau's outreach to referral agencies. We maintain contact with the Chief Investigator at CIB and the BBO's Senior Financial Investigator to update them monthly on the status of all referrals from their respective agencies to the Bureau. CIB and BBO cases are referred through the Economic Crimes Division. Our outreach efforts are designed to complement those of the Chief of the Economic Crimes Division.

TRAINING

Division members have prepared and taught training sessions to their colleagues through office-wide training programs, personnel from outside referral agencies and also to groups such as, *The Arson Investigators Association, Massachusetts Society of Certified Public Accountants, The Southeastern Massachusetts Fraud Investigators Association, Suffolk University, The Check Fraud Clearinghouse* and local school districts.

During Fiscal Year 2000, presentations included:

- *How to Perform Title Searches of Registered and Recorded Land, and Review Probate Court Records*
- *Interview and Report Writing Techniques*
- *Financial Investigative Techniques*
- *Investigative Resources for the Financial Investigator*

INTERN PROGRAM

The Division's intern program seeks to provide a valuable one semester training experience for interested students who have a background in accounting, finance, business law or criminal justice. Through the efforts of our intern coordinator, the Division has been provided with a steady stream of talented interns from Boston area schools.

The Division included the following staff members: Paul Stewart, Director; David Baker; William Frugoli; Brendan Kelleher; Jim McFadden; Jon Murphy; Sally Ann Nelligan; and Mary Phillips .

GOVERNMENT BUREAU

ADMINISTRATIVE LAW DIVISION

TRIAL DIVISION

ENVIRONMENTAL PROTECTION DIVISION

GOVERNMENT BUREAU

The Government Bureau provides representation for the Commonwealth and its agencies and officials in all types of civil litigation, and for employees of the Commonwealth with respect to certain civil claims made against them resulting from the performance of their duties. The Bureau also provides general advice and consultation to officials with respect to legal issues arising in connection with their official functions, particularly in instances where such advance consultation may serve to prevent unnecessary litigation. The Bureau in Fiscal Year 2000 continued its efforts to develop and maintain close working relationships with agency counsel and to provide them with information and advice on matters of broad common interest. Meetings with all agency general counsel were held in December of 1999 and June of 2000.

The Government Bureau consists of the Administrative Law Division, the Trial Division, and the Environmental Protection Division. During Fiscal Year 2000, several attorneys were assigned permanently to work in both the Administrative Law and Trial Divisions, and a sampling of cases from each division was assigned to attorneys in the other, so as to broaden the exposure of the attorneys to the full range of cases the divisions handle. In addition, a number of particularly complex and significant cases were handled by teams assigned to multiple divisions. All three divisions initiate affirmative litigation on behalf of state agencies and the Commonwealth and submit briefs *amicus curiae* in cases presenting issues of law affecting the Commonwealth's interests.

The Administrative Law Division defends suits concerning the legality of governmental operations, particularly those seeking injunctive or declaratory relief. The division is also responsible for the legal review of all newly enacted town by-laws; the preparation of legal opinions for constitutional officers, heads of agencies, and certain other officials concerning issues arising from the performance of their official duties; and the review of proposed statewide initiative and referendum questions under amendment article 48 of the Massachusetts Constitution to determine whether such questions are of the type that may lawfully appear on the ballot.

The Trial Division defends suits seeking damages or other relief for alleged wrongful acts of government officials or employees, particularly contract-related disputes, real estate matters, torts, civil rights violations, employment disputes and environmental damage claims. The Trial Division also reviews certain contracts, leases, bonds and various conveyancing documents submitted by state agencies for approval as to form.

The Environmental Protection Division represents the Commonwealth's environmental agencies in affirmative litigation to enforce environmental laws and in defensive litigation challenging those agencies'

regulatory and enforcement activities. The Environmental Protection Division also plays a key role under the Clean State Initiative to ensure that the Commonwealth's own agencies abide by state and federal environmental laws, and in doing so the Division may bring enforcement actions against those agencies where the Attorney General, in his enforcement discretion, deems such action necessary.

The Government Bureau included the following staff members: Alice Moore, Chief; R. David Beck; Peter Sacks; Ernest Sarason; and Dawn Valchuis.

AFFIRMATIVE LITIGATION

In addition to affirmative litigation undertaken by the Environmental Protection Division, which is separately described below, both the Administrative Law Division and the Trial Division initiate affirmative litigation on behalf of the Commonwealth, when such litigation is in the public interest, furthers Attorney General Reilly's priorities, and has a significantly high monetary value or raises legal or policy issues of concern to the public and the Commonwealth. The Government Bureau maintained an active docket of affirmative litigation in Fiscal Year 2000 to protect the public interest and the interests of its state agency clients.

- **Commonwealth v. Harvard Pilgrim Health Care** This case was filed in the Supreme Judicial Court to enforce a Massachusetts law requiring every Health Maintenance Organization (HMO) in the Commonwealth to provide free prescription services to any member who is enrolled under a Medicare plan, thereby providing valuable financial and medical assistance to thousands of Bay State seniors. The Attorney General filed the suit in response to federal regulators' threat to prohibit enforcement of the Massachusetts law. Subsequently, in related defensive litigation, Massachusetts Association of HMOs v. Commissioner of Insurance, the United States District Court ruled that the state law was no longer effective because of new federal laws, and the United States Court of Appeals for the First Circuit upheld that ruling.
- **Commonwealth v. TLT Construction Corp.** This matter was filed in Superior Court on behalf of the Trial Court and the Division of Capital Asset Management to recover damages for the poor indoor air quality arising from the renovation of the exterior of the Suffolk County Courthouse. The Commonwealth paid sick leave and workers compensation benefits to its courthouse employees who had suffered as a result of the poor air quality; it was also forced to relocate many of the court sessions to other places for several years. In Fiscal Year 2000, Attorney General Reilly negotiated

a settlement of nearly \$2.5 million to help pay the Commonwealth's expenses. In a related lawsuit, the courthouse employees recovered \$3 million in damages.

- **Attorney General v. Massachusetts Health Research Institute** The Commonwealth sought to recover the ownership rights to and royalties from the sale of certain medical products developed at the state's biological laboratories. In May 2000, the parties reached a settlement in which the Commonwealth regained ownership of the patent and licensing rights to the medical products. In addition, the parties agreed to a division of the future royalties from the sale of the medical products by which the Commonwealth's share of the royalties could increase by as much as \$18 million over the next ten years and \$60 million over the next thirty years. The money received by the Commonwealth in increased royalties will be used by the Commonwealth's Biologics Laboratory to research, develop and produce childhood vaccines and biologic products.
- **Commonwealth v. Phillips** Attorney General Reilly filed suit in Superior Court on behalf of the state Teachers Retirement Board seeking to recover over \$800,000 of unearned pension benefits from a retired teacher who had been mistakenly paid those benefits between 1990 and 1999. The court allowed the Commonwealth's motion for a preliminary injunction and for real estate and trustee process. Less than three months later, the court, at the Attorney General Reilly's request, held that the teacher was in contempt for violating its previous order prohibiting her from transferring any of her funds or other assets, and the court appointed a receiver to take possession of all her assets.
- **Commonwealth of Massachusetts v. Ruggles Center Joint Venture** The Attorney General filed suit in Superior Court against the owners of Ruggles Center, a brand new building in Roxbury to which the Registry of Motor Vehicles had moved its headquarters. Shortly after moving in, the Registry was forced to move out again because many of its employees apparently became ill from the poor quality of the air in the building. In Fiscal Year 2000, Attorney General Reilly participated in a settlement in which the Commonwealth received \$4 million and its employees received \$1 million in damages.
- **Waskiewicz v. Processed Food Products Embargoed at 209 Mystic Avenue, Medford, Massachusetts** The Attorney General, on behalf of the Department of Public Health, filed a petition for libel of condemnation in district court. Attorney General Reilly sought permission to destroy adulterated frozen ravioli and other food products prepared by a

company that had allegedly been operating under unsanitary conditions, including equipment contaminated by rodent infestation. The case was still pending at the close of the fiscal year

- **Commonwealth of Massachusetts v. All Brands Redemption Center** The Attorney General filed suit to enforce provisions of the state's Bottle Bill against a bottle redemption center in Wakefield and its owner who were allegedly redeeming ineligible and fictitious containers. Under the Bottle Bill, bottle redemption centers collect from bottlers and beverage distributors a \$.05 refund plus a handling fee for every container "branded" for a Massachusetts refund. Every year more than 330 million bottle bill containers are not returned for redemption. The Commonwealth uses the unclaimed deposits of \$16 million to help clean up the environment. The defendants' alleged redemption of non-Massachusetts containers directly and improperly reduced the amount available for such clean-ups. In Fiscal Year 2000, Attorney General Reilly entered into a consent judgment requiring the defendants to pay \$30,000 to the Commonwealth if they returned to the business before July, 2002.
- **Commonwealth v. Boston Community Services, Inc.** Attorney General Reilly obtained a Superior Court judgment of more than \$200,000 against a Boston non-profit group that had overcharged on its state contracts to provide clinical and residential mental health services to clients of the Massachusetts Rehabilitation Commission, Departments of Mental Health, Mental Retardation, Public Health, and Social Services.
- **Bureau of Special Investigations v. Coalition of Public Safety** Attorney General Reilly brought suit to vacate, on public policy grounds, an arbitrator's award reinstating two employees who had been discharged for gaining unauthorized access to confidential tax records of sports celebrities. The Superior Court declined to vacate the reinstatement order, holding that there was no sufficiently well-defined public policy requiring the discharge of employees for such actions, and on appeal the Supreme Judicial Court affirmed that decision.

Following indictments of several former State Treasury employees and others for stealing money from the Commonwealth's Unpaid Check Fund, the Government Bureau obtained full restitution of more than \$400,000 from one employee. Another employee defendant, who owes the Commonwealth more than \$900,000, entered into an agreement under which the Commonwealth may receive full restitution once the defendant's property, part of which is now secured by a mortgage to the Commonwealth, is later sold as part of a development package.

The Government Bureau provided assistance to the Division of Banks in preparing for possible emergency litigation against banks and other financial institutions that might encounter "Y2K" computer

and related problems on or shortly after January 1, 2000. Fortunately, no significant Y2K problems occurred, and thus such litigation proved unnecessary.

- **Commonwealth v. International Resources, Ltd.** The Attorney General filed an interpleader action in Superior Court on behalf of the Department of Environmental Protection to determine the rightful owner of trust funds earmarked for environmental remediation.

Government Bureau attorneys also litigated numerous cases through Attorney General Tom Reilly's Abandoned Housing Project. The project is designed to assist community groups in choosing and appointing their own people to take over abandoned houses which, due to the absentee owners' indifference, have created a health, safety and crime hazard for the community. Attorney General Reilly assists the community groups by petitioning the appropriate court for an order permitting the community to appoint their receiver and take charge of the blighted property, for the benefit of the neighborhood. Once the receiver is appointed, the receiver and the community group work together on the actual repair and rehabilitation of the property.

ADMINISTRATIVE LAW DIVISION

The Administrative Law Division has three principal functions: (1) defense of lawsuits against state officials and agencies concerning the legality of governmental operations, particularly those seeking injunctive or declaratory relief; (2) legal review of all newly enacted town by-laws; and (3) preparation of legal opinions for constitutional officers, heads of agencies, and certain other officials concerning issues arising from the performance of their official duties. During Fiscal Year 2000, significant events occurred in each of these areas.

DEFENSIVE LITIGATION

During Fiscal Year 2000, the Division opened 722 cases and closed 201 cases. At the close of the Fiscal Year, 1,400 cases were pending in the Division. Cases handled by Division attorneys resulted in 17 reported decisions of the Supreme Judicial Court, 19 reported decisions of the Massachusetts Appeals Court, 1 reported decision of the United States Supreme Court, 4 reported decisions of the United States Court of Appeals for the First Circuit, 5 reported decisions of the United States District Court for the District of Massachusetts and 1 reported decision of the United States Bankruptcy Court. In addition, Division attorneys were involved in numerous cases in those courts and in state trial courts that resulted in unpublished decisions. Division attorneys also handled several cases pertaining to criminal justice and disciplinary actions against law enforcement officers.

- **Burns v. Commonwealth** The Supreme Judicial Court remanded a Massachusetts State Police disciplinary case on the ground that the Department of State Police Trial Board's decision was based on an error of law, i.e., its mistaken belief that it was bound to find Burns guilty of charges to which he admitted to sufficient facts in a related criminal case.
- **Massachusetts Parole Board v. Civil Service Commission** The Appeals Court ruled that the Parole Board properly discharged a parole officer for failing to appear at a disciplinary hearing, despite the fact that, in failing to appear, the employee relied upon the erroneous advice of counsel.
- **Bellin v. Kelley** The Appeals Court held that a Criminal Offender Record Information (CORI) regulation authorizing the dissemination of CORI to the public in connection with an ongoing criminal investigation violates G.L. c. 6, § 172, the CORI statute. The Division assisted in filing an amicus brief defending the validity of the regulation.

During Fiscal Year 2000 the Division was also involved in cases involving election issues.

- **Walsh v. Secretary of the Commonwealth** The Supreme Judicial Court upheld the constitutionality of G.L. c. 53, § 22A, which the court interpreted to require that initiative and referendum petition forms be originals or exact copies of the original provided by the Secretary of State. The court found that the state's interest in protecting the public from being misled by inexact petition forms outweighs the minimal burden on petition proponents to get an exact copy.
- **Fyntrilakis v. City of Springfield** The Appeals Court vacated a Superior Court order which had invalidated a primary election without first hearing evidence relevant to whether the challenged voters met municipal residency requirements when they voted. Also, in other election-related work, the Division reviewed 33 initiative petitions submitted by citizens to Attorney General Reilly to propose new laws or constitutional amendments to be submitted to the voters on the statewide ballot. Of these petitions, 28 were certified as meeting constitutional requirements for the ballot, four were not certified, and one was withdrawn.

The Division handled several civil rights related cases.

- **Kadlick v. Department of Mental Health** The Supreme Judicial Court held that the Superior Court properly exercised its discretion in awarding attorney's fees to the prevailing plaintiffs in a civil rights action brought under 42 U.S.C. § 1983. And, the Justices of the

Supreme Judicial Court opined, in Opinion of the Justices to the Senate, that a bill establishing buffer zones outside reproductive health care facilities would not violate the First Amendment freedoms of speech or association.

A number of civil rights cases were litigated by the Division in the United States District Court.

- **Comfort v. Lynn School Committee** This case challenged G.L. c. 71, § 37D, the Racial Imbalance Law, in which the court denied plaintiffs' motion for a preliminary injunction, finding no likelihood of success, on the present record, and no irreparable harm.
- **Rolland v. Cellucci** The court approved the settlement agreement in a Medicaid/ADA class action suit brought on behalf of mentally retarded nursing home patients against various state officials.
- **Wampanoag Tribe of Gay Head v. Massachusetts Commission Against Discrimination** The court ruled that the tribe was immune from suit for violation of Massachusetts employment discrimination laws.

During Fiscal Year 2000, Division attorneys handled several environment cases in both state and federal courts, including a federal environmental challenge to the Central Artery/Third Harbor Tunnel Project.

- **Airport Impact Relief, Inc. v. Wykle** The United States Court of Appeals for the First Circuit affirmed the District Court's judgment that the Federal Highway Administration's approval of changes to the project without requiring a Supplemental Environmental Impact Statement was not arbitrary and capricious and that the changes did not violate a federal statute limiting transportation projects affecting public parks.
- **United States v. Massachusetts Water Resources Authority** The United States District Court held that the Safe Drinking Water Act permits a court to fashion remedies for violations of the Safe Water Treatment Rule (SWTR). Nonetheless, the court ruled that an injunction ordering the Massachusetts Water Resources Authority (MWRA) to build a filtration plant after a single instance of non-compliance with the SWTR was not warranted, after considering the limited resources available for water treatment and the risk level to the MWRA's water supply.

Two public health cases also resulted in reported decisions.

- **Massachusetts Rental Housing Association, Inc. v. Lead Poisoning Control Director** The Appeals Court affirmed the entry of summary judgment for the Department of Public Health (DPH), upholding the validity of a DPH regulation concerning a chemical test for lead paint and of the Department's notices to the public concerning the hazards of lead paint.
- **Anderson Insulation Co., Inc. v. Department of Public Health** The Appeals Court reaffirmed the validity of DPH regulations banning Urea Formaldehyde Foam Insulation (UFFI) and requiring installers to remove and repurchase UFFI previously installed.

The Division continued to handle many cases involving children and families.

- **Adoption of Vito** In this termination of parental rights case, the Appeals Court vacated the Probate Court's order denying the Department of Social Service's (DSS) petition to dispense with the need for the parent's consent to adoption and ordered that a decree enter allowing the petition. However, the court held that the Probate Court had authority to order revision of the Department's adoption plan to include post-adoption visitation, at least where the adoptive parents do not clearly oppose such a plan.
- **Cobble v. Commissioner of the Department of Social Services** The Appeals Court held that a DSS decision, substantiating an abuse and neglect complaint against the plaintiff based on his spanking of his son, was not supported by substantial evidence.
- **Department of Revenue v. C.M.J.** The Supreme Judicial Court held that a Probate Court Judge abused her discretion in ordering the payment of child support by a father who was not married to but living with the mother of his children. The court found that the child support order further impoverished the household instead of advancing the best interests of the children. Also, the court held that a parent living in the house with his minor children and supporting those children is a custodial parent, absent an adjudication of custody to the contrary.
- **Nollet v. Justices of the Trial Court of the Commonwealth of Massachusetts** The United States District Court granted the Commonwealth's motion to dismiss a challenge brought by alleged perpetrators of domestic violence and a father's rights group to G.L. c. 209A, the domestic violence restraining order statute, holding that the ex parte procedure set forth in the statute satisfied federal due process requirements.

Division attorneys also handled a substantial number of appeals from Appellate Tax Board decisions in the state appellate courts.

- **Bill DeLuca Enterprises, Inc. v. Commissioner of Revenue** The Supreme Judicial Court affirmed the Appellate Tax Board's decision denying plaintiff an abatement of its corporate excise taxes.
- **Rosse v. Commissioner of Revenue** The Supreme Judicial Court affirmed another Appellate Tax Board decision denying a tax abatement on the ground that the dividend income in question was not earned in the active conduct of a trade or business and was not "effectively connected" with the conduct of a trade or business, within the meaning of the applicable statute.
- **Sign of the Surf, Inc. v. Commissioner of Revenue** The Appeals Court affirmed the Appellate Tax Board's decision not to abate, as excessive, penalties that were assessed against the plaintiff for tax delinquencies, even though payment of the penalties may force the plaintiff to go out of business.

Other tax cases handled by the Division during Fiscal Year 2000 included:

- **Commissioner of Revenue v. J.C. Penney Company, Inc.** The Supreme Judicial Court held that the sending of merchandise catalogs from out-of-state locations through interstate mail to Massachusetts residents constitutes a taxable "use" within the meaning of G.L. c. 64I, § 1.
- **Commissioner of Revenue v. Outdoor World Corporation** The Supreme Judicial Court found J.C. Penney controlling and thus held that promotional mailings, here promoting a campground membership business, from out-of-state locations to Commonwealth residents constitutes a taxable use.

Cases in which Division attorneys represented the Alcoholic Beverages Control Commission included:

- **Murray's Liquors, Inc. v. Alcoholic Beverages Control Commission** The Appeals Court upheld the constitutionality of G.L. c. 138, § 34B, the state statute providing that a licensee who reasonably relies on a Massachusetts driver's license—but not an out-of-state license - for proof of age will not suffer any loss of license or criminal liability for selling alcoholic beverages to a minor.
- **Massachusetts Food Association v. Alcoholic Beverages Control Commission** The United States Court of Appeals for the First Circuit affirmed the United States District Court's

decision dismissing plaintiff's challenge, on Federal Sherman Act (antitrust) grounds, to the Massachusetts statute limiting package licenses to three stores per licensee. The court found that the statutory limitation constitutes a state-imposed unilateral restraint to which the Sherman Act does not apply.

Division attorneys handled several retirement benefits cases resulting in reported decisions during the last year.

- **Madden v. Contributory Retirement Appeal Board** In a dispute over the calculation of teacher retirement benefits, the Supreme Judicial Court held that a public school teacher was entitled to full year credit for part-time work prior to the promulgation of 807 C.M.R. § 3.04(2), which allows the retirement board to prorate the part-time service of teachers.
- **Flemings v. Contributory Retirement Appeal Board** The Supreme Judicial Court held that a teacher who wants credit in the teachers' retirement system for active military service must qualify as a "veteran," pursuant to G.L. c. 32, § 1, and G.L. c. 4, § 7, forty-third clause, and must have completed ten or more years of membership service. Moreover, the court concluded that the definition of "veteran" does not include members of the National Guard and Active Reserves.
- **Hallett v. Contributory Retirement Appeal Board** The Supreme Judicial Court upheld a Contributory Retirement Appeal Board decision holding that the plaintiff teacher was not entitled to have the hourly wages he earned as a driver's education teacher before and after school hours count as "regular compensation" for purposes of calculating the amount of his retirement benefits.

Two employment-related cases handled by Division attorneys in Fiscal Year 2000 resulted in reported decisions.

- **Ducharme v. Commissioner of the Department of Employment and Training** The Appeals Court, affirmed a decision of the Department of Employment and Training denying the plaintiff unemployment benefits notwithstanding his assertion that he was effectively forced to resign his position and thus that his separation was involuntary.
- **Police Department of Boston v. Fedorchuk** The Appeals Court affirmed a ruling of the Civil Service Commission that the Boston Police Department lacked "just cause," within the meaning of G.L. c. 7, § 4H, to transfer a Boston Police Officer from the rank of detective.

Division attorneys handled several insurance-related cases during Fiscal Year 2000.

- **Automobile Insurers Bureau of Massachusetts v. Commissioner of Insurance** The Supreme Judicial Court affirmed the Insurance Commissioner's auto insurance rate decision for 1999. The court rejected four separate attacks made by the auto insurance industry, each arguing that the Commissioner had set the rate too low, and that retroactive increases for all Massachusetts policyholders were warranted. The court agreed that the Commissioner did not exceed her authority in applying a "rate sanction," i.e., an across-the-board reduction in premium prices against the industry as a sanction for the industry's failure to comply with the Commissioner's orders to compel compliance with discovery requests during rate proceedings.

Last year, Trust Insurance Company brought before the Appeals Court multiple controversies with the Insurance Commissioner.

- **Trust Insurance Company v. Commissioner of Insurance (No. 1)** A challenge to the method by which Commonwealth Auto Reinsurers (CAR) distributes to insurers funds paid to CAR by insurers who withdrew from the Massachusetts market, the Appeals Court held that the case should not have been dismissed for failure to exhaust administrative remedies but nevertheless remanded the case to the Commissioner for a statement of reasons as to why the existing distribution formula is fair.
- **Trust Insurance Company v. Commissioner of Insurance (No. 2)** The court affirmed the Commissioner's decision upholding the appointment of two exclusive representative producers to Trust Insurance Company.

In Fiscal Year 2000, most of the cases handled by Division attorneys involved review of agency decisions under G.L. c. 30A, the State Administrative Procedure Act. In addition to many of the above-described cases that fall into that category, these cases also included:

- **R.V.H., Third, Inc. v. State Lottery Commission** The Appeals Court affirmed a Lottery Commission decision reversing its own earlier decision "to grant" a Keno license to the plaintiff.
- **Worcester Redevelopment Authority v. Massachusetts Department of Housing and Community Development** The Appeals Court affirmed the decision of the Department of Housing and Community Development that a tenant owned equipment contained in property taken by eminent domain and therefore was entitled to relocation compensation.

- **285 Lynn Shore Drive Condominium Trust v. Automatic Sprinkler Appeals Board**

A case where the fire department ordered the condominium association to install sprinkler systems in individual units, as well as all common areas, the Appeals Court held that when a board reopens a proceeding and holds a rehearing, the thirty-day time limit to seek chapter 30A judicial review should run from the date of the decision following the reconsideration hearing, because that is the “final decision” of the board.

In addition, two actions for Judicial Review brought under G.L. c. 249, § 4, the certiorari statute, resulted in reported decisions.

- **Committee for Public Counsel Services v. Lookner** The Appeals Court held that under G.L. c. 249, § 4, certiorari actions must be filed within sixty days of the “operative conclusion” of the proceeding sought to be reviewed, in this case either the date the final decision was issued or the date the appellant received notice of the decision. There, the court called the appellant’s failure to file a certiorari action within the statute period a “serious misstep,” requiring the dismissal of his complaint.

- **Massachusetts Bay Transportation Authority v. Auditor of the Commonwealth** The Supreme Judicial Court upheld the Auditor’s decision disapproving a proposed contract to privatize the cleaning and maintenance of bus shelters and held that the MBTA, as a state-created entity, lacks standing to challenge the constitutionality of the privatization law, G.L. c. 7, §§ 52-55.

Division attorneys handled several cases during Fiscal Year 2000 which challenged the validity of state laws and regulations. In one case resulting in a reported decision, the Division defended the sex offender registry statute.

- **Doe v. Attorney General** The Supreme Judicial Court, held that an individualized hearing is required, as a condition of registration as a sex offender, for persons adjudicated delinquent or convicted of rape of a child.

- **Smith v. Commissioner of Transitional Assistance** The Supreme Judicial Court affirmed the judgment of the Superior Court declaring invalid a Department of Transitional Assistance regulation, which established a financial eligibility criterion for granting extensions of TAFDC benefits beyond the usual 24-month limit, and issuing injunctive relief enforcing that declaration.

- **Shea v. Boston Edison Company** The Supreme Judicial Court upheld the constitutionality of a portion of the electric utility restructuring act (St. 1997, c. 164), rejecting plaintiff's claims that the act imposes unreasonable excise taxes and violates plaintiff's equal protection rights.

Several cases handled by Division attorneys this year in the federal courts were decided on federalism grounds.

- **Crosby v. National Foreign Trade Council (formerly Natsios v. NFTC)** The United States Supreme Court held that the Commonwealth's law governing state purchasing from companies doing business in Burma was preempted by a similar act of Congress, which delegated certain discretion to the President in controlling economic sanctions against Burma. Moreover, the Court concluded that the Massachusetts law was at odds with the President's authority to speak for the United States among the world's nations to develop a comprehensive, multilateral Burma strategy.
- **Massachusetts Association of Health Maintenance Organizations v. Ruthardt** The United States Court of Appeals for the First Circuit affirmed the District Court's decision, holding that the Massachusetts prescription drug law was preempted by federal law on Medicare+Choice plans.
- **In re Zervoudis** The United States Bankruptcy Court, abstained from interfering in the state court criminal prosecution of a plaintiff charged with larceny for having allegedly appropriated to his own use the proceeds of the sale of state lottery tickets.
- **Neo Gen Screening, Inc. v. New England Newborn Screening Program** The United States Court of Appeals for the First Circuit affirmed the District Court's decision dismissing plaintiff's antitrust claims against state officials on Eleventh Amendment grounds.

Finally, two other miscellaneous cases handled by the Division resulted in reported decisions during the last fiscal year.

- **Garland v. Beverly Hospital Corporation** The Appeals Court affirmed the dismissal, for lack of standing, of a suit alleging the misuse of charitable assets, and also affirmed the denial, for lack of factual support, of plaintiff's motion for relief from judgment alleging conflict of interest on the part of the predecessor Attorney General.

- **Kemble v. Metropolitan District Commission** The Appeals Court ruled that an outdoor stairway leading to a pedestrian overpass is not a sidewalk for purposes of a statute immunizing the Commonwealth from liability for injuries sustained on the sidewalk of an MDC boulevard.

The Administrative Law Division included the following staff members: Judith Yogman, Chief; Anthony Penski; Deborah Anderson; Lydia Badolato; Dena Barisano; Thomas Barnico; John Bowman; Romeo Camba; Judith Cassino; Julie Collins; Sherrie Costa; Pierce Cray; Edward Deangelo; Maureen Desmond; Wanda Devereaux; Kelli Doherty; Alexander Gray; Portia Hall; Daniel Hammond; John Hitt; Bernadette Lovell; Maria Makredes; Marianne Meacham; Pauline O'Brien; Kathryn Palmer; Susan Paulson; Eva Poole; Candies Pruitt; Christopher Quay; Robert Quinan; William Reynolds; Juliana Rice; Robert Ritchie; Latisha Santos; Adam Simms; Ginny Sinkel; Amy Spector; Steven Thomas; Hung Tran; Peter Wechsler; and Jane Willoughby.

MUNICIPAL LAW UNIT

The division's Municipal Law Unit discharges the Attorney General's responsibility of reviewing and approving municipal by-laws and by-law amendments from the more than 300 towns throughout the Commonwealth. By statute, the Attorney General is charged with the review of town general by-laws (G.L. c. 40, § 32), town zoning by-laws (G.L. c. 40A, § 5), town historical district by-laws (G.L. c. 40C), and city and town Home Rule Charter amendments (G.L. c. 43B).

With respect to town by-laws, the Attorney General exercises a limited power to disapprove local legislative action if the proposed amendment is found to be inconsistent with the laws and the Constitution of the Commonwealth. The Attorney General has 90 days from the date on which he receives by-law amendments from the Town Clerk in which to conduct his review. He will disapprove any amendment, or appropriate portion thereof, where the amendment is in facial conflict with substantive state law or where mandatory procedural requirements of adoption are not met.

With respect to Home Rule Charter amendments, G.L. c. 43B prescribes that municipal charters and charter amendments from any of the 351 cities and towns in the Commonwealth must be reviewed by the Attorney General, who must render his opinion on consistency with state law within 28 days after receipt of a proposed charter amendment.

During Fiscal Year 2000, the Municipal Law Unit reviewed 639 general by-laws, of which 566 (88.6%) were approved, 30 (4.7%) were approved with partial deletion, 16 (2.5%) were disapproved, and 27 (4.2%) were returned with a finding that no action by the Attorney General was required by state law. The

Unit reviewed 1,060 zoning by-laws, of which 925 (87.3%) were approved, 39 (3.7%) were approved with partial deletion, 70 (6.6%) were disapproved, and 26 (2.5%) were returned with a finding that no action by the Attorney General was required by state law. The Unit reviewed 111 zoning map amendments, of which 102 (91.9%) were approved, 3 (2.7%) were approved with partial deletion, and 6 (5.4%) were disapproved. The Unit reviewed 3 historic district by-laws, of which 2 were approved, and 1 was returned with a finding that no action by the Attorney General was required by state law. Finally, the Unit reviewed 27 charter amendments, of which 13 (48.1%) were found to be consistent with state law, 3 (11.1%) were found to be inconsistent with state law, and 11 (40.7%) were returned with a finding that no action by the Attorney General was required by state law. The Unit met all review deadlines, so that in no instance was a submission constructively approved for failure to act in a timely manner.

The most prevalent subjects of local regulation during Fiscal Year 2000 were by-laws regulating telecommunications facilities, wetlands, open space, agricultural uses and structures, and sexually-oriented businesses. Similarly, the most prevalent basis for substantive disapproval of by-laws lay in these same general areas.

Going beyond what is required by statute, Attorney General Tom Reilly has chosen to extend the services and resources of his Municipal Law Unit by providing, where time permits, voluntary informal review of proposed town by-law amendments, and—even though not subject to mandatory legal review by the Attorney General—proposed city ordinances. During Fiscal Year 2000, the Unit experienced a marked increase in the number of calls from local public officials and members of the general public, many of which related to anticipated changes in local laws and charters.

During Fiscal Year 2000, the Unit experienced an increase in the number of cases in litigation in which municipal law issues are involved. Even where the Attorney General has initially elected not to intervene or otherwise participate in such cases, the Unit monitors developments so that the Attorney General may become involved if warranted by developments in the case. At the close of Fiscal Year 2000, Unit attorneys were monitoring approximately 40 such matters.

Over time Unit personnel have gradually increased outreach efforts by writing and speaking to groups all around the Commonwealth. Particular emphasis has been placed on working with town clerks and local planning boards, as both are intimately involved in the substance and procedure of local legislation. The Guidebook for Town Clerks and Planning Boards was revised several times during this period, as well as the forms required for the submission of by-laws, and both were presented and explained at the town clerks' conventions and meetings.

OPINIONS

The Attorney General is authorized by G.L. c. 12, §§ 3, 6 and 9, to render formal opinions and legal advice to constitutional officers, agencies and departments, district attorneys, and branches and committees of the Legislature. Formal, published opinions are given primarily to the heads of state agencies and departments. In limited circumstances, less formal legal advice and consultation is also available from the Opinions Coordinator, as is information about the informal consultation process. The questions considered in legal opinions must have an immediate concrete relation to the official duties of the state agency or officer requesting the opinion. Hypothetical or abstract questions, or questions which ask generally about the meaning of a particular statute, lacking a factual underpinning, are not answered.

Formal opinions are not offered on questions raising legal issues that are the subject of litigation or that concern ongoing collective bargaining. Questions relating to the wisdom of legislation or administrative or executive policies are not addressed. Generally, formal opinions will not be issued regarding the interpretation of federal statutes or the constitutionality of enacted legislation. Formal opinion requests from state agencies that report to a cabinet or executive office must first be sent to the appropriate secretary for his or her consideration. If the secretary believes the question raised is one that requires resolution by the attorney general, the secretary then requests the opinion.

During Fiscal Year 2000, Attorney General Tom Reilly did not issue any formal opinions. During the same time period, the Attorney General issued 32 letters providing informal advice or declining to give advice.

TRIAL DIVISION

The Trial Division handles civil cases brought against the Commonwealth and its departments, agencies and employees in a variety of actions primarily consisting of tort, contract, real estate, eminent domain, employment, and contract, civil rights actions, and land registration actions. Members of the Division analyze each case at the outset to see if the case can be disposed of in favor of the Commonwealth by dispositive motion. If not, the case proceeds through the discovery phase, and the attorneys then try to resolve the case by settling or by filing a summary judgment motion. Alternative dispute resolution mechanisms are considered and utilized at all stages of the cases. Many cases are tried each year by members of the Division, most often with a result in favor of the Commonwealth. In any event, the Division aggressively defends the Commonwealth and its employees in an effort to protect the public while taking steps to see that those members of the public who deserve compensation are treated fairly. Representative cases in

each area handled by the Division are described below; all of these cases were in Superior Court except where otherwise noted.

TORTS

The Division opened 248 new tort cases in Fiscal Year 2000. The following cases are typical of those handled by the Division during the course of the year.

- **Atwood v. Metropolitan District Commission** The plaintiff claimed that she fell on a bump on the ice while ice skating at the MDC's Quincy rink. She alleged that the MDC created the conditions that caused the bump and should have known of its existence. The plaintiff alleged further that her subsequent meningitis was caused by her fall on the ice. When plaintiff's settlement demand continued to be unrealistically high, the Division decided that the case should be tried. After trial, the jury returned a verdict for the Commonwealth.
- **Lamare v. Department of Social Services** A mother and her two children alleged that DSS had negligently allowed the father to kidnap the children and take them to Greece. The Commonwealth asserted the defense that it was statutorily immune to such claims under the Massachusetts Tort Claims Act because it did not originally cause the kidnaping. The jury ultimately agreed with this defense. The jury did find a local police department liable and awarded damages, which were subsequently reduced by the court to the statutory \$100,000-per-plaintiff maximum allowed under the Tort Claims Act.
- **Mackeil v. Lemuel Shattuck Hospital** The plaintiff claimed that two unidentified employees of the Hospital assaulted him when he was a patient at that facility. Because the plaintiff was unable to produce evidence regarding the identity of the two alleged attackers, the Commonwealth moved for summary judgment, but the motion was denied. After trial, however, the court entered judgment for the Commonwealth on all of plaintiff's claims.
- **Brown v. Commonwealth** The plaintiff claimed that she fell and injured herself as a result of defect on a stair at Roxbury Community College. The Commonwealth's defense was that the stair was not defective and in any event the Commonwealth had no notice of any defect. At trial, the jury found for the Commonwealth.
- **Newell v. Department of Mental Retardation** A mentally retarded man sought damages for an assault on him while he resided in a facility operated by DMR. The jury

returned a verdict against DMR, but the court then allowed a motion for judgment notwithstanding the verdict, ruling that DMR was not responsible for any monetary damage claimed to have been suffered by plaintiff.

- **A&P Realty Trust v. Commonwealth** The plaintiff asserted G.L. c. 21E, nuisance and trespass claims, alleging that the MDC or another abutting property owner had contaminated its land. The jury found that pollutants had migrated from MDC property onto plaintiff's property, requiring a clean-up; the jury awarded \$240,000 in response costs and \$2.4 million in property damages against the MDC. The Division then filed post-trial motions arguing that the award was excessive on several grounds, and the court reduced the award to approximately \$680,000. The plaintiff appealed, and the Commonwealth cross-appealed on the question whether a G.L. c. 21E claim is subject to the immunities and limitations of liability afforded the Commonwealth under the Tort Claims Act. The appeal was still pending at the close of the fiscal year.

The Division also analyzes the tort cases with a view towards early resolution through the use of dispositive motions. The following cases are typical of those resolved through such processes.

- **Jacome v. Commonwealth** The plaintiff brought a wrongful death claim, alleging that the failure to guard a beach, to post signs, or otherwise to notify the decedent of the dangerous tides contributed to his death. The Commonwealth moved to dismiss on the basis that it did not originally cause the dangerous condition and therefore, under one of the immunities expressly provided by the Tort Claims Act, it could not be liable for the death. The court agreed and dismissed the case.
- **Howard v. MacDonald** An inmate claimed that an attack on him led to serious brain injury; he alleged that the harm resulted from state employees' deliberate indifference and inadequate medical treatment. The court granted summary judgment for the defendants because there was no evidence they were on notice that plaintiff was at any particular risk of attack.
- **Harris v. Commonwealth** An inmate alleged harm from inadequate medical care while incarcerated; the court granted the Commonwealth's motion for summary judgment on the ground that the Commonwealth did not breach any duty it may have owed to the plaintiff to provide him with medical services while he was an inmate. Medical care for inmates is provided by an independent contractor, which was also a defendant in the case.

CONTRACTS

The Division opened 31 contract cases during Fiscal Year 2000. The Division defends the Commonwealth and its agencies in a variety of contract actions consisting of construction disputes, breach of lease cases and bid protests. Often these cases are complex and involve interpretation of bidding regulations and a complicated statutory framework. Unlike in tort cases, there is no statutory cap on the potential exposure to the Commonwealth, so the Commonwealth's liability exposure can be quite large in any given case. The following are typical of the contract cases handled by the Division and the means of resolution.

- **ZBR Publications, Inc. v. Commonwealth** The plaintiff sought to enjoin the performance of the Secretary of State's ballot printing contract, claiming that its bid was improperly rejected. Granting the plaintiff's request could have prevented the March 2000 multi-state presidential primary from going forward in the Commonwealth, as the Secretary of State would not have had time to print the ballot. After a hearing, the court denied the motion for a preliminary injunction, thereby allowing the primary to proceed.
- **The Luna Preservation Society v. Metropolitan District Commission** The plaintiff asserted breach of contract and various statutory claims, seeking to recover from the MDC and others for damage suffered by the tugboat Luna for the period 1992-1995 when the plaintiff took possession of the tugboat. In 1984 the MDC had permitted the owners of the Luna, a National Historic and a Boston Landmark, to moor the tugboat in the Charles River Basin near the dam on the Boston side. The tugboat fell into disrepair and sank. Upon the failure of the owners to remove the tugboat, the MDC entered into an agreement with the plaintiff to have the tugboat removed from the Basin and possibly restored. Complications ensued, and the plaintiff did not obtain possession of the tugboat for three years, during which time salvage charges were incurred and the tugboat sank several times. The court agreed with the defendants that the plaintiff did not have title to the tugboat at the time of the events covered by this action, and the court therefore dismissed the complaint in its entirety.
- **Mastoran Restaurants, Inc. v. Commonwealth** A Burger King franchise challenged the bidding process that led to a McDonald's franchise being selected for two locations along Route 128. The court declined to enjoin the Commonwealth from awarding the lease to McDonald's, thus allowing construction to begin.

REAL ESTATE

The Division opened 77 real estate cases in Fiscal Year 2000. These cases consist primarily of eminent domain cases, along with miscellaneous other types of real property cases. Like contract cases, there is no statutory cap that limits the Commonwealth's exposure to damages in these types of cases, so the potential liability in any case can amount to millions of dollars. The following are typical of cases handled in this area and the manner in which they were resolved.

- **North Shore Realty Trust v. Metropolitan District Commission** The owner of land along the Charles River that was taken as part of the Central Artery Project sought additional compensation from the Commonwealth. The jury returned a \$7.2 million verdict for the plaintiff. The Commonwealth appealed, and at the close of the fiscal year the appeal was pending.
- **Novak v. Massachusetts Highway Department** The plaintiff sued MHD seeking additional compensation for a total taking of a 21,960 square foot parcel in connection with the Route 146 project in Millbury. The pro tanto MHD paid at the time of taking was \$90,000. Although the plaintiff valued his property in excess of \$200,000, his own expert valued it at \$155,000; the jury sided with MHD and returned a verdict exactly at the \$90,000 pro tanto amount.
- **Barletta v. Commonwealth** The former owner of an over-300-acre parcel in Douglas, which was taken by the Commonwealth shortly before it was to become entitled to receive a permit to operate as a landfill, sued to obtain additional compensation for the taking. Due to the shortage of existing landfills in the state and the revenue that may be generated from their operation, the plaintiff claimed damages in the range of \$70 to \$100 million. After consulting with a variety of experts in this field and due to the enormous potential exposure, the Commonwealth settled this case along with a companion civil rights action for \$34 million.
- **Ward v. Costello** The Division filed an amicus brief on behalf of the Department of Environmental Management, arguing that the Town of Carlisle should have been given notice of the plaintiff's sale of his 57 acres of land (formerly certified as forest land) to the defendant. The parties had entered several "option" contracts for the sale of the land which triggered the Town's right of first refusal to purchase the property under G.L. c. 61, § 8. The Division asked the court to order the plaintiff to give the required notice to the Town and afford the Town and/or its assignees 120 days from such notice to determine if the Town would elect to purchase the property at the contract price.

EMPLOYMENT

The Division handled numerous employment cases in Fiscal Year 2000. The following cases are typical.

- **Moorman v. Department of Mental Retardation** A former DMR employee alleged that ten former and present DMR officials, including the former commissioner, had violated plaintiff's civil rights by taking adverse employment action against him in retaliation for his speaking out publicly against DMR. After a seven-week trial, the court granted judgment for the defendants on all counts of the complaint.
- **McKenzie v. Commonwealth** A correctional officer at Bridgewater State Hospital alleged that she was sexually harassed by an inmate and claimed that the Department of Correction violated G.L. c. 151B by allowing a sexually hostile environment to exist and by threatening to transfer her after she complained of the activity. The case was tried to a jury, which found for the Commonwealth.
- **Johns v. Department of Public Health** The plaintiff alleged that he was forced to resign from his position at DPH after he told one of the defendants that he was HIV positive; plaintiff sued the Commissioner and various DPH employees, claiming handicap and disability discrimination in violation of G.L. c. 151B. Although the defendants maintained at trial that the plaintiff was let go due to inadequate job performance, the jury found for the plaintiff and awarded him \$73,500 in damages.
- **Andrews v. Commonwealth (United States District Court)** A state probation department employee claimed that her supervisor defamed her and interfered with her business relationships with her employer, the Commonwealth. The plaintiff also claimed that the Commonwealth and the supervisor violated her state and federal civil rights and retaliated against her once she brought her claim. The plaintiff based these claims on the fact that she had been accused of taking money that had been paid by a probationer towards his restitution after she allegedly complained of another employee's behavior. The plaintiff was suspended pending an investigation; although she was reinstated after the investigation found no intentional wrongdoing, the defendants asserted that the suspension had followed all established procedures. At trial, after the close of the plaintiff's case, the court directed a verdict for the defendants on the tort claims, and at the end of the trial the jury returned a verdict for the Commonwealth and the individual defendant on all remaining claims.

- **Wing v. Commonwealth** A former social worker for the Department of Transitional Assistance alleged that DTA's failure to rehire her constituted handicap discrimination. The court granted summary judgment to the Commonwealth, ruling that plaintiff could not offer any evidence from which a reasonable jury could find that the failure to rehire her was due to her handicaps rather than her demonstrated prior lack of dependability.
- **Erickson v. Department of Mental Health** A former DMH psychologist at the Treatment Center for Sexually Dangerous Persons claimed that her lack of promotion, layoff and banning from the premises were due to sexual harassment and gender discrimination. The Commonwealth's second motion for summary judgment was allowed as to thirteen of fifteen counts against five defendants. The case settled for \$12,500 on the remaining claims against a DMH doctor who had suggested that plaintiff was having sex with some of her clients, notwithstanding ethical standards of the profession and the clients having been adjudged "sexually dangerous persons."
- **Cardoza v. Department of Youth Services** Current and former DYS employees brought a class action alleging violations of G.L. c. 149, § 30B, for non-payment of overtime wages for "shift change" meetings the employees were required to attend. Although DYS' financial exposure was large—due to the number of claimants, the nature of the practice, and the potential for a large fee award—a multi-day mediation led to a settlement for \$275,000, which included damages for class members for the unpaid overtime wages as well as attorney's fees.

CIVIL RIGHTS

The Division handled numerous civil rights matters in Fiscal Year 2000. Civil rights claims can subject the Commonwealth to significant financial liability because awards are not limited by statute and successful litigants can recover attorneys fees and costs. Civil rights claims are most often brought against individual defendants who also face unlimited exposure for damages and attorney fees. The following cases are typical of those handled by the Division during this period.

- **Carle v. Commonwealth** The plaintiff asserted civil rights and negligence claims arising out of the death of a client of the Department of Mental Health who had wandered off the grounds of a state hospital and was found dead forty days later. The court granted defendants' motion to dismiss the civil rights claims against various DMH employees, ruling that because the

decendent had been voluntarily committed to the hospital, no civil rights claims could properly be asserted.

- **Hennessey v. Salem State College** (United States Court of Appeals for the First Circuit) A former student in the college's schoolteacher certification program alleged that his removal from a student teaching program, on the ground that he had been proselytizing students, violated his First Amendment rights. The First Circuit affirmed the trial court's grant of summary judgment in favor of the college and several of its employees.
- **O'Neill v. Department of Social Services** (United States Court of Appeals for the First Circuit) A former DSS employee claimed that DSS, its former commissioner and one other supervisor had violated her civil rights when they terminated her employment, allegedly for chronic absenteeism and lateness. The First Circuit affirmed the trial court's grant of summary judgment in favor of the defendants.

The Trial Division included the following staff members: David Kerrigan, Chief; William Daggett; Dorothy Anderson; Steven Baddour; Jason Barshak; Mary Elizabeth Basile; Matthew Berge; Crispin Birnbaum; John Bowen; Ranjana Chand; Stephen Clark; Rosemary Connolly; Karen Craffey; Irene Delbono; Stephen Dick; Thomas Digangi; Kristen Dionisi; Kristen Donald; Anne Edwards; F. Henry Iii Ellis; Janet Elwell; Ange Exantus; Lisa Fauth; Susan Gaeta; Norine Gannon; Salvatore Giorlandino; R. Scott Hill-Whilton; Patrick Johnston; Michelle Kaczynski; Angela Lee; Kara Lucciola; Lucinda Macdonald; Beth McLaughlin; Howard Meshnick; Daniel Mulhern; Michelle O'Brien; Frances Riggio; Beverly Roby; Neil Sherring; Mark Sutliff; James Sweeney; Marini Torres-Benson; Antonette Traniello; Teresa Walsh; Doris White; Jonathan White; and Charles Wyzanski.

ENVIRONMENTAL PROTECTION DIVISION

The Environmental Protection Division (EPD) serves as litigation counsel on environmental issues for various state agencies, particularly those within the Executive Office of Environmental Affairs. EPD handles the Commonwealth's civil litigation to enforce environmental protection programs established by state statutes and regulations, including laws governing air pollution, water pollution, water supply, waterways, wetlands, hazardous and solid waste. EPD also plays a key role under the Clean State Initiative to ensure that the Commonwealth's own agencies abide by state and federal environmental agencies, and in doing so the Division may bring enforcement actions against those agencies in court where the Attorney General, in his enforcement discretion, deems action necessary. Based on the Attorney General's broad authority to

protect the environment of the Commonwealth, EPD initiates and intervenes in state and federal litigation and also participates in administrative proceedings before federal agencies on significant environmental issues. EPD defends lawsuits challenging the actions of state environmental agencies and the legality of state environmental laws.

During Fiscal Year 2000, EPD handled enforcement proceedings leading to judgments requiring payments to the Commonwealth of \$3,406,500. These figures are for penalties, cost recovery, and other payments awarded in Fiscal Year 2000. They do not include millions of dollars that will be required through a settlement with the General Electric Co. this fiscal year, because that settlement was still under judicial review when the fiscal year ended. In Fiscal Year 2000, EPD received actual payments totaling \$3,130,090.91 in penalties, cost recovery, and other payments. Other cases resulted in court judgments requiring private parties to undertake substantial cleanups -- a savings of millions of dollars for the Commonwealth.

STATE ENFORCEMENT AND COST RECOVERY LITIGATION

One of the most important functions of EPD is to bring litigation to enforce state and federal statutes. In the past fiscal year EPD handled numerous major enforcement cases in the Superior Court of Massachusetts, except as otherwise noted, including the following:

AIR POLLUTION

- **Commonwealth v. HUB Fabric Leather Company** A consent judgment was obtained requiring payment of \$382,000 in civil penalties and back fees. This action involved alleged violations of the state Clean Air Act and the Toxic Use Reduction Act. The defendant also agreed to spend an additional \$120,000 to implement measures at its facilities that go beyond simple compliance with its legal obligations. Pursuant to the judgment, the company must correct the violations at all its facilities, obtain all necessary permits for its operations, and implement new management systems to ensure that future violations are minimized.
- **Commonwealth v. Massachusetts Institute of Technology** EPD alleged that in operating a small co-generation power plant, the university exceeded its emissions limits for certain pollutants and failed to provide accurate reporting. The case was settled by payment of a \$25,000 civil penalty.

EPD continues to be aggressive in asbestos removal, disposal and abatement cases.

- **Commonwealth v. Massachusetts Highway Department and Attorney General v. Apex Environmental Services** EPD alleged that, during the demolition of the Anelox Building as part of the Central Artery/Tunnel (CA/T) Project, the Highway Department and its contractors and subcontractors violated state law by improperly removing asbestos and sending it to a landfill in the town of Wendell that was not approved to receive such waste. The cases alleged improper asbestos removal and disposal, air quality, and solid waste violations and involved negotiations with nine parties. In Fiscal Year 2000, EPD executed a settlement through which the defendants will pay \$493,000, to be allocated as follows: \$210,000 for civil penalties to the Massachusetts Clean Air Act Compliance Fund, \$168,000 for CA/T cost recovery (after escrow agent expenses), \$100,000 for a supplemental environmental project for the City of Boston, and \$15,000 for a supplemental environmental project for the Town of Wendell.

HAZARDOUS MATERIALS

EPD brings lawsuits against responsible parties to remediate conditions caused by oil or hazardous materials, including litigation to recover costs incurred by the Commonwealth when it undertakes cleanup actions. In addition, EPD brings enforcement actions to require proper management, storage and disposal of hazardous wastes and to collect penalties for violations. During Fiscal Year 2000, EPD initiated or resolved many cases involving hazardous materials, of which those described below are typical.

- **Commonwealth v. General Electric Co.** In this case and two other consolidated cases (United States District Court), EPD worked with the federal Department of Justice, the Environmental Protection Agency, the state Department of Environmental Protection, the City of Pittsfield and other agencies to secure a major settlement with General Electric (G.E.) to address PCB contamination at the G.E. Pittsfield industrial site, in the Housatonic River and throughout the Greater Pittsfield area. The consent decree requires G.E. to clean up the contamination at a cost estimated between \$350 and \$750 million. It also requires G.E. to pay \$15 million natural resources damages and to perform various natural resource enhancement projects, such as providing habitat and recreational improvements and public access at Silver Lake. Under a Brownfields agreement between G.E. and the City, which was made possible by the settlement, the Pittsfield Economic Development Authority will be able to redevelop a major portion of the G.E. plant area. The consent decree also requires G.E. to reimburse the state and federal governments for the millions of dollars they have spent, and will continue to spend, overseeing the cleanup.

- **Commonwealth v. General Electric Co.** The Commonwealth obtained a consent judgment requiring payment of \$1.25 million in penalties and other payments based on allegations that G.E. had failed properly to notify DEP of releases of hazardous materials to the environment and failed to make accurate, complete, and timely reports to DEP with respect to the releases. The judgment required G.E. to pay \$1 million to the Berkshire Environmental Trust, \$200,000 in civil penalties, and \$50,000 to the state environmental law enforcement fund. EPD cooperated on this case with the state Environmental Crimes Strike Force.
- **United States of America and Commonwealth of Massachusetts v. Glynn** (United States District Court) The court approved a consent decree resolving the liability of two landowner groups at the Nyanza Superfund Site, thus marking the completion of the enforcement case at this site. The settlement requires the defendants to pay \$75,000 for reimbursement of past response costs and to place restrictive easements on certain parcels at the site.
- **Commonwealth v. Global Petroleum Corporation** The court entered a consent judgment requiring the defendant to pay a \$500,000 civil penalty and to pay the Massachusetts Environmental Trust \$500,000 to aid in the remediation of wetland areas. EPD's complaint alleged that the defendant failed to report gasoline spills at its bulk fuel terminal in Revere, as required by G.L. c. 21E and Department of Environmental Protection's regulations, and that the gasoline contributed to the contamination of the Chelsea River. The company also allegedly violated its state and federal surface water discharge permit. Under the terms of the judgment, the company is required to audit its operations, complete cleanups at its terminals, and implement new management systems to ensure that future violations of law are minimized.
- **Commonwealth v. Hallmark Health Systems d/b/a Lawrence Memorial Hospital** EPD alleged that Hallmark unreasonably denied liability for the cleanup of an oil spill into the Mystic River and was therefore liable for multiple costs and penalties. EPD entered into a consent judgment that required Hallmark to pay a total of \$250,000, including multiple costs, penalties, and natural resource damages.
- **Commonwealth v. Modern Electroplating** EPD had previously obtained injunctive relief involving a site that represented a significant environmental problem in Roxbury. In this fiscal year, the court approved a settlement agreement requiring the defendants and others to pay \$81,000 and to transfer title to the property to a developer chosen by the Boston Redevelopment Authority. The defendants also agreed to an injunction prohibiting them from

engaging in any hazardous waste management activities. This litigation served as the catalyst for an intergovernmental Memorandum of Agreement to guide redevelopment efforts at the site, which is an important piece of the City of Boston's master plan for revitalizing Dudley Square.

- **Commonwealth v. Massachusetts Bay Transportation Authority** Under a prior consent decree, the MBTA had agreed to abate asbestos at the old South Boston Power Plant, and to demolish the plant by the end of 1993. The MBTA missed an important deadline under that decree when it failed to remove oil and water from the building basement by April, 2000. In May, 2000, EPD filed an action for contempt, which was pending at the close of the fiscal year.

WATER POLLUTION/WATER SUPPLY

- **Commonwealth of Massachusetts v. Blair** EPD obtained summary judgment in the first case to enforce the state Watershed Protection Act. The case involved the unapproved construction of a beach on Demond Pond. The court upheld the Metropolitan District Commission's application of the act and ordered remediation.
- **Commonwealth v. Dracut Water Supply District** EPD brought an enforcement action in response to the DEP's findings concerning the deteriorating state of the District's physical plant and management systems. The District entered into a consent judgment under which it will upgrade the pumps, piping, and storage tanks in its system, hire qualified operators to run the system, and make significant management and operations changes. The District will also pay a \$75,000 penalty, \$25,000 of which will be forgiven if the District timely and fully carries out its obligations under the judgment.
- **Commonwealth v. Massachusetts Bay Transportation Authority** EPD alleged that the MBTA violated the Clean Waters Act and MWRA permit limits at nine of its vehicle washing facilities. EPD obtained a consent judgment requiring the MBTA to bring these facilities into compliance with MWRA regulations and to pay \$305,000 to the Massachusetts Environmental Trust.

SOLID WASTE

- **Commonwealth v. Hercules Building Wrecking Co.** An illegal dumping ground action brought pursuant to c. 111, § 150A, the parties entered into a settlement agreement under which judgment was entered against the defendant requiring payment of \$20,000 in civil penalties, with additional penalties if the defendant misses the deadlines for waste removal and disposal. The judgment also requires that the illegally dumped material be analyzed and disposed of as approved by the Department of Environmental Protection.
- **Commonwealth v. Princeton Properties** An asbestos abatement case, the defendants litigation agreed to injunctive relief and to pay \$80,000 in civil penalties. One of the defendants also agreed to publish public service announcements in successive issues of *Banker & Tradesman* and *The New England Real Estate Journal*, cautioning the real estate industry against the risks of improper asbestos abatement.
- **Commonwealth v. MRP Site Development, Inc.** The court allowed EPD's motion for preliminary injunctive relief requiring the defendant to institute testing protocols on all materials involved in its demolition debris crushing operations at Rowe Quarry in Revere and Malden. The preliminary injunction also prohibits the defendant from hauling any materials to the Quarry and requires the defendant to identify all sites that received potentially contaminated materials from the quarry.

PESTICIDES

EPD filed G.L. c. 93A assurances of discontinuance with more than 40 Massachusetts pest control operators, requiring them to halt misleading advertising claiming that their services or products were safe.

FOOD LABELING

Together with eight other states, EPD filed a petition with the federal Food and Drug Administration urging the agency to require that food manufacturers take reasonable steps to assist allergic people in their efforts to avoid eating allergen-containing products. The petition asked that the agency consider adopting labeling standards and requiring that manufacturers institute processes to prevent cross-contamination of foods during production.

FOREST CUTTING

- **Commonwealth v. Mizhir** (Boston Municipal Court) EPD sought to enforce the state Forest Cutting Practices Act. After trial, the court entered judgment for the Commonwealth ordering the defendant to pay a fine.

CLEAN STATE INITIATIVE

Fiscal Year 2000 was the year fixed by the Governor's State Environmental Coordinating Council for agencies to achieve resolution of all matters of environmental noncompliance identified under the Clean State Initiative. As the deadline approached, EPD monitored agency reporting and assisted the Department of Environmental Protection in preparing an Administrative Consent Order (ACO), a form for agencies that did not achieve full compliance. At the deadline, approximately 70% of Clean State matters were reported as resolved, and DEP had succeeded in negotiating ACOs with agencies with outstanding matters. EPD continues to pursue enforcement actions where they are warranted.

DEFENSIVE CASES

EPD defends environmental officials and agencies when they are sued for actions they take in carrying out their environmental policies. The following defensive cases that were begun or concluded during this fiscal year (in Superior Court except where otherwise noted) provide examples of this important work.

- **Enos v. Secretary of Executive Office of Environmental Affairs** (Supreme Judicial Court) The court ruled that citizens may not bring a declaratory judgment action against the Secretary for certifying that an environmental impact report complies with the Massachusetts Environmental Policy Act. The court noted that even liberalized standing for declaratory judgments requires legally-cognizable injuries resulting from violation of a duty owed, not merely any injury within a statute's zone of interest.
- **East Ashland Street Realty Trust v. Department of Environmental Protection** A G.L. c. 30A action challenging the Department's assessment of a \$25,000 administrative penalty for solid waste violations, the plaintiff agreed to dismiss the case after EPD moved to dismiss based on the plaintiff's failure to satisfy the conditions precedent to suit. The plaintiff had not deposited the full amount of the penalty in escrow with the court, as required under

G.L. c. 21A, § 16, and did not establish at a hearing within 20 days of the complaint having been filed that it was entitled to a waiver of that requirement.

- **Integrated Waste Service Association v. Department of Environmental Protection** (United States District Court) The plaintiffs challenged the DEP Commissioner's promulgation of regulations governing emission standards for municipal waste incinerators. The court denied EPD's motion to dismiss without prejudice and, as the fiscal year closed, the parties were seeking to resolve the case by agreement.
- **Fox v. Commonwealth** An owner of wetlands claimed a regulatory taking, but the court dismissed the case on EPD's motion. The court ruled that as a matter of law the plaintiffs could not establish that the denied uses for the subject property were compensable because the plaintiffs had failed to exhaust their administrative remedies.
- **Silva v. Department of Environmental Protection** The plaintiff alleged that DEP had deprived him of all economic use of his property by refusing a permit unless his septic was directed to a neighboring lot even though the Town of Truro had denied him an easement. The case was resolved by a settlement under which the plaintiff was allowed to build a septic system agreed to by DEP.
- **Leblanc v. Commonwealth** Property owners challenged DEP's issuance of a wetlands permit to the city of Amesbury to repair a breach around one end of a dam on the Powwow River. The owners claimed that the Commonwealth had exacerbated a nuisance caused by the city's maintenance of the river's water level in a manner that perpetuated artificial flooding of their lands. The court affirmed DEP's issuance of the permit.
- **Town of Westwood v. MBTA and Secretary of Environmental Affairs** The plaintiffs dismissed with prejudice their challenge to the Secretary's approval of the final environmental impact report for the Route 128 Intermodal Facility Project.
- **Nelson v. Commonwealth** In this case involving a property owner's longstanding efforts to construct a sea wall on a coastal dune, EPD again prevailed in the two most recent rounds of litigation.
- **WRT Management Corp. v. Division of Fisheries and Wildlife** The developer of a golf course project in Sturbridge has challenged DFW's regulations requiring "conservation

permits” for habitat alteration under the state Endangered Species Act and has also challenged DFW’s authority to certify vernal pools.

BROWNFIELDS

In 1998, the Legislature enacted “An Act Relative to Environmental Cleanup and Promoting the Redevelopment of Contaminated Property,” otherwise known as the “Massachusetts Brownfields Act,” Chapter 206 of the Acts of 1998. This important statute encourages the cleanup and redevelopment of brownfields sites through both liability reforms and financial assistance. One of the Act’s liability reforms authorizes the Attorney General to enter into Brownfields Covenants Not to Sue that provide liability relief beyond what is otherwise available under G.L. c. 21E. The Brownfields Covenant Program addresses site-specific liability concerns for complex cleanups and important redevelopment efforts.

In Fiscal Year 2000, after soliciting input from a diverse group representing environmental, economic, and legal interests as well as relevant state agencies, the Attorney General promulgated regulations and forms to implement the Brownfields Covenant Program. Attorney General Tom Reilly also hired a Chief of the Brownfields Unit, Assistant Attorney General James Farrell.

In addition to creating the infrastructure for the program, the Attorney General negotiated and fully executed three Brownfields Covenants. While these covenants are similar in that they involve the cleanup of abandoned manufacturing facilities, the redevelopment projects themselves are quite different. One involves nearly 14 acres and 300,000 square feet of industrial/commercial office space in Fitchburg; a second involves less than an acre and will eventually contain eight housing units in Newburyport; and a third involves the construction of a bus maintenance facility as part of the upgrade of a regional transportation network in Lowell. In all, these Covenants will create approximately 520 new, permanent jobs and provide a variety of public benefits ranging from cleaning up an abandoned electroplating facility in a residential neighborhood in Newburyport (replacing it with housing), to upgrading the Gallagher Intermodal Transportation Center, which is the third largest transportation hub after Boston’s North and South Stations.

NATIONAL AIR POLLUTION ISSUES

OZONE & FINE PARTICULATE NAAQS

- **American Trucking Associations v. Administrator of the Environmental Protection Agency** (United States Court of Appeals for the District of Columbia Circuit) Numerous

industry groups and Midwestern states challenge EPA regulations that set new National Ambient Air Quality Standards (NAAQs) for ozone and fine particulates (tiny particles that lodge deep in the lungs). The standards are designed to reduce smog and soot pollution. The Court of Appeals for the District of Columbia Circuit struck down the rules, concluding that EPA's interpretation of the Clean Air Act worked an unconstitutional delegation of authority to an administrative agency. EPA, EPD and others filed a petition for certiorari seeking Supreme Court review; the Supreme Court agreed to hear the matter in Fiscal Year 2001. The Court also agreed to hear a cross-appeal filed by the opponents of the new standards.

INTERSTATE AIR POLLUTION TRANSPORT

- **State of Michigan v. Environmental Protection Agency and Appalachian Power Company v. Environmental Protection Agency** (United States Court of Appeals for the District of Columbia Circuit) This fiscal year brought important victories in the Commonwealth's battle to reduce power plant emissions in the Midwest. These emissions, mostly from older coal-burning powerplants in West Virginia, Ohio, Kentucky, Indiana, and Michigan, have been found to contribute significantly to high levels of smog in the Northeast, as well as acid rain and other threats to the health and well-being of Massachusetts residents. Attorney General Tom Reilly joined with the Governor in pressing EPA to regulate these major sources of pollution. Accordingly, the Commonwealth asked EPA to exercise its own authority to call upon responsible States to control their contribution to interstate pollution, and also petitioned EPA to order specific powerplants in the Midwest to reduce their emissions. In parallel rulings, EPA ruled in favor of the Northeast. In 1998, EPA ruled that 22 States in the Eastern United States must develop plans to reduce nitrogen oxide emissions, and in 1999, EPA ruled in favor of the Commonwealth and three other northeastern States' petitions, against facilities in the Midwest and Southeast. In fiscal 2000 the Attorney General joined in successfully defending the first of these rulings in court. The Attorney General also appeared in defense of the second ruling and filed a successful brief against a motion by the power plants for a stay of the rule pending judicial review. As a result of the court's decision to deny that motion, the power plants were compelled to begin planning for installation of pollution controls. At the end of Fiscal Year 2000, briefing on the merits of the appeal was proceeding on schedule.

LOW EMISSION VEHICLE REQUIREMENTS

- **Alliance of Automobile Manufacturers v. Department of Environmental Protection** (United States Court of Appeals for the First Circuit) After lengthy proceedings, the court agreed with the auto manufacturers' claim that one aspect of DEP's Low Emission Vehicle program was preempted by federal law. The provision at issue was the requirement that in 1998, 1999, and 2000, the manufacturers produce for sale or lease in the Commonwealth a number of Zero Emission Vehicles (ZEVs), i.e., electric cars. Although this requirement had followed a similar provision in California's program (which it was required to do by the Federal Clean Air Act), in 1996 the auto manufacturers persuaded California to modify its program, thereby giving rise to the claim that the Commonwealth's program was preempted. The United States District Court agreed with the manufacturers, and EPD appealed. Last fiscal year, the Court of Appeals directed the parties to seek the opinion of the federal EPA on certain issues in the case. This fiscal year, the EPA Administrator responded that, in the EPA's opinion, the Commonwealth's requirement was not preempted. The Court of Appeals, however, chose to disregard this opinion in its own final decision, in which it upheld the District Court ruling that the Commonwealth's requirement was preempted.

The Environmental Protection Division included the following staff members: James Milkey, Chief; William Pardee; Frederick Augenstein; Freda Boden; Edward Bohlen; Matthew Brock; Joan Cassell; Nicole Clark; Mary Connolly; James Farrell; I. Andrew Goldberg; Nancy (Betsy) Harper; Richard Hecht; Carol Iancu; Matthew Ireland; Siu Tip Lam; Christine Peluso; Marianne Ricca; and Danah Tench.

PUBLIC PROTECTION BUREAU

CIVIL RIGHTS AND CIVIL LIBERTIES DIVISION
CONSUMER PROTECTION AND ANTITRUST DIVISION
INVESTIGATIONS DIVISION
PUBLIC CHARITIES DIVISION
REGULATED INDUSTRIES DIVISION

PUBLIC PROTECTION BUREAU

The Public Protection Bureau manages and oversees civil and criminal affirmative litigation on behalf of the Commonwealth and its citizens; the development of policy, legislative and regulatory proposals; and personnel for five divisions: Civil Rights and Civil Liberties Division, Consumer Protection and Antitrust Division, Investigation Division, Public Charities Division and Regulated Industries Division. In addition, the Bureau has an office of the Chief Prosecutor, which brings criminal actions in appropriate cases. The divisions and the chief prosecutor's office also conduct investigations and publish reports in areas of interest arising out of their activities. The Bureau also includes the Consumer Complaint and Information Section and oversees the Local Consumer Aid Fund, which provides grants to local community groups to mediate and resolve consumer complaints at the local level.

Bureau personnel also coordinate and staff Attorney General Tom Reilly's Student Conflict Resolution Experts (SCORE) Program, a nationally-recognized peer mediation program created to reduce violence in schools and foster safer learning environments for students. The SCORE program provides grants for the development of school mediation programs using trained student mediators to resolve violent and potentially violent conflicts among their peers. The SCORE program forges partnerships between educators and mediators to establish quality student-centered mediation programs in the Commonwealth's schools to prevent disputes from escalating into violence. In addition, Bureau staff oversee a Conflict Intervention Team (CIT) of specially trained community mediators, who mobilize on a moment's notice to provide emergency mediation service to schools in crisis or on the verge of crisis.

The Bureau oversees Attorney General Tom Reilly's Community Benefits Guidelines for both hospitals and HMOs. This initiative is staffed by members of the Regulated Industries Division, the Consumer Protection and Antitrust Division and the Public Charities Division. Members of the Consumer Protection and Antitrust Division and the Public Charities Division oversee reporting under the Hospital Guidelines. A member of the Regulated Industries Division oversees both reporting under the HMO Guidelines and the Attorney General's Community Benefits Advisory Task Force, convened for the purpose of advancing the goals of the Community Benefits Guidelines.

The Attorney General's Elder Hotline (1-888-AG-ELDER), a statewide toll-free hotline, handled over 5,000 calls from elders and their families. The hotline provides information, mediation services, and referrals for senior citizens and their families on a wide range of elder issues. The Bureau also has an internal task force of Elder Law Advocates comprised of Assistant Attorneys General and office Investigators in areas of elder law, including long term care issues, protective services, financial exploitation of elders,

and home health care services. These advocates work in conjunction with the Elder Hotline to address specific elder protection concerns.

The Public Protection Bureau included the following staff members: Timothy Shea, Chief; Mark Kmetz; Richard Gordon; Catherine Greene; William Porter; Linda Tomaselli; Howard Wise; Eileen Carey; John Christin, Jr.; Pamela Meister; Isabel Silva; Thomas Ulfelder; and Rose Ursino.

CIVIL RIGHTS AND CIVIL LIBERTIES DIVISION

ENFORCEMENT OF THE MASSACHUSETTS CIVIL RIGHTS ACT

The Civil Rights and Civil Liberties Division continues to enforce aggressively the Massachusetts Civil Rights Act (MCRA). The MCRA authorizes the Attorney General to seek injunctive relief when the exercise of a person's civil rights is interfered with by threats, intimidation, or coercion based on that individual's race, color, national origin, ethnic background, gender, sexual orientation, disability, age, or religious affiliation. A violation of a civil rights injunctive order constitutes a criminal offense, punishable by a maximum of ten years in a state prison if the victim suffers bodily injury, or up to two and one-half years in a correctional facility if no bodily injury results. In Fiscal Year 2000, the Division's mission to deter and prevent hate crimes resulted in the issuance of ten civil rights injunctions and one equity order by the Superior Court Department against thirty-five defendants, where it was alleged that the defendants had interfered with the rights of fifty-three residents of Massachusetts on the basis of their gender, race, national origin, religion, or sexual orientation. In addition, the Division conducted at least sixteen in-depth civil rights investigations of possible MCRA violations.

GENDER BIAS

The Division has continued its efforts to protect women from hate-motivated violence in dating or social relationships. The Division prevailed in its first landmark MCRA case involving allegations of civil rights violations on the basis of gender in 1994.

- **Commonwealth v. Aboulaz** In June, 2000, the Division obtained a permanent civil rights order in Suffolk Superior Court against a Revere man with an alleged history of hate-motivated violence and abuse against women. The man allegedly engaged in a pattern of threats, intimidation and coercion against four different women over a three year period from 1991 to

1994. The order was the first comprehensive permanent injunctive order entered under the State's Civil Rights statute by a Massachusetts court in a case brought to combat gender bias arising from marital or dating relationships. The permanent civil rights injunction enjoins the defendant from further abuse or harassment of the individual victims and from abusing similarly situated women in the future.

- **Commonwealth v. McGrath** In December, 1999, a permanent MCRA injunction was obtained from the Worcester County Superior Court in this case against a twenty-seven year old Hopedale man for his alleged nine-year history of violence and abuse against women. This is the third gender bias MCRA case in Massachusetts, all brought by the Division. The defendant is alleged to have repeatedly physically and sexually abused his female victims, and taunted them with vulgar and demeaning obscenities, reflecting animus against women as a class. One of the alleged victims was thirteen years old when she met the defendant. The preliminary injunction prohibits the defendant from engaging in gender-based threats or violence against the three women specifically named in the Division's court complaint as well as with any other woman with whom he may have a dating relationship in the future.

RACIAL, NATIONAL ORIGIN, AND RELIGIOUS BIAS

These MCRA case examples represent the Division's strong response to violence motivated by bias against a victim's race, national origin or religion. In Fiscal Year 2000, the Division obtained six injunctions against perpetrators of race-motivated bias, in addition to investigating ten additional matters involving alleged threats and violence against individuals based on their race, national origin or religious choice.

- **Commonwealth v. McPherson, et al.** The Division obtained a preliminary civil rights injunction from the Suffolk County Superior Court in September, 1999, against three defendants, alleging a series of race-based brutal attacks on a fifteen year-old Somali youth in the Charlestown section of Boston. In a series of incidents that occurred over a six-month period, the defendants allegedly beat, intimidated, and threatened the Somali youth while yelling racial slurs. The victim suffered substantial physical injuries from these attacks that occurred in the victim's own neighborhood, with one incident on the stairwell leading to his apartment. The injunction contained strict language prohibiting the defendants, or anyone acting on their behalf, from knowingly engaging in further harassment, threats or violence, based on the victim's race or national origin, and from knowingly approaching within fifty feet of the victim's apartment building.

- **Commonwealth v. Aguiar** The Division obtained preliminary injunctions from the Bristol County Superior Court against three adults and three teenagers who allegedly attacked a group of approximately thirty Asian-American youths, between the ages of six and eighteen years old. A majority of the victims were Cambodian Americans who were playing in the yard of a Fall River church. The defendants allegedly shouted anti-Asian epithets and threw large rocks, bricks, sticks and table legs at the children in the youth group. In this particularly egregious attack, several of the defendants allegedly waved baseball bats, while others in the group shouted, "Go back to your own country!" At least two people were struck by bricks and rocks thrown during the attack. The injunction bars the defendants, and anyone acting on their behalf, from harassing, threatening, intimidating or attacking the victims or any person based on his or her race or color and prohibits them from entering the property of the church where the alleged attack occurred.
- **Commonwealth v. Rotunda** In January, 2000, the Suffolk Superior Court issued a preliminary injunction against the defendant for a violent assault against a Boston meter maid after she had left a ticket on the windshield of his car. The defendant allegedly charged at the victim and, while threatening her, shouted a series of disturbing racial epithets after the female officer gave him a ticket. The defendant, whose car was parked at an expired meter, terrified the victim by screaming derogatory comments at her. The victim feared that the defendant was about to attack her when she signaled her office for help on her radio transmitter. The injunction prohibits the defendant from assaulting, threatening, intimidating or coercing the victim or any other resident of or visitor to Massachusetts because of that person's race or color.
- **Commonwealth v. Doucharme, et al.** In March, 2000, the Division obtained preliminary injunctions against five defendants for alleged on-going racial harassment, threats and intimidation against a fifteen year-old Webster boy based on his race and skin color both inside and out of the school building he attended, in his neighborhood and at his home. The Commonwealth alleged that over the course of the 1998-1999 school year, the victim and defendants attended the same high school. At times, the defendants' wrongful conduct allegedly escalated to slapping the victim across the face. During such attacks, the defendants reportedly used hateful and threatening language. The harassment, threats and physical attacks were so bad that the victim was forced to withdraw from the school and attend classes in another school district.

ANTI-GAY BIAS

In Fiscal Year 2000, the Division demonstrated its continued commitment to combating hate crimes directed at individuals based on their actual or perceived sexual orientation by obtaining two MCRA injunctions and one equity order in such cases. In addition, the Division conducted six additional in-depth investigations into matters involving alleged hate crimes targeting members of the gay and lesbian community because of their actual or perceived sexual orientation.

- **Commonwealth v. Maldonado, et al.** In May, 2000, the Division obtained final judgments by consent against three female students at a Boston high school for engaging in an alleged pattern of intimidation, threats and sexual and physical assaults motivated by the defendants' bias toward the ethnicity, national origin and perceived sexual orientation of three Moroccan girls. According to Moroccan custom, it is customary for young girls to hold hands with female friends and to kiss one another in public as a greeting. The Commonwealth's complaint alleged that the harassment began in November 1999, and continued through January 2000, when the defendants allegedly taunted, intimidated, and on one occasion physically assaulted one or more of the Moroccan students at school because they thought they were lesbians. It was alleged that the intimidation and threats escalated over the winter and in January, 2000, and that two of the defendants allegedly attacked one of these girls on an MBTA train as it traveled between stations. The three victims had come to Boston to study; a fourth alleged victim was so terrified that she returned to Morocco.
- **Commonwealth v. DeGrazia** In May, 2000, the Division obtained a preliminary injunction from the Norfolk County Superior Court against a 17-year-old Holbrook student who allegedly engaged in a pattern of anti-gay intimidation and harassment and a violent assault against another Holbrook teen. It was alleged that a pattern of anti-gay taunts and harassment culminated in a vicious attack on the victim as he sat in a chair in the school cafeteria having lunch with a group of friends. The defendant allegedly punched the victim in his head five or six times while the victim was sitting in the chair and after he fell to the floor. The victim suffered extensive injuries to his head, face and eardrum in that attack that ended only when a teacher on lunch duty intervened to stop the assault.

CIVIL RIGHTS IN THE SCHOOLS

The Division has continued to focus on ensuring the civil rights of students attending schools in the Commonwealth. In Fiscal Year 2000, the Division swiftly responded to more than ten allegations of hate

or bias-motivated conduct by youngsters which occurred within the Massachusetts school system. With each of these complaints, the Division conducted investigations and worked with the schools to resolve the conflicts and prevent future occurrences.

The Division also provided educational trainings to students, teachers and administrators on hate crimes and discrimination as well as sexual, racial, national origin, and religious harassment in the schools, including training programs to school administrators and teachers on their liability for failing to respond properly to hate crime and harassment incidents in the schools. Programs also included how to create comprehensive civil rights protection programs for students in middle and high schools and responding effectively to hate crimes on college and university campuses.

Division staff assisted in the planning for the plenary session on civil rights in schools for Attorney General Tom Reilly's Education Summit, held on December 8, 1999.

At the National Association of Attorneys General's (NAAG) National Civil Rights Conference held in Washington, D.C., on May 10-12, 2000, Richard Cole, the Division Chief, made a presentation at a plenary session where he previewed the Massachusetts Attorney General's Office's training program for schools to protect students from harassment and hate crimes. He also discussed how state Attorneys General may most effectively ensure that schools throughout the country use "*Protecting Students from Harassment and Hate Crime: A Guide For Schools*," a publication jointly developed by NAAG's Civil Rights Working Group and the U.S. Department of Education, Office of Civil Rights, an effort in which the Division served as national co-chair.

THE MASSACHUSETTS HATE CRIMES TASK FORCE

Since its inception, the Massachusetts Hate Crimes Task Force has helped law enforcement officials to more effectively coordinate enforcement activities and share information and expertise on combating and prosecuting hate crimes in the Commonwealth. Working closely with the Division, Attorney General Tom Reilly, along with United States Attorney Donald Stern, jointly decided to expand the Task Force to include a broad spectrum of community members with vast experience in hate crimes prevention, victim assistance, community relations and human and civil rights advocacy, including numerous nationally recognized experts in these areas. The first session of this newly expanded Task Force was held in July, 1999. The Massachusetts Hate Crimes Task Force is now comprised of over one hundred law enforcement officers and prosecutors, community leaders, civil rights advocates, human rights commission leaders, victim assistance professionals, hate crime researchers, civil rights trainers, educators, school diversity/tolerance

curriculum specialists and others who have been working on hate crime related issues locally, statewide or nationally.

In Fiscal Year 2000, the expanded Task Force developed a draft comprehensive plan to address and prevent hate crimes more effectively in the Commonwealth. In the late summer and early fall of 1999, Working Group members developed proposals for presentation to the entire Task Force. At the Task Force meeting held in October, 1999, the Working Group conveners provided Task Force members with written and oral summaries of a proposed action plan for Task Force adoption and implementation. The design of a comprehensive statewide action plan to combat and prevent hate crimes in the Commonwealth was outlined at the January, 2000 Task Force meeting.

In addition, the Task Force debated key Working Group proposals, including recommendations for developing a statewide cadre of community hate crimes advocates. Furthermore, Task Force members were provided an update on two Working Group projects: (1) drafting a model policy for schools to address effectively harassment and discrimination, and (2) developing a statewide victims' rights and referral pamphlet for hate crime victims.

After the January 2000 meeting, Working Group conveners identified projects, initiatives and action steps in assigned topic areas for short- and long-term implementation. Proposals targeted specific law enforcement agencies: state and local police departments, District Attorneys' offices, the Attorney General's Office, the U.S. Attorney's Office and the FBI, as well as the judicial system, correctional facilities, primary and secondary schools and municipalities. Recommendations included training, prevention efforts, victim assistance, victim advocacy, data collection, community outreach and public education, research, legislation and regulations.

In the spring and early summer of 2000, the Division Chief, as Task Force Chair, integrated the varied Working Group proposals into a single, comprehensive, statewide plan of action. Leaders of other organizations were then contacted for feedback, critique and support. The Division Chief is awaiting the suggestions and comments to incorporate them into the draft statewide action plan.

HATE CRIME TRAINING, OUTREACH, AND EDUCATION EFFORTS

During Fiscal Year 2000, the Division collaborated with other governmental and non-governmental agencies and organizations to respond effectively to hate crimes in the Commonwealth. Division staff have actively engaged in efforts to address hate crimes through outreach to, and the training and education

of, law enforcement, civil rights organizations and members of various communities in Massachusetts on hate crime identification, response, investigation, and prevention.

- **Governor's Hate Crimes Task Force** - The Division Chief continues to serve as an active member of the Governor's Hate Crimes Task Force, attending its meetings, providing input about the Task Force's publication of its annual report on hate crimes in the Commonwealth, participating in the development of statewide initiatives, and collaborating with its Student Civil Rights Project in providing training and technical assistance to schools on preventing and addressing harassment and hate crimes.
- **Statewide Hate Crimes Train-the-Trainer Program** - The Division Chief helped to organize and led a two day training on behalf of the statewide hate crimes training team certified by the United States Department of Justice and delivered training on November 29 and 30, 1999, at the Massachusetts Emergency Management Administration (MEMA) facilities in Framingham. The goal of the training program was to train experienced hate crime trainers in Massachusetts on how to deliver to law enforcement officers the state-of-the-art hate crime training curricula recently developed by the National Association of Attorneys General Civil Rights Working Group and the Department of Justice.
- **Charlestown Task Force Meeting** - Division staff attended and actively participated in monthly task force meetings chaired by a Captain in the Boston Police Department. The members of the task force included representatives from the Boston police department and various federal, state, and local officials, along with members of the Bunker Hill Tenant Task Force. At these meetings, racial and other problems in the area are discussed, and members brainstorm about possible solutions. A number of projects have been implemented in the community as a result of the task force.
- **Boston National Voices** - Division staff attended and actively participated in monthly meetings of the Boston National Voices, a coalition of organizations focusing on addressing the issue of hate crimes. The group's mission is to develop a plan to raise awareness about hate crimes and to speak out effectively against hate crime across constituency groups. The Division staff assisted in organizing an educational meeting that occurred on January 25, 2000, regarding an anti-gay hate incident in South Boston
- **National Hate Crime Prevention Center Advisory Board** - The Division Chief, a member of the National Advisory Board of the National Hate Crime Prevention Center, attended the National

Advisory Board's special meeting of the Board, held on June 5-6, 2000, in Boston, where he addressed the development of a statewide action plan by the Massachusetts Hate Crimes Task Force, and summarized the Division's precedent-setting efforts in addressing hate crimes motivated by gender bias. During this meeting, members of the National Advisory Board discussed legal, legislative, enforcement, and prevention efforts and developments on the state and national level.

- **Hate Crimes on Colleges and University Campuses** - At a meeting of the Massachusetts Association of College and University Public Safety Departments on March 14, 2000, at Springfield College, the Division Chief outlined steps that college and university public safety departments can take to identify, respond to and investigate hate crimes effectively and to work in partnership with District Attorneys and the Attorney General's Office.
- **Hate Crime Training for Law Enforcement Officers Sponsored by the Northwestern District Attorney** - At the hate crime education/training program for law enforcement officers from Hampshire and Franklin Counties, sponsored and led by District Attorney Elizabeth Schiebel on May 16, 2000, at the Campus Center, University of Massachusetts at Amherst, the Division Chief outlined steps that law enforcement officers can take to identify, respond to and investigate hate crimes effectively.
- **Reading Police Academy Training** - The Division conducted a training session regarding civil rights hate crime laws for approximately 30-40 police officers representing several police departments.
- **Hate Crimes - Equal Employment Opportunity Commission Regional Conference** - The Division provided a hate crimes in housing presentation at the Equal Employment Opportunity Commission (EEOC) sponsored Regional Civil Rights Conference for employment and housing attorneys, held on April 13, 2000.
- **Flaschner Judicial Institute Statewide Victim Rights Conference** - The Division Chief co-presented a training session for victim rights advocates and social service providers on hate crimes on May 18, 2000, at the Flaschner Judicial Institute's two day victim rights conference held at Falmouth on Cape Cod, for judges, prosecutors, lawyers, victim advocates and others.
- **NAAG's Annual Civil Rights Conference** - At the National Association of Attorneys General (NAAG) National Civil Rights Conference held in Washington, D.C., on May 10-12, 2000, the Division Chief participated in a panel discussion on the role of state Attorneys General in addressing and responding to hate crimes.

- **Hate Crimes Security Briefing Sponsored by the Anti-Defamation League** - On September 1, 1999, representatives of the FBI and the Commander of Community Disorders Unit of the Boston Police Department and the Division Chief briefed Rabbis, Jewish leaders, and Managers of Jewish Community Centers in the Greater Boston area about security issues and concerns in the aftermath of the shooting rampage at a Jewish Community Center in suburban Los Angeles. The event was organized and sponsored by the Anti-Defamation League of New England and was held at the Jewish Community Center in Newton.
- **ADL's "No Place for Hate" Initiative** - On September 27, 1999, the Division Chief attended a State House kick-off rally and provided remarks, along with other speakers, to an audience of state officials, municipal and civil rights leaders, and advocates in support of the "No Place for Hate" initiative sponsored by the Anti-Defamation League of New England and the Massachusetts Municipal Association. The initiative seeks to have municipalities declare themselves a "No Place for Hate" community and to take specific steps to address hate and hate activities in their communities through initiation of local programs and activities. The Division Chief remained an active participant on the Anti-Defamation League's Advisory Board charged with advising the ADL on the implementation of the "No Place for Hate" program.
- **Anti-Defamation League's Leadership Institute** - On October 6, 1999, the Division Chief spoke to about 35 members of Leadership Institute of the Anti-Defamation League of New England about the role of community leaders in addressing and responding to hate and hate crimes, and the role of the Division in hate crime enforcement and prevention.
- **Anti-Defamation League's Hate on the Internet Committee** - Division staff were active members of the Internet Committee of the Anti-Defamation League of New England, consisting of law enforcement and Internet company officials, Internet experts, and civil rights and community members. The Committee held a number of meetings to share information and to discuss issues concerning identifying and responding to hate and hate crimes on the Internet.
- **Civil Rights and Police** - In a collaborative effort to promote civil rights, assist the police and provide departments with technical assistance, the Division continues to offer and provide civil rights training to law enforcement covering issues of hate crimes identification, response and prosecution, civil liability, sexual harassment and racial and cultural awareness.

The Division continues to investigate allegations of police misconduct. It is also regularly consulted by police departments to assist them in their internal civil rights investigations. The Division has

closely worked with departments to ensure that appropriate remedial steps are taken when credible evidence is found which substantiates civil rights complaints. For example, the Division worked closely with one Department to make policy and procedure changes, including: requiring that the supervisor on duty provide prior written authorization before a strip search may occur; policy clarification of the circumstances where strip searches would be lawful; and training of personnel on revised strip search policy and procedures.

- **Attorney General's Initiative on Racial Profiling** - The Civil Rights and Civil Liberties Division has played an increasingly important role in addressing concerns of improper and illegal motor vehicle stops and street encounters including, but not limited to, racial profiling. This is an area where law enforcement agencies, both nationally and in the Commonwealth, are increasingly being requested to play an affirmative role.

On March 24, 2000, the Division Chief participated as a member of a five member panel on how to address racial profiling practices by law enforcement at a day long conference in Randolph sponsored by the Massachusetts Association of Minority Police Officers.

On May 24, 2000, the Division Chief, as a member of a five member panel for a Massachusetts Association of Hispanic Attorneys (MAHA) sponsored conference on how to address racial profiling practices, summarized the case law and the basis of legal claims related to racial profiling.

The Division Chief also organized and led a plenary session on racial profiling on May 12, 2000, at the National Association of Attorneys General annual Civil Rights Conference held in Washington, D.C. Panelists also included the Chief of the Montgomery County Department of Police and the Chief of the Civil Rights Bureau of the New York Attorney General's Office.

The Division has also played a significant role in assisting Attorney General Reilly in the development of an initiative on racial profiling, including organizing the Attorney General's forum for law enforcement and union leaders on racial profiling, held on June 27, 2000. The forum served as a first step in a joint effort to respond to concerns about racial and other forms of bias and prejudice in the provision of law enforcement services in the Commonwealth. The primary purpose of the meeting was for the Office of Attorney General to hear from law enforcement leaders and other participants about their ideas and concerns, and to discuss the development of a uniform approach to address racial profiling. The participants also reviewed litigation that has dictated very significant operational requirements on police practices in the United States, legislation that has been adopted

in various states, and efforts in Massachusetts and nationally in the areas of data collection, data analysis, supervision, monitoring, education, and training.

HOUSING DISCRIMINATION

The Division continues to enforce the Commonwealth's fair housing laws which prohibit discrimination on the basis of race, color, national origin, religion, sex, sexual orientation, familial status, marital status, source of income (receipt of housing subsidy), age or disability.

In Fiscal Year 2000, the Division fought discrimination in housing by filing fourteen new civil actions in Superior Court. These cases involved allegations of discrimination based on race, familial status, gender, sexual orientation, and disability, as well as discrimination for retaliation. Five pending housing discrimination cases were favorably resolved through court-approved consent judgments during this period. Settlements included broad prohibitory and affirmative relief provisions, as well as significant compensatory damages to the complainants. Collectively, complainants in the five favorably resolved housing cases received over one hundred and forty thousand dollars (\$140,000) in monetary damages to victims. In addition to these cases, the Division continued to work on a number of pending housing discrimination cases.

Through training programs and prosecuting housing discrimination cases, the Division hopes to modify landlord and realtor practices, to educate tenants about the right to fair treatment in the housing market and to increase the availability of safe, affordable housing for families with young children. Examples of cases reflecting the Division's commitment to curtail discriminatory housing practices include:

- **Commonwealth v. Davenport, et al.** This housing discrimination case was settled through a consent judgment entered in Barnstable Superior Court on May 27, 1999. It was filed on September 22, 1997, against the managing agent and trustees of a realty company for evicting a tenant who allegedly sought permission to provide foster care in her rental apartment to a mentally disabled adult under the care of the State. The Commonwealth sought and obtained the largest damage award it ever received in a housing discrimination case and the Commonwealth obtained broad and far reaching prohibitory and affirmative injunctive relief against the defendants.
- **Commonwealth v. John S. Marini, Marini Management Co.** In October, 1999, the Division obtained a broad-based settlement agreement in which the defendants agreed to be enjoined from engaging in unlawful discriminatory conduct in renting properties and negotiating

the terms and conditions of lease agreements. In this case, filed in Norfolk Superior Court by the Division in 1996, the defendants allegedly unlawfully discriminated against the Judge Rotenberg Educational Center, Inc., a Canton school for adolescents and its students, young adults with disabilities, by denying them available rental housing; terminating an existing lease of a rental unit occupied by the students; moving to evict the disabled students; and rescinding a lease for a second unit because some of its other tenants claimed they were “uncomfortable” with the “type of people” living in the apartment complex. The settlement further required the defendants to take positive measures, such as educational trainings on state and federal fair housing laws. In addition, the settlement provided that the defendants pay Judge Rotenberg Educational Center’s attorneys fees. The settlement also ordered the defendants to pay \$6,000 to two non-profit organizations assisting persons with mental disabilities and to permit the students to enter into one-year leases for the two apartment units they originally sought to rent.

- **Commonwealth v. Capone** In January, 2000, the Suffolk County Superior Court approved a housing discrimination settlement in this case in which the Division alleged that the defendant, a Boston landlord, refused to rent and show available apartments to an African-American woman, when such apartments were in fact available and were simultaneously shown to a white male. Among other things, the settlement agreement provided \$15,000 in damages to the complainant and prohibited the defendant from imposing different terms or conditions for housing accommodations because of an applicant’s race or color. The settlement also required the defendant to provide employees with training and education on fair housing issues by an agency which provides fair housing training, including, but not limited to, state and federal laws governing non-discrimination in tenant selection, the rental of units, the investigation of tenant complaints, and the development of housing policies.
- **Commonwealth v. Derrick** In February, 2000, the Norfolk Superior Court entered a judgment against a Milton landlord in a housing discrimination case brought in January, 1998, on behalf of a former African-American tenant. The complaint alleged that in the late summer of 1996, the defendant bought a two family house in Milton for rental purposes. At the time of the purchase, an African-American woman was renting one of the apartment units in the house for herself and her teen-aged daughter. The complaint alleged that, based on the tenant’s race, the defendant harassed the tenant and refused to negotiate a rental amount or any other terms of tenancy for her and her daughter’s continued occupation and rental of the apartment. Under the terms of the judgment, the defendant paid the former tenant a monetary settlement and absolved her of a District Court default judgment he obtained against her in the eviction proceeding when the former tenant failed to appear for trial in that case. The judgment also permanently enjoined

the defendant from discriminating against any person in violation of the state anti-discrimination law.

- **Commonwealth v. Niles Company** The Division settled this Middlesex Superior Court case, filed in May 1998, alleging that a large Cambridge landlord failed to provide the complainant reasonable accommodations in the terms and conditions of her housing based on her disability. The Division obtained final judgment in November 1999 that includes broad permanent injunctive relief and payment of a significant amount of money to the complainant.

HOUSING-RELATED EDUCATION, TRAINING & OUTREACH EFFORTS

In May, 2000, the Division Chief trained housing specialists employed in Housing Courts statewide at a day-long educational conference for Housing Court judges and personnel. The training focused on proof of personal injury claims, liability and assessment of damages arising from the housing context, including claims of discrimination.

EMPLOYMENT DISCRIMINATION

The Employment Discrimination Project has focused its efforts on addressing allegations of systemic employment discrimination practices in the Commonwealth. The Project investigates allegations of discrimination or harassment (race, sex, ethnicity, national origin, age, sexual orientation) in order to determine whether a particular employer or industry is engaged in a pattern and practice of discrimination, affecting substantial numbers of Massachusetts employees.

MASSACHUSETTS BAY TRANSPORTATION AUTHORITY

The Division continued to have a significant impact on employment practices at the Massachusetts Bay Transportation Authority (MBTA). In February of 1997, the Division entered into a historic, court enforceable agreement with the MBTA and twenty-six of twenty-seven of its labor unions to end years of alleged violations of state and federal fair employment laws and to protect employees from future discrimination, harassment and retaliatory conduct. The comprehensive agreement mandated significant changes in policies and practices at the MBTA, and required new systems to govern the identification, investigation, monitoring and response to allegations of discrimination, harassment and retaliation at the MBTA. In 2000, the Division continued its extensive and ongoing monitoring of the MBTA's compliance

with the Agreement, responding to voluminous numbers of complaints from MBTA employees, engaging in special reviews to determine if there was compliance with particular provisions of the Agreement, and investigating possible breaches.

In December, 1999, the Office of Attorney General extended the 1997 Agreement between the Attorney General's Office and the MBTA for an additional two years. The Attorney General concluded, based on an intensive review of MBTA policies and practices, that the MBTA was not in full or substantial compliance in four areas of the Agreement:

- (A) The MBTA continued to fill certain job vacancies through a "post and bid" system which continued to adversely impact women and minority employees at the T;
- (B) The MBTA had maintained employees in "temporary change" status for extended periods rather than posting and filling the positions as permanent job vacancies, denying women and minorities the ability to compete for these promotional opportunities;
- (C) The MBTA had failed to address operational and investigative deficiencies in the MBTA's Department of Organizational Diversity; and
- (D) The MBTA had failed to implement a fully operational computer system to track relevant employment, complaint and disciplinary date.

• **Commonwealth v. Bull HN Information Systems, Inc.** (United States District Court)

The Division's Employment Discrimination Project, along with the Equal Employment Opportunity Commission (EEOC), continued to actively litigate the age discrimination issues in *Commonwealth v. Bull HN Information Systems, Inc.*, filed in Fiscal Year 1997, in the United States District Court. This precedent-setting age discrimination in employment case alleged that Bull HN, a large electronics company, violated the federal Older Workers' Benefits Protection Act (OWBPA) and the federal Age Discrimination in Employment Act (ADEA) when laying off its workers aged forty and older. This is the first ever joint enforcement effort of federal employment discrimination law in the United States between a state attorney general and the EEOC. In a ruling denying the defendant's motion to dismiss the Commonwealth's federal discrimination claims in the case, *Commonwealth of Mass. v. Bull HN Info. Systems, Inc.*, 16 F.Supp. 2d 90 (D. Mass. 1998), the Court recognized the broad power of the Attorney General to bring actions for violations of federal law against Massachusetts employers on behalf of the public interest and the important role the Attorney General plays in assuring that Massachusetts citizens obtain the full benefit of protection under federal laws.

- **Commonwealth v. Bull HN Information Systems, Inc.** (Massachusetts Commission Against Discrimination) In Fiscal Year 2000, the Division continued to monitor compliance with the detailed settlement agreement executed by the parties and approved by the Massachusetts Commission Against Discrimination in January 1999, involving a challenge to Bull HN's employment practices under state law. The Commonwealth alleged that Bull HN engaged in a pattern of age discrimination when terminating its employees pursuant to an ongoing reduction of its workforce. Under the settlement agreement, Bull HN agreed to establish or revise policies and procedures to ensure the protection of their employees from age discrimination. Some of the provisions of the agreement include the following: a requirement that Bull HN give notice of future job vacancies to its former employees who were laid off pursuant to a reduction of workforce and the right to file a complaint if the former employee is not rehired, and believes that he or she has been discriminated against; that seniority be the tie-breaking factor when Bull HN is faced with a close decision concerning rehiring or termination amongst employees who are substantially equally qualified; extensive training of personnel decision-makers on age discrimination law and the requirements of the Agreement; and additional review by senior level management when a decision is made to terminate an employee forty years of age or older to ensure that age is not a factor in the decision. The Agreement remains in effect for four years, and policies and procedures for five years.

EMPLOYMENT-RELATED EDUCATION, TRAINING & OUTREACH EFFORTS

At the National Association of Attorneys General (NAAG) National Civil Rights Conference held in Washington, D.C., on May 10-12, 2000, AAG Cathy Ziehl participated in a plenary session presentation on the use of the *parens patriae* doctrine to pursue affirmative litigation under federal statutes on behalf of state citizens by state Attorneys General and how to fashion remedies in discrimination cases when representing the state.

In the fall of 1999, AAG C. Ziehl was a presenter at a Boston Bar Association educational program on the implications of the United States Supreme Court decision in the Sutton trilogy of cases, which concerned the interpretation of the Americans with Disability Act. In the prior fiscal year, the Division had written and filed an amicus brief in the United States Supreme Court signed by 14 states in support of a broader and more inclusive definition of "disability" under federal law.

In its winter 2000 issue, the Massachusetts Bar Journal published "Parade of Horribles-the Aftermath of Sutton, Murphy, and Albertson," AAG C. Ziehl's article addressing and criticizing the Sutton trilogy of decisions issued by the United States Supreme Court.

EDUCATIONAL EQUITY

- **Comfort v. Lynn School Committee, et al.** In November, 1999, the Commonwealth joined the Lynn School Committee as a defendant by intervening in Comfort v. Lynn School Committee, et al. to defend the constitutionality of the Commonwealth's Racial Imbalance Law and the City of Lynn's school choice plan, in effect since 1988, which promotes equal educational opportunities, increases the quality of education and ensures safe schools. In August, 1999, five parents with school aged children residing in Lynn had sued the Lynn School Committee in the United States District Court contesting the legality of Lynn's "school choice plan," alleging that Lynn's voluntary desegregation plan adopted under the Racial Imbalance Act discriminated against students in their placement into schools on the basis of their race. Lynn's student assignment plan not only guaranteed to parents residing in all sections of Lynn the right to have their children educated in their neighborhood schools, but, with some limitations, the choice of out-of-district schools that may focus on an educational theme or offer special programs that more closely reflect their children's educational interests and needs.

The Division, jointly with the Administrative Law Division of the Attorney General's Government Bureau, argued that, as a result of the Racial Imbalance Law, a number of urban communities throughout the state, including Lynn, have received significant financial assistance from the state, otherwise unavailable, to promote equal educational opportunities and increased quality of education for their students. The additional state monies these communities receive under the Racial Imbalance Act have allowed them to improve the condition of the public school buildings in which young people learn and enabled them to develop and maintain magnet schools and other special educational programs, available to students living in all parts of their school districts. The Division further argued that if Lynn's plan, which generally permits parents to choose among public schools in Lynn regardless of race, national origin or where a student may live, were ended, eight of Lynn's eighteen elementary schools would likely become resegregated, with some schools again becoming almost all white and some predominantly minority. If the plaintiffs' challenge were to succeed, the Division argued, numerous Lynn elementary school students would be denied the opportunity to develop interracial social relationships and friendships that have been the primary reason Lynn's middle and high schools

have not experienced the type of racial divisions and interracial tensions and violence that have occurred in a number of other school districts in Massachusetts and throughout this country.

The Commonwealth also argued that if the Racial Imbalance Act and Lynn's plan were enjoined, all students would be required to attend their district schools, disrupting the education of over 4,000 Lynn students who voluntarily chose assignment to out-of-district schools, including about 2,500 elementary school students.

In May, 2000, in a twenty-five page decision in Comfort v Lynn School Committee, 100 F.Supp.2d 57 (D.Mass. 2000), the U.S. District Court denied the plaintiffs' motion for issuance of a preliminary injunction.

- **Massachusetts Coalition for Equitable Education** Division staff participated in meetings and a conference sponsored by the Massachusetts Coalition for Equitable Education to develop a statewide coalition of organizations and individuals to support and work for racial justice and fairness in the public schools, including supporting the METCO program, the state's Racial Imbalance Act, and Chapter 636 funding for school systems that are voluntarily integrating their students.

REPRODUCTIVE CHOICE

The Division has continued its efforts to safeguard the right to reproductive choice. In December 1999, the Massachusetts Senate requested an advisory opinion of the Massachusetts Supreme Judicial Court regarding whether Senate No. 148 was constitutional under the First Amendment to the United States Constitution and the Declaration of Rights of the Massachusetts Constitution. The bill would establish a twenty-five-foot buffer zone around reproductive health care clinic entrances and driveways in an effort to address confrontational protest activity and tensions outside of the state's clinics.

The Division, jointly with the Administrative Law Division, authored and filed a Brief of Amicus Curiae in the Supreme Judicial Court arguing that the bill did not abridge federal and state constitutional rights to freedom of speech and association. In January, 2000, the Supreme Judicial Court issued a unanimous Opinion of the Justices opining that Senate No. 148 indeed passed constitutional muster.

On October 19, 1999, the Division participated in training with the United States Department of Justice and the federal Bureau of Alcohol, Tobacco and Firearms for clinic personnel on clinic security issues. At that training, the Division outlined applicable state and local laws and their enforcement.

PUBLIC ACCOMMODATIONS

In Fiscal Year 2000, the Division continued its enforcement of the laws ensuring the right of the citizens of the Commonwealth to equal access to places of public accommodation, regardless of race, color, religion, national origin, ethnic background, gender, sexual orientation or disability.

- **Commonwealth v. Haverhill Country Club** In October, 1999, the Division won a major victory in a gender discrimination case against the Haverhill Golf & Country Club (HCC). After a month long jury trial in Suffolk Superior Court, the HCC was found to have engaged in a pattern and practice of gender discrimination against its women members in their rights and privileges of membership and in their access to the services and facilities available to male members of the Club. The jury awarded the nine women plaintiffs a total of nearly two million dollars as a result of the Club's discriminatory practices. In January, 2000, the Suffolk Superior Court entered a permanent injunction against HCC, as requested by the Division, which orders the Club to cease discriminating against its female members. The court further ordered HCC to rewrite its bylaws and policies so that women will not be discriminated against in rights, benefits, services or privileges at the Club.

CIVIL RIGHTS INITIATIVES WITH THE NATIONAL ASSOCIATION OF ATTORNEYS GENERAL

- **NAAG's National Civil Rights Working Group** The Division Chief continues to serve as national Chair of the National Association of Attorneys General's (NAAG) Civil Rights Working Group consisting of representatives of state Attorneys General offices from throughout the country. The Working Group's goal is to enhance the cooperative relationship between the states and the U.S. Department of Justice (DOJ) in civil rights enforcement. Pursuant to the NAAG-DOJ Memorandum of Understanding on Affirmative Civil Rights Enforcement, executed in 1995, five NAAG-DOJ Civil Rights Task Forces have been established under the umbrella of NAAG's Civil Rights Working Group. Among other things, these task forces are intended to formulate and implement joint enforcement initiatives in five substantial areas: bias-related crimes; housing discrimination; mortgage lending discrimination; discrimination in public accommodations based on disabilities; and employment discrimination. Division staff play a key role in each of the national task forces to address national policy and enforcement issues in these areas.

For the past seven years since 1994, including in Fiscal Year 2000, the Division has taken a leading role in initiating and organizing NAAG's annual Civil Rights Conferences attended by representatives of state attorney general's offices, the Civil Rights Division of the U.S. Department of Justice, United States Attorneys Offices and the EEOC, to share expertise and to enhance national, regional and state civil rights enforcement efforts. Division staff attended and actively participated in the three day national, civil rights conference held on June 10-12, 1999 in Washington, D.C.

DISABILITY RIGHTS

ENSURING EQUAL ACCESS TO PRIVATE BUSINESSES AND PUBLIC MEETINGS

The Disability Rights Project of the Civil Rights Division continued its extensive efforts to protect the rights of individuals with disabilities throughout the Commonwealth.

In an effort to make all retail and department stores more accessible for customers with disabilities, the Disability Rights Project drafted an advisory, signed by the Attorney General and sent in December, 1999, to retail and department stores instructing them to remove barriers, such as temporary racks and boxes, that obstruct aisle access. The advisory reminds stores that the Americans with Disabilities Act requires accessible paths of travel at least thirty-six inches wide for people who use wheelchairs or walkers. The advisory also notes that during past holiday seasons, individuals with disabilities experienced difficulties with barriers in paths of travel, and that such barriers can be easily removed in order to allow customers with disabilities to travel safely through aisles and have access to merchandise and to ensure access for all customers. In June, 2000, the Disability Rights Project, in a collaborative effort with six other state attorneys general and the U.S. Department of Justice, wrote to the Southland Corporation (7-Eleven Stores) to highlight barriers to access at Southland's convenience stores.

In addition, the Disability Rights Project sent an advisory letter with the Massachusetts Office on Disability to local and municipal governments to ensure that people with disabilities are not denied access to public meetings. The advisory notified such entities that all residents of a community have the right to access all municipal decision-making bodies, as guaranteed by state and federal law.

At the National Association of Attorneys General (NAAG) National Civil Rights Conference held in Washington, D.C., on May 10-12, 2000, the Director of the Disability Rights Project participated in a panel discussion on disability enforcement programs of state attorneys general offices.

COMMUNITY AND PUBLIC EDUCATION

Consistent with the strong emphasis on community education, the Disability Rights Project has emphasized programs to increase understanding of and compliance with disability rights laws. In June, 2000, the Division published "Employment Rights of Individuals with Disabilities," a pamphlet explaining state and federal employment law for people with disabilities, and updated the Attorney General's Access Resource Manual.

The Civil Rights and Civil Liberties Division included the following staff members: Richard Cole, Chief; Lakeisha Brooks; Lael Chester; Patricia Correa; Suzanne Glick Gilfix; Caroline Lukasiewicz; Jacinta Ma; Maria Mackenzie; M. Julie Patino; Sharon Petrillo; Anthony Rodriguez; Louisa Terrell; Susan Tufts; Julianne Williams; and Catherine Ziehl.

CONSUMER PROTECTION AND ANTITRUST DIVISION

CPAD carries out the Attorney General's authority under the state Consumer Protection Act and the state and federal antitrust laws. The division also acts pursuant to a broad grant of authority found in General Laws chapter 12, section 10, which directs that the Attorney General "shall take cognizance of all violations of law...affecting the general welfare of the people...and shall institute...such criminal or civil proceedings before the appropriate state and federal courts...as he may deem to be for the public interest...."

Three specialized units also fall under the responsibility of the Division's Chief. These are the Consumer Complaint and Information Section (CCIS), the Local Consumer Programs (LCPs), and the Mediation Services Department (MSD).

The Consumer Complaint and Information Section (CCIS) responds to telephone inquiries from consumers concerning problems they may experience in dealing with businesses both within and outside of Massachusetts. CCIS provides informational brochures on various consumer issues, including new and used vehicle purchasing, home improvement contracting, and issues of consumer credit and debt collection. CCIS also directs consumers to other appropriate resources, and when disputes arise requiring further assistance, CCIS's trained staff are able to mediate consumer complaints.

The Local Consumer Programs (LCPs) are a statewide network of nineteen offices partly funded by grants from the Office of the Attorney General. LCPs provide information, referral services, and mediation to consumers in all 351 cities and towns within the Commonwealth. The information gathered by both CCIS and the LCPs are available to attorneys within CPAD, and should a pattern of unfair or deceptive conduct by a particular business be noted, the Division may take legal action on behalf of the consumers.

The Mediation Services Department (MSD) of the office of the Attorney General provides three distinct programs to communities in the Commonwealth. The Student Conflict Resolution Experts (SCORE) is a mediation training program for students in middle school and high school that provides them with the skills needed for peer conflict mediation. The Conflict Intervention Team's (CIT) staff and community mediators are trained to respond to particularly difficult student conflicts. Face to Face Mediation Programs (FTFMPs) provide a network of community mediation programs to settle disputes with two neutral mediators in a face to face setting.

CPAD, through CCIS and LCPs, acts both to educate consumers concerning their legal rights and responsibilities under state and federal consumer protection laws, and to take legal action on behalf of consumers who have been adversely affected by unfair or deceptive acts or practices in the marketplace. These programs provide mediation services to resolve consumer disputes that might otherwise end up in one of the civil courts of the Commonwealth.

HIGHLIGHTED EFFORTS & SIGNIFICANT ACTIVITIES

- **Hospital Community Benefits Status Report** - In conjunction with staff from the Regulated Industries Division, the Division issued its second report on hospital implementation in 1996 and 1997 of the Attorney General's voluntary community benefits guidelines.
- **Childrens' Privacy** - Emphasizing Attorney General Reilly's strong commitment both to children's safety and the safety and privacy of all who use the Internet, the Division drafted and sent comments to the Federal Trade Commission on its proposed regulations on protecting the privacy of children on the Internet.
- **Eastern States Antitrust Conference** - The Division hosted the Eastern States Antitrust conference in December 1999.
- **Cross Agency Initiatives to Address Nursing Home Bankruptcies** - Division attorneys compiled information available from Department of Public Health (DPH) and other sources, and met with attorneys from the Government Bureau of the Attorney General's Office, to develop

strategy to deal with increasing numbers of bankruptcy filings by Massachusetts nursing homes and related patient care issues. The Division, acting upon requests from DPH, has consistently taken a strong role in ensuring continuity of patient care, and orderly transfer, when nursing homes file for bankruptcy. In cases in which financial or other difficulties appear to affect patient care, the Division, upon notice and request from DPH, frequently files for the appointment of a receiver to ensure that patients receive the care to which they are entitled.

- **Small Claims Court Committee of the Trial Court** - The Division continued work with the Committee to draft Small Claims Rules and Standards in line with changes in the law in 1992, and to ensure coordination and consistency in Small Claims practice across the state.
- **E-Commerce Legislative Review** - Demonstrating Attorney General Reilly's strong commitment to the quickly evolving area of e-commerce, Division attorneys reviewed, submitted written comments and/or testified on the Uniform Computer Information Act (UCITA), the Uniform Electronic Transactions Act (UETA) and the Electronic Signatures Act (E-Sign). These acts can control the rights of purchasers when buying any products containing software, not only computers, as well as consumers rights to written disclosure of their rights in a financial transaction, especially when the transaction is conducted over the Internet.
- **Model Rules for Manufactured Housing Communities** - Division attorneys drafted *Model Rules for Manufactured Housing Communities* in order to assist community owners in establishing rules that provide consumer protections, while addressing needs of the communities. The Attorney General reviews all proposed Manufactured Housing Community Regulations, and in trying to assist in ensuring consistency and fairness, has drafted model rules both to aid consumers and community owners and to facilitate rapid review of proposed rules.
- **Tobacco Advertising and Sale Regulations** - Chapter 93A regulations restricting certain tobacco advertising and sales practices and requiring warnings on cigars were drafted by Division attorneys and promulgated as a follow up to the Master Settlement Agreement of the state attorneys generals' suit against Phillip Morris and other tobacco manufacturers.
- **Telemarketing Bill** - Division attorneys provided testimony to the General Court's Joint Committee on Commerce and Labor regarding the telemarketing fraud prevention bill drafted by attorneys in the Division and supported by American Association of Retired Persons (AARP) and others. The bill included provisions for "do not call" lists, a three day right to rescind a telemarketing sales transaction, and clear disclosures required of telemarketers, as well as recordkeeping requirements for telemarketers.

- **Health Club Bill** - Division attorneys provided testimony to the Joint Committee on Commerce and Labor for its consideration of the health club bill drafted by the Division. The bill provided for significant changes in current health/fitness club law, including changes to the state bonding provision, and limits on length of memberships.

SIGNIFICANT CASES

- **Harvard Pilgrim Health Care Receivership** On January 4, 2000, Attorney General Tom Reilly, at the request of the Commissioner of Insurance, Linda Ruthardt, obtained a court order from the Massachusetts Supreme Judicial Court placing Harvard Pilgrim Health Care Inc., Pilgrim Health Care Inc., and Harvard Pilgrim Health Care of New England Inc. (collectively HPHC) into temporary receivership. During the receivership, CPAD analyzed the impact on consumers and competition of the receivership, and any and all proposed plans of rehabilitation or transactions involving HPHC. Ultimately, the receiver filed a plan of reorganization that did not involve any material impact on either consumers or the competitive environment in the Massachusetts health care consumer or provider markets.
- **Commonwealth v. Philip Morris, et al.** The Commonwealth's petition for attorneys' fees and costs in this groundbreaking legal case against tobacco manufacturers was submitted, seeking \$6.9 million. The Commonwealth was awarded \$358 million for its share of the Strategic Contribution Fund, including \$250 million to establish the Commonwealth's anti-smoking foundation. Attorney General Tom Reilly, with assistance from the Division, testified before a legislative committee on recommendations for use of the tobacco settlement funds.
- **Commonwealth v. First North American National Bank, d/b/a Circuit City** The Division settled this multistate case and filed a consent judgment enjoining unlawful debt reaffirmation practices against bankrupt consumers by this major retailer of consumer electronics and appliances, and ordering payment of \$10 million in restitution to consumers nationwide and \$3.7 million in civil penalties to participating states.
- **Commonwealth v. Filene's** Division attorneys filed a Consent Judgment entered against this national retailer for its unfair debt collection practices; \$245,000 in civil penalties was

awarded the Commonwealth, plus injunctive relief to end illegal practices, and resolution of individual consumer complaints, including restitution and cessation of unlawful practices.

- **Associated Creditors, Inc.** Consent judgment was entered against this unlicensed debt collection company, enjoining future efforts to collect debts from Massachusetts residents. The company was also ordered to pay a \$7,500 civil penalty.
- **Commonwealth v. Toys R Us, et al.** Division attorneys obtained a Consent Judgment against toy manufacturers and a major distributor for engaging in anticompetitive conduct. The plan for cy pres consumer restitution distributed \$302,000 to Massachusetts Department of Education "Spread the Word" program for purchase of books for distribution to needy children across the state, and \$12,000 attorneys' fees to the Commonwealth.
- **Commonwealth v. Executive Fitness** The Boston area health club closed and filed for bankruptcy, leaving consumer deposits unreturned. The Commonwealth filed a claim in the bankruptcy court for return of the \$25,000 bond filed by the Club with the Office of the Secretary of State of the Commonwealth, for the benefit of consumers.
- **Commonwealth v. Haverhill Golf and Country Club, Inc.** This Civil Rights and Consumer Protection case was brought against the club for unfair acts of discrimination against women who applied for membership as well as against female members. After a month-long jury trial, the private party plaintiffs, whose case was consolidated with that of the Attorney General, were awarded \$1.9 million in compensatory and punitive damages, and an injunctive order was issued against the Club, providing for both affirmative and prohibitory relief.
- **Commonwealth v. J. Sainsbury** After extensive review and negotiation by division attorneys, a Consent Judgment entered in Superior Court providing for divestiture of 10 stores and conduct restrictions to address competitive concerns in this acquisition of Star Markets by J. Sainsbury (Shaw's).
- **Commonwealth v. Source One, Inc. and Peter Easton** Division attorneys represented the Commonwealth in this matter, culminating in a bench trial involving information fraud, including obtaining and selling private financial data by trickery and deception. Judgment entered in favor of the Commonwealth, with the imposition of a civil penalty in the amount of \$500,000,

and an award of attorneys' fees and costs.

- **Commonwealth v. Michael Morris, d/b/a Northeast Sash and Door** Division attorneys obtained an Assurance of Discontinuance against this home improvement contractor who took money for work he did not perform. Restitution of \$5,500 for this uncompleted work was awarded and paid out to consumers.
- **Commonwealth v. J.J. O'Brien Mover, Inc., and Gary DeCicco** Division attorneys obtained a Consent Judgment which entered in Superior Court against this moving company which lost or damaged consumers' goods. Judgment provided for restitution through a program of arbitration, and payment of \$4,000 in civil penalties, as well as injunctive relief against future unlawful conduct.
- **Commonwealth v. Peterson Oil** Division attorneys filed a Final Judgment by Consent in Worcester Superior Court requiring this Worcester area home heating oil dealer to honor all of its current and future fixed price contracts. The order also enjoined Peterson from engaging in misleading or deceptive advertising and solicitation practices in the future, and provided for payment of \$10,000 to a selected non-profit or government agency which provides free or low cost fuel oil to consumers, and payment of \$5,000 for costs of investigation. This matter was especially compelling as the increase came during a cold spell, and it also appeared that consumers might not be able to find an alternative oil dealer. It was an extremely important message to send to Peterson Oil because other dealers were contemplating following suit in light of possible oil shortages.
- **Commonwealth v. Chatham Development, Inc.** The Massachusetts Appeals Court affirmed the decision of the Superior Court that determined that certain of Chatham's residential lease clauses were unlawful; attorneys' fees and civil penalties of \$10,000 were awarded. The Supreme Judicial Court (SJC) denied further appellate review.
- **Commonwealth v. Equinox** Final Judgment entered against this multi-level marketing company, providing for \$275,000 for restitution, penalties and costs, and for detailed injunctive relief.
- **Commonwealth v. Nine West** Division attorneys worked in conjunction with staff of other state attorneys general in this retail price fixing case, which resulted in settlement providing injunctive relief, costs and expenses. Massachusetts recovered approximately \$600,000 for cy pres distribution to agencies providing for women's health and safety issues.

- **American Shooting Sport Council v. Attorney General (ASSC)** Industry challenge against the Attorney General's handgun regulations. The Supreme Judicial Court found in favor of the Attorney General, finding regulations valid and within Attorney General's powers to issue and implement.
- **Commonwealth v. Pine Hill Estates, et al.** Division attorneys obtained and filed a Final Judgment by Consent under which all notices of discontinuance of this mobile home park would be rescinded and considered null and void. The judgment also provided that residents were to receive 5 year leases or tenancies at will with rent freeze at current level, and \$150,000 in attorneys fees to be paid to the Tenants' Association and the Commonwealth.
- **Commonwealth v. Patel** Division attorneys investigated this matter involving "payday loans," with interest exceeding 23%. Assurance of Discontinuance filed, providing restitution in an amount equal to interest charged consumers, and injunctive relief.
- **Commonwealth v. Home Comfort Systems by Reidy, Inc.** Assurance of Discontinuance filed against this Holyoke area oil seller for failing to honor prepaid and budget paid contracts. The Assurance provided for injunctive relief against future similar conduct, and credits and refunds to be provided to affected consumers.
- **Commonwealth v. Microsoft** Multistate case initiated by the Massachusetts and Texas Attorneys General against this software company for alleged violation of antitrust laws, including the Sherman Act. After trial, the federal court found that Microsoft has violated both state and federal law, and ordered the company be split into two companies. The case is on appeal.
- **Fleet Merger** Upon review of a Fleet/Bank Boston merger Attorney General Reilly was very concerned with proposals to sell off branches to only small local banks, which would mean that consumers could be put in an uncompetitive marketplace. Attorney General Reilly solicited possible suitors from large regional banks to ensure that competition would remain. The investigation resulted in a letter agreement, with divestiture of branches to Sovereign Bank and others.

- **National Coupon Network** Network Consent Judgment entered against Florida seller of work at home materials which provided no income to consumers; injunctive relief and restitution of \$1,500 to 50 affected consumers.

OUTREACH EFFORTS

- **Massachusetts Bankers Seminar on Privacy** - Division attorneys provided a presentation to the Massachusetts Bankers Association on privacy of bank account information and “asset search” companies who gain access to information by “pretexting,” misrepresenting themselves as the account owner.
- **Manufactured Housing Guide** - Division attorneys drafted “The Attorney General’s Guide to Manufactured Housing Community Law,” a comprehensive guide to Massachusetts manufactured housing community laws and regulations. The report demonstrates Attorney General Reilly’s continuing commitment to maintaining affordable housing stock in Massachusetts.
- **Manufactured Housing Community Rules** - Division attorneys completed review and returned eighteen sets of proposed manufactured housing community rules, and developed a training and review protocol for future rules reviews.
- **Federal Trade Commission Project Mailbox** - Division attorneys coordinated a Massachusetts response to a report on state initiatives relating to deceptive/fraudulent direct mail schemes. The Division conducts education campaigns through both CCIS and LCPs, and responds to consumer complaints through mediation and case work.
- **Panel presenters at “Savvy Seniors Make Wise Consumers”** - Division attorneys attended the Massachusetts Council on Aging Conference attended by over 250 seniors and senior advocates, and offered presentations at two panels on the issues of “Nursing Home Admissions Agreements and Assisted Living Contracts” and “Consumer Protection Issues for Seniors.”
- **Translation Project** - Division attorneys oversaw translation of several popular CPAD brochures into multiple languages, including Spanish, Russian, Haitian-Creole, Chinese, Cape Verdean Creole, Portuguese, and Cambodian.

- **Faculty presenters at Massachusetts Continuing Legal Education(MCLE) Seminar** - Division attorneys also appeared at the MCLE seminar entitled "Health Care Basics", speaking on consumer protection issues in health care, including litigating bankruptcies and receiverships of health care facilities.
- **New England School of Law** - Division attorneys were guest speakers at a consumer law class, and presented information concerning the Division's gun and tobacco litigation.
- **Harvard Law School** - The Division Chief was a guest speaker at a government law class, and addressed the issue of the affirmative consumer protection powers of the Attorney General.
- **Panel presenter at the Department of Justice Conference on Nursing Home Abuse Prevention** - The Division Chief appeared in Philadelphia and Des Moines, and spoke on Use of State Consumer Protection Powers to Protect Nursing Home Residents and their Families. Attorney General Reilly and his Consumer Protection Division demonstrated that innovative use of the consumer protection laws and receivership statute can add to the personal quality of life for seniors, a most vulnerable population.
- **Organized Eastern Regional Attorneys General Round Table on Health Care Issues** - Division attorneys both organized and presented at this round table session, discussing such important issues as cost of prescription drugs, ever-increasing health care costs, and the higher price of health care in the Eastern Region of the country.
- **Local Consumer Programs (LCP)** - Division attorneys conducted monthly trainings for LCP Directors on issues such as bankruptcy for beginners, mortgage requirements in Massachusetts, landlord-tenant law and preventing and responding to identity theft.
- **National Consumers Week** - The Consumer Complaint and Information Section (CCIS) conducted outreach at South Station and Harvard Square T-stops during National Consumers Week, including offering consumer brochures, answering consumer questions, and providing complaint forms on site.
- **Real Estate Broker's Association** - Division attorney delivered a speech on the role of the Attorney General in Consumer Protection to Real Estate Broker's Association for their annual "Day on the Hill."

- **Straight Talk** - Division attorney appeared on this live television cable call-in show on two occasions, discussing new consumer protection initiatives, and reviewing common areas of complaint, as well as providing overview of consumer protection laws concerning motor vehicles, home improvement contracting, telemarketing and sweepstakes fraud, and timeshare and health club laws.
- **Attorney General's Web Site** - Division attorneys drafted several alerts, advisories and brochures drafted for and posted on the Attorney General's Web site, on a variety of consumer topics, including going out of business sales and what to watch out for, new and used motor vehicle lemon laws and regulations, telemarketing and sweepstakes deception, and recently filed cases of interest and concern to consumers.
- **Federal Reserve Bank Consumer Conference** - Division attorneys assisted in planning this conference, and delivered a presentation on Internet Frauds and Scams. The division attorneys' presentation focused on financial products available online, how to deal with businesses that may not have a "bricks and mortar" location, and whether this can prove difficult for dispute resolutions available for Internet problems. This is one of many examples that reinforces Attorney General Reilly's priority of safe and knowledgeable use of the Internet.
- **AG Elder Hotline, CCIS Hotline** - Division attorneys conducted trainings on the role of CPAD, CCIS, LCPs in consumer protection, and provided training on landlord-tenant law.
- **National Association of Consumer Agency Administrators (NACAA) Conference** - Division attorney attended conference of National Association of Consumer Agency Administrators, and was elected as Vice President for Public Policy of this international consumer protection agency association. In this role, the attorney provides comment to federal agencies on proposed legislation, and offers information to various Congressional committees on consumer protection laws and regulations proposed, or proposed for amendment.
- **New England Cable News** - Division attorneys provided presentations on Attorney General's travel regulations on NECN and Channel 40. Presenters both summarized the requirements of the travel regulations, and answered questions concerning the nature of complaints Attorney General's Office receives. The presenters also gave information on where to go for help in addition to the Office of the Attorney General, for matters in which states are pre-empted by Federal Law from taking action, including the Federal Aviation Administration or the Maritime Authority.

MEDIATION SERVICES HIGHLIGHTS

- **Peace Matters** - The Director of the Mediation Services Division (MSD) wrote an article on SCORE for the Hague *Appeal for Peace* Newsletter, at their request.
- **New England Society for Professionalism in Dispute Resolution (NESPIDR)** - MSD staff participated in planning committee activities for NESPIDR conference.
- **Western Massachusetts Peacemakers' Summit** - MSD staff participated in planning this conference of mediators and mediation trainers.
- **Massachusetts Association of Mediation Programs/Practitioners (MAMPP)** - Mediation Services participated in a conference at Brandeis University, and participated in Mediation Week.
- **SCORE (Student Conflict Resolution Experts)** - Mediation Services sent SCORE newsletter to schools and designed a new SCORE brochure and poster. MSD staff also held two regional trainings for SCORE Coordinators, and completed the final edit of the new Trainer's Manual for training student mediators.
- **Face-to-Face Mediation Programs** - MSD staff drafted a new brochure for the programs, and conducted yearly site visits to member programs to assess performance.
- **Conflict Intervention Team (CIT)** - MSD staff completed their reports on conflict intervention in various communities, selected states for CIT replication training and held skill-building workshops for CIT mediators.

The Consumer Protection and Antitrust Division included the following staff members: Freda Fishman, Chief; Jesse Caplan; Leslie Davies; Michael Atleson; Christopher Barry-Smith; John Botte; Andrea Breton; Sara Bryant; Jeffrey Clements; Arlie Costine-Scott; Rita De Salvo; Henry Eaton; Mary Freeley; Santosh Ganesan; Dana Gershengorn; Michael Hering; Stephanie Kahn; Glenn Kaplan; Pamela Kogut; Andrew Latimer; Carmen Leon; Betty Maguire; Lois Martin; William Matlack; Laura Michalski; Carrine Michel; David Monahan; Marianne Nicoletti; Donna Palermino; Judith Risch; Prasant Sar; Betsy Sawyer; Lorraine Smith; Christine Sullivan; Deirdre Sullivan; Diane Szafarowicz; Joanne Wamness; and Chi Chi Wu. The Consumer Complaint and Information Section included the following staff members: Muriel Hervey, Director; Laura Murray; Darla Ansell; De'shanta Bailey; Joyce Coughlin; Linda Danovitch; John Donovan; Sophia Henry; Pamela Madden; Margaret O'Brien; Astrid Panameno; Julie Papernik; Scott Pearl; Daniel Reynolds; Jessica Roberts; Margaret Torio; James Tremble; and Marc Zappulla. The Mediation Services Department

included the following staff members: Kathleen Grant; Darlene Skog; Steve Lilly-Weber; Xavier Velasco-Suarez; and Sandra Washburn.

INVESTIGATIONS DIVISION

The Investigations Division (ID), formerly known as the Civil Investigation Division, conducts investigations primarily for divisions within the Public Protection and Government Bureaus. In addition, ID also investigates cases or matters within the Community Based Justice Bureau, on occasion for the Executive Bureau, or in conjunction with the Criminal Bureau.

The major duties of Division investigators are: locating and interviewing victims, witnesses, subjects and others; obtaining and reviewing documentary evidence from numerous sources including individuals, corporations, and federal, state, county and municipal agencies; conducting surveillance, background checks and asset checks; analyzing financial records and performing other forensic accounting functions; and testifying before the Grand Jury and at trial.

Investigators worked closely with staff of other state attorneys general, district attorneys, local and state police departments, the U. S. Attorney's Office, the U.S. Postal Inspection Service, the Federal Bureau of Investigation and the Federal Trade Commission.

In Fiscal Year 2000, the Division initiated 345 investigations in the following major areas:

PUBLIC PROTECTION BUREAU

CONSUMER PROTECTION AND ANTITRUST

Investigators continued to perform their traditional role by assisting the office in bringing G.L. c. 93A enforcement actions against businesses and individuals in major consumer areas such as automobile sales and repair, debt collection and credit repair services, billing schemes, travel services, health spas, retail sales, advance fee loan scams, immigration services and employment schemes. Areas also included numerous issues affecting the elderly and vulnerable populations, such as the unauthorized practice of law, mortgage lending, investment and home improvement scams and the sale of private financial data.

The Division initiated several investigations and surveys to determine compliance with existing laws and regulations pertaining to numerous consumer areas. Some were multi-state and nationwide and included

areas such as fraudulent sweepstakes promotions and telemarketing scams. The Division also participated in major initiative areas that included Internet scams, the gun enforcement initiative and healthcare.

CIVIL RIGHTS AND CIVIL LIBERTIES

The Division investigated "hate crimes," allegations of misconduct and other violations of the Massachusetts Civil Rights Act. Investigations were also conducted into allegations of discriminatory housing and employment practices, as well as investigations to determine compliance with the rules and regulations established by the Americans with Disabilities Act and the Architectural Access Board. Division staff interviewed victims, witnesses and, where appropriate, subjects of such investigations. Investigators obtained and reviewed police reports, court documents and other available evidence. The Division also participated in a retail sting involving allegations of racial profiling.

PUBLIC CHARITIES

The Division investigated individuals associated with organizations who raised funds from the public in violation of Massachusetts law. Investigators interviewed victims, usually business people, who made donations to a charity based on the representations of a solicitor. In some instances, solicitors posed as law enforcement or other public officials or otherwise misrepresented themselves or the charity's purpose. Investigators worked with other law enforcement personnel in locating "couriers" who picked up donations. The Division's financial investigators reviewed and audited books, records and financial reports of many non-profit organizations.

REGULATED INDUSTRIES

Investigators continued to work with Regulated Industries Division attorneys to review and investigate businesses and organizations that withheld employees contributions for health insurance premiums, but failed to actually purchase the health insurance coverage. Other cases investigated included unlawful sales practices known as "churning" and the sale of fraudulent or costly life and health insurance policies.

BUREAU PROSECUTOR

Investigators worked with the Bureau Prosecutor on numerous cases which resulted in indictments and convictions against individuals for violations of the Commonwealth's criminal laws. Cases included larceny against the elderly and vulnerable by home improvement contractors and a travel agent. Cases

also involved investigations relative to the unlicensed practice of medical professions, telemarketing fraud and illegal charitable fundraisers.

GOVERNMENT BUREAU

TRIAL

The Division participated in a major civil suit in an effort to recover the overpayment of retirement benefits.

The Division played a major role in tort actions filed against the Commonwealth by investigating allegations of abuse, mistreatment and deaths of individuals in state care; alleged wrongful termination of state employees; and personal injuries and other damages which occurred on state-owned property and/or in accidents on state roads or involving state cars. The Division also investigated cases involving contract disputes and eminent domain proceedings.

ENVIRONMENTAL PROTECTION

The Division's role in EPD cases primarily involved locating and identifying assets of potentially responsible parties liable for paying costs incurred by the Commonwealth in the clean-up of polluted or hazardous waste sites. Investigators also located former employees and officers of defunct companies responsible in part for such violations, and reviewed, evaluated and analyzed financial documents and prepared ability to pay analyses.

COMMUNITY-BASED JUSTICE BUREAU

SAFE NEIGHBORHOOD INITIATIVE (SNI)

The Division continued its assistance to the Office's Abandoned Properties Project by conducting research on target properties, primarily to determine the status of ownership and existence of encumbrances of the buildings, and in some instances, assisted in inspecting properties scheduled for renovation.

STATISTICS

The Division opened 345 investigations in Fiscal Year 2000, with 358 investigations ongoing as of June 30, 2000.

DIVISION/BUREAU	OPENED DURING FY 00	ONGOING AS 6/30/00
Consumer Protection/Antitrust	32	62
Civil Rights	17	25
Public Charities	2	7
Regulated Industries	2	3
PPB/Criminal	18	21
Government	1	5
Environmental Protection	6	15
Trial	266	217
Insurance Fraud	1	3
TOTAL	345	358

The Civil Investigations Division included the following staff members: Karen Ortolino, Chief; William Stone, Jr.; Amy Cederholm; Kelly Burns; Mayra Connolly; Quinton Dale; Ashley Dizel; Eric Funk; Jennifer Hollingsworth; James Hoog; Brian Lelio; Matthew McMahon; Michael McNally; Bryan O'Connell; Katherine Seoane; and Nancy Ward.

PUBLIC CHARITIES DIVISION

The Attorney General represents the public interest in the proper solicitation and use of charitable funds and is authorized to "enforce the due application of funds given or appropriated to public charities within the commonwealth and prevent breaches of trust in the administration thereof." G.L. c.12, §8. The Division of Public Charities was established to carry out the Attorney General's responsibilities in this area.

More than 40,780 charities are registered with the Division, as well as 281 professional fundraisers presently soliciting donations on behalf of charities in Massachusetts. A public charity is an entity which is

non-profit, whose purpose is charitable, and which benefits a portion of the public; in addition to philanthropic organizations, examples of public charities include nonprofit hospitals, schools, social service providers, and cultural organizations. As well as registering and obtaining financial reporting by charities and fundraisers, the Attorney General is the defendant in all proceedings brought to wind up the affairs of a public charity or to change the terms of a charitable trust.

Beyond enforcement of laws requiring annual reporting by public charities operating in the Commonwealth, the Division focused its activities during Fiscal Year 2000 in three primary areas: enforcement litigation to address deception and fraud in charitable fundraising; estate and trust actions to ensure that charitable trust funds were appropriately administered and applied; and corporate governance and oversight initiatives to ensure that charitable governing boards carried out their fiduciary duties of due care and loyalty.

In addition, the Division recognizes that charities provide vital services in our communities while enjoying certain benefits due to their tax-exempt status and assuming certain obligations as a result of these benefits. As a result, the Division was involved in a number of initiatives in Fiscal Year 2000 intended to strengthen the charitable sector at large. These efforts included the Division's annual report on charitable fundraising published during the Fall charitable giving season, the Kellogg Healthcare Conversion Information Project, and work with the Boston Bar Association on legislation that would revise the non-profit corporation statute.

SOLICITATION OF CHARITABLE FUNDS

The Attorney General takes affirmative legal action against charities and professional fundraisers for unfair or deceptive solicitation practices and to enforce their fiduciary duties with respect to funds raised. In addition to injunctive relief, the Attorney General may seek restitution of funds intended by the public to benefit a specific charity, or particular charitable purpose, along with penalties and fees.

Following are examples of deceptive charitable solicitation cases in which the Division was involved in this Fiscal Year:

- **Commonwealth v. Baystate Assistance Programs; Veterans for the Homeless; Commonwealth Alliance d/b/a Veterans Aid Program; Steven M. Materas; Paul A. Kouri; Joseph J. Pctillo** In December, 1998 the Attorney General filed a fundraising fraud action against these defendants, which include professional fundraisers, charities and their officers, for allegedly misleading donors to believe that their contributions would provide housing for homeless veterans or would benefit homeless shelters and veteran outreach centers, when almost none of the more than \$5 million raised went to help homeless veterans.

In November 1999, following settlement negotiations, the court approved a consent judgment distributing \$55,000 to several veterans shelters and community service against one defendant charity. The Division also actively conducted discovery and prepared for a trial that was scheduled with the remaining defendants for Fall, 2000.

• **Commonwealth v. Ranick Enterprises, Inc; Bellcamp Enterprises; Everready Enterprises; US Charitable Publications; New England Charitable Services; Eastern Mass. Veterans Programs; George Campbell; Help Hospitalized Children's fund; Regular American Veterans; Foundation for Disable Firefighters; American Veterans Wish Foundation** In 1997 the Division had brought suit against a multi-state fundraising operation for allegedly defrauding Massachusetts donors of millions of dollars in charitable contributions. In 1998, the Division had obtained a final judgment against one of the charities, Texas-based Help Hospitalized Children's Fund, had obtained default judgments against five of the fundraising defendants, and had recovered \$40,000 from the insurance bond company that had issued them solicitor bonds.

In 1999, the Division obtained a default judgment of \$500,000 and a fundraising ban against defendant George Campbell.

• **Commonwealth v. Allan C. Hill Productions, Inc. et al.** The Division had brought this case in 1997 against fourteen telemarketing companies for failure to account for charitable funds raised in Massachusetts as required under c. 68, Section 24(c). Consent judgments had been entered against four of the defendants and defaults had entered against four other defendants.

In 1999, the court ordered the parties to undertake alternative dispute resolution, and the remaining defendants either settled or were defaulted.

• **Commonwealth v. Action Programs, Inc. et al.** The Division filed an enforcement action in Suffolk Superior Court against eight fundraising companies that failed to account to the public for funds raised in the previous year.

ESTATES AND TRUSTS

In furtherance of his authority to "enforce the due application" of charitable trust funds and to "prevent breaches of trust in the administration thereof," the Attorney General is an interested party in the probate of

all estates in which there is a charitable interest and in all other judicial proceedings affecting charitable trusts.

Accordingly, the Division continued to handle a large volume of cases in this area involving such matters as proposed allowance of accounts, will compromises, sale of real estate, change of purposes or beneficiaries of charitable trusts and bequests, amendment of charitable trusts to meet IRS requirements, and termination of charitable trusts under G.L. c.203, §25. For example:

- **Museum of Fine Arts v. The White Fund Trustees, et al.** The White Fund Trustees hold a collection of paintings in trust for the purpose of creating and gratifying a public taste for fine arts, particularly among the people of Lawrence. In 1998, the Trustees sought court approval to sell the paintings, which include a valuable Monet, and to use the income from the proceeds to fund art projects in Lawrence. In 1912, the Reverend William Wolcott had left the paintings in trust to the White Fund Trustees and stated in his will that until a suitable gallery existed in Lawrence to hang the paintings, the trustees should offer the paintings to the Museum of Fine Arts (MFA) for exhibition. The paintings have been at the Museum since that time. The trustees' lawsuit challenged the MFA's contention that the status quo furthers the intent of the testator.

The Division filed and argued a motion for summary judgment, arguing that the court should conduct a trial for cy pres modification of the will, since the donor's intent to display paintings in Lawrence was not being fulfilled. The Superior Court denied the motion and ruled that the MFA could keep the Monet and two other valuable paintings. The court also allowed a joint reporting of an interlocutory appeal. The Supreme Judicial Court granted the Division's application for direct appellate review and scheduled oral arguments.

- **In Re: Petition for the Allowance of the First and Final Account of James K. Glidden as Executor of the Estate of Walter Barrett** The Division had filed objections to the court allowance of the first and final account of James Glidden as executor and attorney for the estate of Walter Barrett, on the grounds that his fees were excessive, both as to the amount of time spent on various tasks and the rate at which many executor services were billed. The Division had further contended that estate taxes were overpaid; Glidden allegedly failed to file for a rebate when informed of his mistake; and he improperly billed the estate for unnecessary services, including meetings with representatives of the charitable beneficiaries regarding the inadequacy of his accounting.

The Division tried the case in Barnstable Probate Court on November 2, 1999. The trial judge found for the Commonwealth, reduced the attorney's fees from \$46,000 to \$14,500, and ordered the difference distributed to the charitable beneficiaries.

- **White Caps** A Springfield attorney was the court-appointed special administrator of the estate of Francis Theriau, who founded White Caps, Inc., a charity established to provide work and recreation for the mentally and physically handicapped through their repair and recreational use of sailboats. The charity had never registered with the Division and had been inactive for years. Eventually \$125,000 escheated to the state from the charity's bank account. The Division filed a complaint to revive the charity by naming the attorney/administrator as a court-appointed receiver to prepare and file a complaint for dissolution in the Supreme Judicial Court in order to distribute the charity's funds to other charities.

WILLS, TRUSTS, AND OTHER PROBATE STATISTICS

During Fiscal Year 2000, the Division received and reviewed 895 new wills, and received and reviewed 511 interim accounts for executors and trustees, as well as 702 final accounts. In addition, the Division received, reviewed, and assented to 56 petitions for license to sell real estate, 188 complaints to reform unitrusts, and 92 miscellaneous complaints.

CHARITY GOVERNANCE

The Attorney General's oversight of charitable corporations focuses on stewardship by charity boards of directors. The Division may become involved when directors breach their individual fiduciary duties of due care and loyalty or to prevent the misuse of charitable funds. The Division has brought a number of enforcement actions or obtained several governance agreements, after investigation, in which charity boards have agreed to reform the manner in which they operate. This year such matters included:

- **Greater Lynn Mental Health & Retardation Association, Inc.** Greater Lynn Mental Health & Retardation Association, Inc. ("Greater Lynn") operates a variety of mental health and retardation programs, including programs under contract to various state agencies. The charity is a major provider on the North Shore with revenues of approximately \$30 million. Information was brought to the Division indicating that the executive director and founder of Greater Lynn may have engaged in a number of actions resulting in the misapplication of charitable funds. The Board of Greater Lynn had suspended the executive director for 90 days, but it then appeared that the Board intended to rehire him with conditions on his employment. Division attorneys met with the

Board to express their concerns about the Board's actions. The Division then negotiated an agreement for Greater Lynn to hire a management advisor to review its operations and advise the charity and the Division about necessary reforms, ensure funding and operational stability at the charity, and investigate potential problems within Greater Lynn.

- **The Chinese Consolidated Benevolent Association** The Division conducted a fiduciary duty investigation into the operations of this large Chinatown charity focusing on lack of financial accountability and whether a large donor-restricted gift had been used consistent with donor intent for affordable housing purposes. After filing a complaint seeking a receivership, the Division entered into an agreed-upon preliminary injunction providing that the charity must complete certain activities by specified dates and began negotiating with the charity over a governance agreement.
- **National Music Foundation** This Florida charity moved to Lenox, Massachusetts in 1993, when it began a fundraising campaign to build a \$30 million concert center, a museum, and a musicians' retirement home. The Foundation also improved its property with a \$2.5 million dollar grant from the Executive Office of Administration and Finance (EOAF). In early 1999, the Foundation announced that it was abandoning its plans, selling its 62 acre campus to Shakespeare and Company, another Berkshire charity, and moving its operations to New York State. The Division investigated allegations of conflict of interest and excessive compensation that were raised in an October report by the State Auditor and obtained guarantees that excessive deferred compensation would not be paid to the charity's executive director. The Division concluded that no further action was necessary, beyond confirming that EOAF would be paid the \$500,000 which the Foundation netted out of the sale of its property to Shakespeare and Company.

FOR-PROFIT ACQUISITIONS

The Public Charities Division continued to devote considerable time and resources to reviewing proposed for-profit acquisitions of health care providers and other charitable corporations. Massachusetts charitable organizations may not, on their own, "convert" to for-profit status. If charitable assets are to be transferred to a for-profit, it must be for fair value, the transaction must be necessary and in the best interest of the charity, and the charity board must have acted carefully and in a manner uninfluenced by conflict of interest.

During the year, the Division handled the following matters relating to conversions or proposed conversions of nonprofit corporations.

- **Harvard Pilgrim Health Care Receivership** On January 4, 2000, in consultation with the Commissioner of Insurance, Attorney General Reilly obtained a court order from the Supreme Judicial Court placing Harvard Pilgrim Health Care, Inc., Pilgrim Health Care, Inc., and Harvard Pilgrim Health Care of New England, Inc. (collectively HPHC), the state's largest health maintenance organization, into temporary receivership. Division personnel were actively involved in the on-going work associated with preparing and implementing the receivership

As the Temporary Receiver, the Insurance Commissioner took control of HPHC for the purpose of rehabilitating HPHC and conserving its assets, with the goals of ensuring continuity of care for members; providing full payment to health care providers; and ensuring on-going financial stability for HPHC. The Attorney General and the Insurance Commissioner examined several options to meet these goals, including recapitalization of HPHC's debt by non-profit and/or for-profit investors, sale to a for-profit entity, or liquidation. They also retained an independent auditor (KPMG-Peat Marwick) to review HPHC's business plan for the year 2000. KPMG-Peat Marwick determined that the business plan was sound and concluded that the right management team was in place to implement it.

Based on KPMG-Peat Marwick's report, increased and reliable financial information, stability in membership numbers, the payment of \$200 million to local providers, and a March 1, 2000, cash position of \$200 million, the Attorney General and Insurance Commissioner concluded that the proposed rehabilitation plan was the best option to protect and serve the members, the providers, and HPHC, without selling the company to a national for-profit company, weighing Harvard Pilgrim down with new debt, de-stabilizing the state's health care system, or using taxpayer dollars.

On March 3, 2000, Attorney General Reilly and the Insurance Commissioner filed a proposed rehabilitation plan, which was approved by the Supreme Judicial Court after a public hearing, to end the temporary receivership and to allow the current management team at HPHC to implement its turnaround plan under the continued supervision of the Attorney General and the Insurance Commissioner.

- **MassSave** The Division received notice from this nonprofit energy consortium that it was in the process of selling its business and dissolving. MassSave was formed to carry out the statutory obligation of its utility/members to provide energy audits and other energy conservation services to consumers. For market reasons their initial purposes were obsolete and, through strategic planning, they had determined that a strategic alliance was necessary. MassSave

originally proposed a for-profit conversion, but the Division informed MassSave that it had not appropriately explored nonprofit alternatives, a required element of proof in a conversion case. In response, MassSave conducted a new search for a non-profit strategic partner and finalized a merger with a nonprofit partner.

- **Hospital Laundry Cooperative (HLA)** This conversion case involved the sale to a Rhode Island for-profit laundry of a non-profit hospital laundry business, without the real estate, which served all the hospitals in the Greater Boston area. HLA had not dissolved in 1995 when the business was sold so that it could be responsible for the real estate. A buyer emerged in March 2000 and the Division, after analyzing the fair market value, conflict of interest, and fairness of the transaction terms, assented to the sale.

REVIEW OF ASSET DISPOSITIONS

Under amendments to the Non-Profit Corporations Act, which took effect in April, 1990, a charitable corporation must give 30 days advance written notice to the Attorney General before making a sale or other disposition of all or substantially all of the charity's assets if the disposition involves or will result in a material change in the nature of the activities conducted by the corporation. G.L. c. 180, §8A(c).

In addition to for-profit dispositions, the Division reviewed a number of significant transactions involving proposed disposition of substantial charitable assets.

The Division reviews major mergers to ensure that the terms of charitable trusts are adhered to, conflicts of interest are avoided, and that donated funds (such as endowment funds) are used for their original intended purposes. If a merger will require modifying the terms of a charitable trust or the purposes for which endowment funds will be used, the changes must first be justified in a court proceeding with the Division named as a party.

- **Harvard-Radcliffe Merger** Harvard University and Radcliffe College approached the Division with an agreement to merge. Under the agreement, Radcliffe's functions and endowment would be absorbed by Harvard, and Radcliffe would be renamed the Radcliffe Institute for Advanced Study, with a focus on women, gender and society. Approximately \$150 million of Radcliffe's endowment would support the new institute, with the remaining \$50 million of its endowment funds supporting undergraduate financial aid. The Division reviewed details of the proposed merger and ensured that restrictions on Radcliffe-held restricted trust funds trust would be honored post-merger. Following Division approval, the two entities merged on October 1, 1999.

- **Connecticare** This nonprofit, Connecticut-based Health Maintenance Organization proposed changing the operating status of its Massachusetts subsidiary from nonprofit to for-profit. The Massachusetts subsidiary represented a small fraction of Connecticare's operations and the proposed change would bring the Massachusetts subsidiary into line with a larger reorganization earlier completed in Connecticut. The Massachusetts subsidiary demonstrated that it was a necessary change and accounted appropriately for charitable assets generated in Massachusetts. The Division assented to the relief, which was granted in the single justice session of the Supreme Judicial Court.
- **Bradford College** Division attorneys met with representatives of Bradford College as well as its bondholders to discuss closing of the College following conclusion of the spring 2000 semester. The Division discussed and resolved a variety of issues concerning the College's handling of restricted funds and the College officially closed following commencement exercises for the class of 2000.

CHARITABLE CORPORATION DISSOLUTION STATISTICS

In order to cease corporate existence, charitable corporations must dissolve through a proceeding in the Supreme Judicial Court. To enforce the public's interest in the disposition of charitable assets, the Attorney General is a party to all voluntary dissolutions of charitable corporations under G.L. c.180, §11A. After review, negotiation of necessary modifications, and assent by the Division, the pleadings are filed by the dissolving charity in the Supreme Judicial Court. The Division reviewed a number of significant transactions involving proposed dissolutions, including the following:

- **Computer Museum/Science Museum** The Computer Museum and the Science Museum proposed an alliance through a proceeding to dissolve the Computer Museum which involved, among other things, spinning off a subsidiary of the Computer Museum to a third entity in California and the Science Museum displaying certain Computer Museum exhibits and carrying out its functions. The Division reviewed and assented to the Computer Museum's Dissolution Complaint.
- **Springhill of Ashby/Shackleton Schools** Springhill of Ashby, a spiritual retreat center, submitted a draft of a proposed dissolution complaint for Division review and assent. In anticipation of dissolution, Springhill had sold its principal asset to Shackleton Schools, another charity, without obtaining Division assent, as required under G.L. c.180, §11A, and had promised to turn over any excess proceeds from the sale to Shackleton Schools. However, under the doctrine of cy pres, a charity may only transfer its assets to another charity with a

mission as similar as possible to its own following court approval, unless it is impossible or impractical to do so. The Division negotiated an agreement with Shackleton Schools as to how it would restrict the use of funds transferred from Springhill to purposes consistent with Springhill's purposes, and the Division assented to Spring Hill's dissolution.

During the reporting year, the Division assented to 110 final judgments dissolving charitable corporations pursuant to section § 11A.

SIGNIFICANT DIVISION INITIATIVES

PUBLIC EDUCATION CAMPAIGN

The Division continued its ongoing public education campaign regarding charitable giving and charity stewardship. The Division continued to distribute its wide variety of public education materials, including "The Attorney General's Guide For Board Members of Charitable Organizations," "How To Give But Give Wisely," "Tips On Charitable Giving," and "Questions Commonly Asked To The Division Of Public Charities."

In December 1999, the Division conducted the eighth annual "Giving Season" public education campaign. Carried out in conjunction with the Better Business Bureau and the American Association Of Retired Persons Of Massachusetts, this education campaign is part of a long-term effort to inform individuals and businesses about the donating process and how to make sure that their contributions are put to the best possible use. Materials distributed included the "Attorney General's Guide For Charities Who Fundraise From the Public" and "Question and Answer Guide For Professional Fundraisers."

The "Giving Season" public education campaign featured the annual "Attorney General's Report On Telemarketing For Charity." The report provides general information about professional fundraisers and their statutory reporting obligations and specific information about the campaigns conducted in calendar year 1998. Annual financial reports from 449 charitable telemarketing campaigns conducted by 85 separate telemarketing companies were analyzed. Total revenue from all campaigns amounted to \$84,351,651 out of which slightly more than \$30,884,409 million dollars went to charity. The average percentage received by the charity was 37 percent, after all fundraising expenses were deducted. This represented 2 percent more than the amount received by charities the previous year. On a per campaign basis, the average percentage received by the charitable organizations was 28.5 percent.

NATIONAL TRAINING FOR REGULATORS ON FOR-PROFIT ACQUISITIONS

In 1997, the Attorney General had received a \$295,000 grant from the W.K. Kellogg Foundation to develop and conduct a national training program for regulators dealing with for-profit acquisitions and conversions of nonprofit hospitals and other health care entities.

In 1999, the Division completed a training video and published and distributed a multi-chapter Guide, supplemented by a collection of conversion-related materials, to assist board members, regulators and advocates facing for-profit healthcare acquisitions and conversions in their communities. The Division also created a Web site to maximize access to these materials, at www.healthcareconversion.org.

NON-PROFIT CORPORATION LEGISLATION

The Division actively participated on a Boston Bar Association special task force to revise the non-profit corporation statute, G.L. c. 180, including three subgroups established to address charity-specific issues: (a) a multi-tier subgroup addressed issues of charitable fiduciary obligations in affiliated corporate systems; (b) a charitable assets subgroup addressed mergers and how to streamline procedures for statutory dissolution of charities; and (c) a charity definition subgroup drafted a definition of charitable corporations.

THE ATTORNEY GENERAL'S COMMUNITY BENEFITS INITIATIVE

The Division was involved in the initial public meetings and final drafting of the Attorney General's Community Benefits guidelines for Nonprofit Acute Care Hospitals. Since the issuance of the Guidelines in June, 1994, the Division has been closely involved in monitoring and furthering hospital compliance.

In 1999, the Division continued to encourage hospitals to comply with the reporting recommendations in the Guidelines and provided assistance to hospital community benefit coordinators for preparing Fiscal Year 1998 reports. The Division also participated actively in the Attorney General's Community Benefits Advisory Task Force .

CONFERENCE AND PROFESSIONAL EDUCATION PRESENTATIONS AND PUBLICATIONS

As part of the Division's ongoing public education effort throughout the year, the Director of the Division and other Assistant Attorneys General in the Division spoke to numerous charitable groups, served on several continuing professional education panels and national educational conference panels, and contributed to educational publications.

DIVISION ADMINISTRATION & STATISTICS

Enforcement of laws requiring accountability by public charities is central to Division responsibilities with respect to charitable funds. With the exception of religious organizations and certain federally chartered organizations, all public charities must register with the Division and all registered charities must submit annual financial reports. The registrations and financial reports are public records and public viewing files are maintained. The Division responded to over 1,538 requests to view files in the past fiscal year and, in response, approximately 4,232 files were pulled.

CHARITABLE ORGANIZATIONS: REGISTRATION AND ENFORCEMENT

From July 1, 1999 through June 30, 2000, the Division processed approximately 33,179 annual financial reports and annual filing fees totaled \$1,866,744. These funds are turned over to the General fund of the Commonwealth. During this period, 2,051 new organizations were reviewed, determined to be charitable, and registered. Each was sent the Division's packet of information about the Division's registration and filing requirements.

As part of an ongoing compliance program, Division staff contacted charities whose annual filings were deficient or delinquent to rectify filing deficiencies.

ISSUANCE OF CERTIFICATES TO CHARITIES WHO FUNDRAISE

Under G.L. c. 68, sec. 19, every charitable organization which intends to solicit funds from the public, except religious organizations, must apply to the Division for a solicitation certificate before engaging in fundraising. Upon receipt, the Division reviews certificate applications for compliance with statutory

requirements. Unless there is a deficiency in the application, all certificates are issued within a 10-day statutory period.

REGISTRATION OF PROFESSIONAL SOLICITORS AND FUND-RAISING COUNSEL

Under §§22 and 24 of G.L. c.68, all persons acting as professional solicitors, professional fundraising counsel, or commercial co-venturers in conjunction with soliciting charitable organizations must register annually with the Division. Solicitors and commercial co-venturers must also file a surety bond in the amount of \$10,000.00. All fundraisers must also file with the Division a copy of each fundraising contract which they sign with any charitable organization, and solicitors must later file a financial return regarding each fundraising campaign.

During the Fiscal Year ending June 30, 2000, a total of 281 registrations were received and approved, resulting in \$59,200 in fees to the Commonwealth. Registrations were received from 96 solicitors, 141 fund-raising counsel, and 44 commercial co-venturers.

MONEY RECOVERED FOR THE COMMONWEALTH TREASURY

Charitable and Fundraiser Registration Fees	\$1,925,974
Other fees, requests for copies, requests for computer information	\$5,000 (approximate)
TOTAL	\$1,930,974

The Division of Public Charities included the following staff members: Jamie Katz, Chief; Eric Carriker; Carol Aloisi; Marion Antonucci; Caitlin Calder; Karen Calhoun; Sandra Cardone; Patricia Clifton; Janet Cooper; Annette Herd; Anne Higgins; Matthew Jervinis; Laura Maslow-Armand; Beth McGillicuddy; Kathleen O'Connell; Elizabeth Reinhardt; Richard Reuss; Deirdre Rosenberg; Claudio Salas; Johanna Soris; and Tina Williams.

REGULATED INDUSTRIES DIVISION

The Regulated Industries Division represents consumer interests in regard to two industries: insurance and public utilities. The Division's work is carried on before state and federal courts as well as administrative

regulatory bodies such as the Massachusetts Department of Telecommunications and Energy (DTE or Department), the Federal Energy Regulatory Commission (FERC), the Federal Communications Commission (FCC), and the Massachusetts Division of Insurance (DOI). In many of these matters, particularly public utility rate cases, the Division is the only active participant advocating on behalf of Massachusetts consumers.

INSURANCE

The Regulated Industries Division's representation of consumer interests in insurance matters is divided into several distinct categories, including ratemaking and enforcement of the consumer protection laws, c. 93A and c. 176D of the Massachusetts General laws. In its ratemaking work, the Division intervenes in both automobile and health insurance rate setting proceedings. In its consumer protection function, the Division protects Massachusetts citizens from unfair sales and claims practices. Through the Division's insurance hotline for consumers, direct mail and telephone communications, the Division receives many consumer questions and complaints. Through mediation, negotiation and, if necessary, litigation, the Division obtains both restitution and injunctive relief for insurance consumers. Finally, the Division engages in non-case related work to advance insurance consumer interests, including legislative, regulatory, educational, and other outreach activities. The Division also operates AGELDER, a toll free hotline to aid seniors and their families on elder related issues.

RATE CASES

Automobile

- **2000 Private Passenger Automobile Insurance** On July 6, 1999, the Automobile Insurers Bureau (AIB), on behalf of the automobile insurance industry, filed with the Division of Insurance its recommendation concerning the profit component of 2000 private passenger automobile insurance rates. On July 12, 1999, AIB filed with the Division of Insurance its recommendation concerning the cost containment and fraudulent claims payments component of 2000 private passenger automobile insurance rates. On August 13, 1999, AIB filed with the Division of Insurance its recommendation concerning the main rate for 2000 private passenger automobile insurance rates. AIB requested an increase of 7.8 % increase over the 1999 rates. If approved, these requests would have been equivalent to an average increase in auto insurance premiums for Massachusetts drivers of \$66 per car or \$234 million overall. On behalf of Massachusetts consumers, the Division challenged the increase requested by the industry. The Division made several filings in the case.

After discussion and settlement negotiations with AIB and the State Rating Bureau (SRB), the parties agreed to an increase of 0.7%. This agreement was adopted by the Commissioner who subsequently issued a memorandum and order fixing and establishing the new rate, which was 7.1 percentage points lower than the industry's request. The savings to Massachusetts consumers were approximately \$213 million or an average of \$60 per car.

- **2001 Automobile Insurance** Proceedings concerning the 2001 automobile insurance rate began on April 26, 2000 with notice of the annual hearing called by the Commissioner to determine whether it was necessary that the rates for 2001 be fixed and established in accordance with M.G.L. c. 175, §113B. The Division participated in the hearings and testified, on June 1, 2000, that any return to competition should include a subsidization and cost-sharing mechanism to protect policyholders in urban areas from rate shock. Such a mechanism should be in place prior to any return to competition. No decision had been issued by the Commissioner by the end of the fiscal year.

- **OEM Endorsement Proceeding for Private Passenger Automobile Insurance** The Automobile Insurers Bureau (AIB) filed an optional endorsement under which consumers could purchase the right to have their cars repaired with original equipment manufactured parts. Currently, crash parts (primarily the exterior of the automobile) are repaired with after market parts—new parts that are similar but not identical to the parts manufactured by or for the car maker—when such parts are of like kind and quality and are cheaper. The Attorney General's Office intervened in the proceeding at DOI to represent consumers, submitting a counter-recommendation on pricing and other issues. The Commissioner of Insurance issued a decision following the AGO's recommendations.

- **Premier Managed Care Endorsement for Private Passenger Automobile Insurance** Premier, a wholly owned subsidiary of Travelers and one of the largest automobile insurers in Massachusetts, filed an optional managed care endorsement that would reduce the cost of automobile insurance for those consumers who agreed, at the time they purchased or renewed their insurance, to use their HMOs or, if they were not members of HMOs, to use a managed PPO network approved by the Commissioner of Insurance, to treat their automobile accident injuries. The Office of the Attorney General intervened in the proceeding to represent consumers. The AGO suggested that, if the Commissioner approved such endorsement she should require proper disclosures. The Division filed a draft disclosure to be made to consumers. The experimental use of the endorsement was approved by the Commissioner but has yet to be marketed.

Homeowners

- **FAIR Plan Rate Increase** In September, 1999, the Massachusetts Property Insurance Underwriting Association (FAIR) submitted filings to the Division of Insurance for increases in their Homeowners product and their Dwelling and Fire product. The Division participated in the hearings and the case was settled by stipulation. The stipulations resulted in an overall reduction in rates of 0.51% with savings to Massachusetts consumers of almost \$225,000.

Medicare Supplement

- **Bankers Life 2001 Medicare Supplement Rate Proceeding at DOI** Bankers Life and Casualty Co., the second largest Medicare supplement insurer in Massachusetts, sought rate increases of between 30 and 46% on its drug plans. Any proposed increase in excess of 10% must be approved by the Commissioner of Insurance after an administrative hearing. The Division intervened in the hearing to represent consumers. The Commissioner's decision disapproved Bankers Life's requested rate increase and instead approved rates close to those recommended by the Division, saving consumers \$12,469,532.
- **Hartford Life Insurance Co. Medicare Supplement Rate Proceeding at DOI** Hartford sought rate increases of nearly \$250 per month on its Massachusetts plans. The Division intervened to oppose the proposed increase. The Commissioner rejected Hartford's rates and approved rates that saved consumers \$2,193,113.
- **World Insurance Co. Medicare Supplement Rate Proceeding at DOI** In April, 1999, World Insurance Company filed for a rate increase in its Medicare supplement policies. All of the policy forms for which World seeks a rate increase are closed to new enrollment. For forms D-A041 (old Medisup2 policy) and D-A044 (new Medisup 1 policy), World requested increases of 74.5% and 78.1% respectively. For D-A042 (old Medisup3 policy) and D-A045 (new Medisup2 policy), World requested increases of 48.1% and 50.4% respectively. The Division intervened in the case and participated in the hearings. The Division intervened to oppose the magnitude of the proposed increases. The Commissioner rejected World's proposed rates and approved rates that saved consumers \$815,333.

CONSUMER PROTECTION/ENFORCEMENT

The Division also engaged in non-rate case related insurance work during Fiscal Year 2000 that involved consumer protection issues and/or enforcement of the Commonwealth's insurance laws. Representative matters include:

Employers' Failure to Remit Health Insurance Premiums

During the 2000 Fiscal Year, the Division continued to investigate complaints against employers who allow their group health plans to lapse because of their failure to remit health insurance premiums or their failure to provide sufficient funds to cover their employees' health costs. The Division investigated 67 employers in response to these types of complaints during this Fiscal Year. The Division has seen a marked decrease in the volume of "failure to remit" complaints since 1996, when the Division was instrumental in promulgating an Attorney General regulation, 940 CMR 9.00, that requires insurers to pay claims until they have notified employees directly of any termination of coverage. With the exception of disputes between a single employee and the employer, most complaints now relate to self-insured plans.

Bankruptcy Intervention

- **Summit Plastics** During the previous Fiscal Year, the Division's motion to intervene in the bankruptcy filing of Summit Plastics was allowed by the bankruptcy court. Summit filed for chapter 11 protection leaving its former employees with outstanding medical bills in excess of \$22,000. The matter was still pending at the end of the Fiscal Year.
- **Boston Regional Medical Center (BRMC)** BRMC filed for reorganization under chapter 11 of the bankruptcy code on February 2, 1999. Prior to the bankruptcy, BRMC had deducted a portion of the health insurance premiums from the employees' pay checks for approximately two months. BRMC failed, however, to remit those payments to the appropriate carriers. This resulted in unpaid medical bills for Fallon Health Care participants (approximately 240 employees) in the amount of \$200,000. The Division filed a Motion to Intervene on February 24, 1999 on behalf of the employees which was allowed by the court. The Division filed a proof of Claim on behalf of the employees on January 5, 2000. The Liquidation Agent objected to the Proof of Claim. The Court asked for a joint statement of facts which we filed. At the end of the Fiscal Year, the matter was being vigorously litigated.

- **NewCare Health Corporation (New Care)** NewCare employees began contacting the Regulated Industries Division in June 1999 with complaints about employee benefits not being funded. Through an investigation prompted by the complaints received, the Division learned that NewCare had an employee benefit health plan and had failed to remit premiums deducted from employee paychecks, as far back as January 1999, to Health New England (HNE). On June 22, 1999, NewCare filed for protection under chapter 11 of the Bankruptcy code. On August 4, 1999, the Division filed a Motion to Intervene on behalf of the employee consumers. The motion was allowed by Judge Borof. NewCare continued to petition the court for additional Debtor In Possession (DIP) financing. The court determined that no additional DIP financing would be allowed until the medical claims of the employees were resolved. The medical expenses were paid contingent upon the withdrawal of the Attorney General's Motion to Intervene. The premiums owed to HNE for a 60 day period were paid by the estate in the amount of approximately \$76,000. HNE then paid the claims for the 60 day period. In addition to the health insurance claims, there were outstanding dental claims. The dental carrier, however had failed to give adequate notice pursuant to 940 CMR 9.04 and 9.05. As a result, the dental carrier sent a new notice of termination with a contemporaneous termination date to the subscribers and covered the dental bills incurred during the relevant period.
- **CIGNA Health Care** CIGNA Health Care (CIGNA) was the third party administrator for the self-insured employee benefit plan for a group of nursing homes owned by the Lenox corporation. Lenox filed for bankruptcy in 1999. Prior to the bankruptcy, Lenox had failed to remit withholdings deducted from employee paychecks to CIGNA. As a result of the non payment, CIGNA refused to pay outstanding medical bills. The Division received a complaint from a consumer who had undergone a bone marrow transplant that was "pre-approved" by CIGNA for a period of six months. During the six month period, Lenox failed to pay any administrative fees to CIGNA for the processing of the medical claims and also failed to pay the premiums to CIGNA to maintain the re-insurance policy (CIGNA was the re-insurer for the Lenox plan). As a result CIGNA denied all services incurred by the consumer in connection with the bone marrow transplant and subsequent chemotherapy treatments in addition to all the medical services incurred by the other employees.

The Division took an active role in investigating this matter. Through the Division's intervention, it was discovered that CIGNA had possibly committed an unfair trade or practice by pre-approving the services for a period of time, then denying payment for those services when incurred. The Division negotiated a resolution in the form of a payment by CIGNA in the

amount of approximately \$102,000 to the providers to cover the services incurred by the consumer during the period in question. The payment was made during October of 2000.

Agreements with Employers

- **Thomas Taylor & Sons** Thomas Taylor & Sons (TT&S) employees received notices of termination by Harvard Pilgrim Health Care (HPHC) stating their coverage was terminated retroactively sixty days. The premiums, however, were deducted from the paychecks of the employees. TT&S had subsequently contracted with Aetna for health care coverage. Through the Division's discussions with TT&S's attorney, payment was finally made to HPHC for the previous two months. HPHC then sent out new notices for the amended coverage period. One of the employees incurred medical bills in excess of \$11,000 that were subsequently covered by HPHC. TT&S then filed bankruptcy.
- **Exhibit Emporium** Exhibit Emporium had a self-insured employee benefit health plan, allegedly through April 6, 1999. Medical bills incurred by employees prior to April 6, 1999 were denied because the plan was terminated without any notice to employees who had continued to incur medical bills. Through the Division's discussions with the director of Exhibit Emporium, a payment was made directly to the employees for the unpaid medical claims.
- **Goddard House** Goddard House, a nursing home, had an employee benefit dental plan through US Health Care. The coverage was terminated appropriately by US Health Care but Goddard House continued wage withholdings. Through the Division's discussions with the HR department at Goddard House, the problem was resolved. Goddard House HR stated that it was an error.

Violations of 940 CMR 9.00

- **Harvard Pilgrim Health Care** The Division learned through various consumer complaints that Harvard Pilgrim Health Care (HPHC) was violating 940 CMR 9.00 by denying coverage to groups that were terminated due to non-payment of premium by the employer/group sponsor. HPHC was terminating groups retroactively up to 8 months as opposed to the 60 day maximum allowed by the regulation. The Division negotiated a resolution, in the form of an Assurance of Discontinuance (filed August 24, 1999) with HPHC under which HPHC would reprocess all bills for covered services up to the date that notice complying with the regulation was sent to the

subscribers. HPHC also agreed to reimburse any premiums to members who had purchased continuation coverage during this period. The resolution included a donation to be paid to the Consumer Aid Fund in the amount of \$2,500.

- **Tufts Associated Health Plan** The Division learned through various consumer complaints that Tufts Associated Health Plan (TAHP) was violating 940 CMR 9.00 by denying coverage to groups that were terminated due to non-payment of premium by the employer/group sponsor. TAHP was terminating groups retroactive up to 10 months as opposed to the 60 day maximum allowed by the regulation. The Division negotiated a resolution, in the form of an Assurance of Discontinuance (filed August 24, 1999) with TAHP under which TAHP would reprocess all bills for covered services up to the date that notice complying with the regulation was sent to the subscribers. TAHP also agreed to reimburse any premiums to members who had purchased continuation coverage during this period.
- **Health New England** The Division learned through various consumer complaints that Health New England (HNE) was violating 940 CMR 9.00 by denying coverage to groups that were terminated due to non-payment of premium by the employer/group sponsor. HNE was terminating groups retroactive up to 6 months as opposed to the 60 day maximum allowed by the regulation. The Division negotiated a resolution, in the form of an Assurance of Discontinuance (filed August 24, 1999) with HNE under which HNE would reprocess all bills for covered services up to the date that notice complying with the regulation was sent to the subscribers. HNE also agreed to reimburse any premiums to members who had purchased continuation coverage during this period. The resolution included a donation to be paid to the Consumer Aid Fund in the amount of \$3,000.

HEALTH CARE COVERAGE

During Fiscal Year 2000, the Division undertook a variety of initiatives in the areas of health insurance coverage and managed care.

Harvard Pilgrim Health Care

On January 4, 2000, Attorney General Reilly, representing the Division of Insurance, took HPHC into receivership. Many members of the Division worked on various aspects of the receivership including legal and financial analysis of various issues related to the receivership; consumer guides for the Attorney General's Web page; provider guides for the Attorney General's Web page; monitoring and investigation of consumer

complaints about HPHC vendors, including providers; drafting of a consumer impact report; and coordinated two public hearings on the receivership that were simulcast from multiple locations. HPHC remained in receivership for three months; during this time, many members of the Division devoted a considerable amount of time to the receivership.

Community Benefits

- **Hospital and HMO Community Benefits** A Division AAG oversees the implementation of the Attorney General's HMO Community Benefits Guidelines. During Fiscal Year 2000, the AAG provided guidance to the HMOs in their completion of their annual community benefits reports and analyzed those reports. The AAG also participated on a panel sponsored by the Massachusetts Hospital Association to inform hospitals of recent community benefits developments. Another Division AAG assisted with the analysis of the annual hospital community benefits reports.
- **Community Benefits Task Force** A Division AAG also oversees the Attorney General's Advisory Task Force on Hospital and HMO Community Benefits, which was convened in June 1998 for the purpose of advancing the goals of the Community Benefits Guidelines. This Task Force includes representatives of hospitals, HMOs, insurance carriers, health maintenance organizations, community health advocacy groups and relevant state agencies, and is organized into several working groups that focus on the key elements of community benefits. At a meeting of the full Task Force in January 2000, the original working groups were reorganized into the following three groups: (1) Connecting Institutions and Communities; (2) Building Institutional Support for Community Benefits; and (3) Community Benefits Reporting. The focus of these working groups reflects what the Advisory Task Force has identified as the necessary ingredients to any successful community benefits program: active community engagement; top-down support for community benefits within the hospital or HMO; and strong public accountability. Each of the working groups has been meeting on a monthly basis, and will continue to do so in the next Fiscal Year.

Continuation Coverage after Divorce

A Division AAG participated in a working group made up of various health care advocates to provide education to pro se divorce litigants on their rights to continuing coverage in the event of divorce. The group prepared a brochure to be distributed to all divorce litigants through the probate court. In addition, the group drafted amendments to the current statute to clarify the rights of divorcees to continuing coverage.

Health Care Litigation

- **Tufts Health Plan Termination of Providers** A Division AAG prepared a complaint and entered into negotiations with Tufts Health Plan, which was proposing to terminate numerous providers without notice to plan members. Ultimately, Tufts Health Plan agreed to continue the provider contracts until the beginning of open enrollment period of each provider's patients, so that terminations were fully disclosed and consumers had the ability to change insurance carriers and obtain continuous coverage. Tufts Health Plan entered into an Assurance of Discontinuance.
- **Chickering** This administrator of health plans covering a large number of college students in Massachusetts was in violation of the Massachusetts law that requires carriers to cover preexisting conditions if the insured had comparable coverage prior to the effective date of the student health coverage. Chickering entered into a consent judgment in which they agreed to change their policies to conform to the law, to reimburse all students whose coverage was unlawfully denied, and to make payments to the Attorney General's Local Consumer Aid Fund.
- **Boston Mutual Insurance Co.** This carrier of health plans covering a large number of college students in Massachusetts was in violation of the Massachusetts law that requires carriers to cover preexisting conditions if the insured had comparable coverage prior to the effective date of the student health coverage. The carrier entered into a consent judgment in which it agreed to change its policies to conform to the law, to reimburse all students whose coverage was unlawfully denied, and to make payments to the Attorney General's Local Consumer Aid Fund.
- **Continental Assurance Co.** This carrier of health plans covering a large number of college students in Massachusetts was in violation of the Massachusetts law that requires carriers to cover preexisting conditions if the insured had comparable coverage prior to the effective date of the student health coverage. The carrier entered into a consent judgment in which it agreed to change its policies to conform to the law, to reimburse all students whose coverage was unlawfully denied, and to make payments to the Attorney General's Local Consumer Aid Fund.
- **Mutual of Omaha** This carrier of health plans covering a large number of college students in Massachusetts was in violation of the Massachusetts law that requires carriers to cover preexisting conditions if the insured had comparable coverage prior to the effective date of the

student health coverage. The carrier entered into a consent judgment in which it agreed to change its policies to conform to the law, to reimburse all students whose coverage was unlawfully denied, and to make payments to the Attorney General's Local Consumer Aid Fund.

Infertility Treatment

Continuing work done in the prior Fiscal Year, the Division worked with three health care carriers to provide infertility treatment to couples in accordance with Massachusetts law. The carriers were Mega Life and Health Insurance Co., Tufts Associated Health Plan and Baystate Health Systems.

LONG TERM CARE INSURANCE

During the Fiscal Year 2000, the Division continued its work in the examination of problems faced by elders in financing nursing home and other long-term care.

Consumer Complaints and Education

The Division responded to consumer inquiries regarding long-term care insurance. A member of the Division made presentations to groups of agents and consumers concerning long-term care insurance.

Long-Term Care Insurance Regulation

A Division AAG worked with the Division of Insurance to finalize major revisions to the DOI's long-term care insurance regulation, which became effective on January 1, 2000. That AAG also played a lead role in developing and writing "Your Options For Financing Long-Term Care: A Massachusetts Guide," a comprehensive consumer guide to long-term care financing that the new regulation requires long-term care carriers and their agents to provide to consumers at the start of the sales process. During the next Fiscal Year, members of the Division plan to monitor industry compliance with the revised long-term care insurance regulation, and to conduct focus groups with consumers and agents to identify how consumer education on long-term care financing might be improved.

LIFE INSURANCE LITIGATION

- **Consumer Complaints** During Fiscal Year 2000, the Division continued to devote a considerable amount of time and resources to sales practices in the life insurance industry. These

practices included the alleged misrepresentations made by various life insurance companies in the sale of their life insurance products. These misrepresentations generally involved “churning” (the practice of turning in old policies for new policies on the representation that the old policies would fully or partly support the new); “vanishing premiums” (the promise that premiums would no longer be necessary after a finite number of years). The Division mediated cases on behalf of individual consumers and also engaged in discussions with several companies that would resolve the cases on a global basis.

- **Prudential Life Insurance Company of America Claims Settlement** The Division continued to monitor the Alternative Dispute Resolution (ADR) process detailed in our consent judgment against Prudential and in the global class action settlement. In addition, the Division provided advice to policyholders who were dissatisfied with their settlement proposal and wished to appeal the decision. The Division continued to participate in the Regulatory Oversight Group that is conducted by the various states to ensure the fairness of the remediation process. Members of the Division also spent time with policyholders who do not understand the offers made to them. The processing of claims and appeals, and accordingly the Division’s work, will continue into the next Fiscal Year.

- **Hancock Mutual Insurance Company** In the previous Fiscal Year, the Division filed a consent judgment in which John Hancock agreed to provide global relief for the alleged deceptive sales practices of its agents from 1979 through 1996. The judgment provided relief to approximately 250,000 Massachusetts policyholders. In the litigation, the Division, as in the case against The Prudential, alleged that John Hancock engaged in three primary deceptive sales practices in the sale of whole life, universal life and variable life insurance policies, as well as certain mutual funds and annuities sold during that time frame. The Division alleged that John Hancock engaged in: “churning” or replacement and financing; “vanishing premiums” or “abbreviated premium payment” plans; and selling life insurance as an investment, retirement plan, savings plan or college savings plan (the practice of selling life insurance by either disguising the product as life insurance or minimizing the life insurance of the product).

On May 1, 1998, the Division set up a consumer hotline to assist policyholders in making appropriate elections of either ADR or General Policy Relief (GPR) and to assist them in filing their claim forms in a manner designed to afford them the best possible relief. The hotline was still in operation at the end of the Fiscal Year. The Division has also met with and assisted almost 3,000 policyholders through personal assistance and seminars. The Division continues to

meet with defendants' and plaintiffs' counsel in order to ensure compliance with the letter and spirit of the settlement. At the end of the Fiscal Year, the remediation program was still ongoing.

- **Metlife** In June of 2000, the Division filed a consent judgment in which Metropolitan Life Insurance Company (MetLife) agreed to resolve alleged deceptive sales practices by providing global relief to Massachusetts consumers who purchased certain insurance products from MetLife between 1982 and 1997. Massachusetts v. Metropolitan Life Insurance Company, SUCV #2000-02516-A (Sikora, J.). The judgment provided relief to approximately 250,000 current and former MetLife policyholders in Massachusetts. The deceptive sales practices alleged by the Division included: vanishing premium sales, replacement sales, sales of insurance as investment or retirement plans, and policy performance misrepresentation sales. The judgment followed a multi-year investigation by the Division. The allegations in this case were similar to the allegations resolved by the Division in prior consent judgments with the Prudential Life Insurance Company of America and the John Hancock Life Insurance Company.

As part of the MetLife consent judgment, the Attorney General required substantive improvements to a national class-action settlement and that settlement was approved as amended by the Attorney General. In re: Metropolitan Life Insurance Company Sales Practices Litigation, Misc. Docket No. 96-179, MDL No. 1091 (W. D. Pa. July 26, 2000). The national class action involved roughly seven million class members and the total relief to class members nationwide has been estimated at one billion dollars (\$1,000,000,000).

In addition to providing global relief through an improved relief structure, the Attorney General instituted an outreach and assistance program to aid individual class members in Massachusetts. The relief structure required current and former MetLife policyholders to decide between general relief (temporary insurance coverage) or more valuable individual claim relief which provides cash benefits. The outreach and assistance program involved sending informative guides about the settlement to all 250,000 Massachusetts class members, public service announcements, and a toll-free telephone hotline to answer individual questions from class members. The Division received more than 18,000 calls about the MetLife settlement. The Attorney General's outreach programs were funded by MetLife.

As a result of the Attorney General's outreach program in the MetLife case, individual relief claims were submitted by 4.8% of class members in Massachusetts. Nationally the figure was only 1.95% of class members. This difference between Massachusetts and the national average indicates that roughly 5,000 Massachusetts class members filed individual claims because of the

AG's outreach. With average individual claim relief at \$3,266, it is fair to say the AG's outreach in the MetLife case provided those 5,000 Massachusetts class members with roughly sixteen million dollars (\$16,000,000). Total relief to Massachusetts residents from the MetLife case was approximately thirty-three million dollars (\$33,000,000).

AUTO INSURANCE LITIGATION

- **In re Metropolitan Property and Casualty Insurance Co.** The Division investigated Metropolitan for failure to credit passive restraint discounts to private passenger auto insurance premiums. The Attorney General entered into an Assurance of Discontinuance in which Metropolitan agreed to: (a) correct a systems error so as to make proper discounts in the future; (b) refund nearly \$2 million in unpaid discounts; and (c) donate \$40,000 to the Attorney General's Local Consumer Aid Fund.

CONSUMER ASSISTANCE

Insurance Hotline and Mediation Program

The Insurance Hotline is the primary communication link between the public and the RID mediation program. In Fiscal Year 2000, 10,916 people, an average of more than 900 a month, called the Hotline to ask questions and seek help with insurance problems. More than 50% of the callers were concerned about health insurance issues. Many of the callers had been recently laid off from their jobs and did not know their health insurance rights; others were concerned about the cost of health insurance, access to care, claim denials and medical bills.

The Insurance Hotline received a very large volume of calls in January, when Harvard Pilgrim Health Care was placed in receivership. During the months of January, February and March, the Hotline received an average of more than 1,400 calls a month. Many of the callers were Harvard Pilgrim members worried about their coverage, health care providers, employers, and senior citizens with First Seniority coverage. At the urging of Attorney General Reilly the Insurance Hotline became toll-free in January, 2000.

Hotline callers ask questions ranging across a broad spectrum of insurance issues. Though health insurance always tops the list, auto insurance, life insurance, disability insurance, credit insurance, travel insurance, and potential insurance scams are major concerns. Callers ask questions about claim settlement procedures, how to cancel an unwanted policy, how to appeal denials, and how to evaluate an insurance company or product.

RID's four full-time mediation staff members answer the questions of Hotline callers. Staff members provide information and referrals, and, when appropriate, mail consumer complaint forms to callers.

During Fiscal Year 2000, RID opened 1,374 new consumer complaint files, nearly 60% of which were submitted on complaint forms or as letters to RID. As with the Hotline, the majority of written complaints related to health insurance. 790 of the new complaints, more than 57% of the total, involved health insurance. The most prevalent health insurance complaint category was claim denials. In Fiscal Year 2000, RID closed 1,351 consumer complaint files. RID mediators recovered \$1,480,361.90 for consumers.

Consumer complaints are handled by RID staff mediators and undergraduate interns. In Fiscal Year 2000, twenty undergraduate students from more than a dozen schools and universities were trained to mediate consumer complaints. Nearly half of the interns received academic credit for their work. During the summer and academic year, interns volunteered more than 2,000 hours in the mediation program.

RID INSURANCE HOTLINE RESULTS: FISCAL YEAR 2000

	Total New Complaints	Complaint Forms + Letters	Top Issue	Files Closed	Funds Recovered for Consumers
July '99	67	43+6=49	Health: 40	130	\$113,707.75
August '99	92	41+21=62	Health: 43	117	\$99,857.86
Sept. '99	98	31+17=48	Health: 40	50	\$104,724.33
October '99	94	31+11=42	Health: 46	92	\$99,453.88
Nov. '99	96	42+30=72	Health: 40	119	\$92,276.58
Dec. '99	88	40+17=57	Health: 48	96	\$102,801.61
January '00	145	57+34=91	Health: 103	56	\$95,131.78
Feb. '00	153	58+32=90	Health: 115	153	\$215,540.26
March '00	164	61+33=94	Health: 92	164	\$140,900.38
April '00	131	67+15=82	Health: 76	131	\$109,362.52
May '00	113	41+19=60	Health: 63	77	\$107,707.81
June '00	133	36+18=54	Health: 85	166	\$198,897.27
Total	1374			1351	\$1,480,361.90

Notable Mediations

- A New Bedford resident contacted the Office for help with his elderly uncle's medical bills. The elderly gentleman, who is a retired New Bedford city employee, suffers from advanced Parkinson's disease. After taking a new medication, he became disoriented and wandered from his house at three in the morning. A police officer found him and brought him to a local hospital, where he was admitted for twelve days. The hospital then transferred him to a skilled nursing facility. The family contacted the insurance company and received approval. The elderly gentleman stayed at the nursing home for fifty-two days and, after rehabilitative care and a change in his medications, was able to go home. The insurance company denied payment for the rehab, stating that it was not pre-approved and was not medically appropriate, so the nursing home billed the family \$9,900 plus \$1,100 interest and late fees. A RID mediator contacted the insurance company and requested an immediate review of the claim. Upon review, the company paid the bill in full and the nursing home dropped the interest and late charges.
- A Wakefield woman who was an employee of an industrial equipment supply company, contacted RID for help with unpaid medical bills. Her employer-sponsored health plan denied payment of two months' worth of medical bills, amounting to \$10,758, stating that she had no coverage at the time. RID contacted both the employer and the plan and learned that a miscommunication had caused the plan to create two different subscriber numbers for the woman. The error was corrected and the plan paid the bills in full.
- A Norwood man suffered a stroke while on a business trip in Texas. Eight months after the hospitalization, his HMO still had not paid the claim, despite constant inquiries and reminders. When the hospital began billing him directly, the man contacted RID for help. A RID mediator contacted the hospital in Texas to review the bills, then contacted the HMO. Within two weeks, the HMO paid the claim and the hospital confirmed a zero balance.
- A Malden man called the Insurance Hotline after his HMO told him that he had to wait for his neurologist to return from a three week vacation before he could receive follow-up care. A RID mediator immediately contacted the patient's health plan center and spoke at length with the patient's primary care provider. The provider's nurse practitioner agreed to call the patient at home and arrange a referral to a new specialist. By the end of the day, the patient had a referral and was scheduled for surgery. The surgical procedure was performed successfully the morning after the patient called the Hotline.

- Seven members of a Milton synagogue planned a trip to Israel. Each of them purchased travel insurance. When the US State Department issued a Travel Warning for the Middle East shortly before their scheduled departure date, the group canceled their trip. The travel insurance policy states that it covers trip cancellation in the event of a governmental travel warning; therefore, each person filed a claim for a refund of the ticket cost. The insurance company denied their claims, asserting that the State Department had not prohibited travel to Israel on specified dates. The group's travel agent contacted the Attorney General's Office to ask for help in appealing the denial. A RID mediator contacted the State Department to discuss Travel Warning procedures, and learned that a warning is the strongest form of cautionary notice. The mediator then contacted the travel insurer. After several discussions, the insurance company agreed to issue full refunds to all seven travelers.
- A young mother from Hanover contacted RID to request help in appealing her health plan's denial of sixty days of occupational and physical therapy for her six-year-old son. Her plan allows sixty days of therapy. The boy has gross and fine motor skill delays after having undergone cardiac surgery in infancy. In denying the request for therapy, the health plan stated that the boy had already used up his benefit. However, a RID mediator, working with the mother and the boy's medical providers, was able to demonstrate that most of the sixty-day benefit was still available. The plan reversed its denial and agreed to provide full coverage.
- A Hingham widower contacted the Attorney General's Office for help because his health plan was refusing to pay more than \$40,000 in nursing home bills. His wife had recently died of lung cancer, after undergoing intensive chemotherapy and radiation treatments. The man's health plan denied payment of the nursing home bills incurred in his wife's final weeks of life, stating that the nursing home care was not at the appropriate level and was not pre-approved. A RID mediator contacted the health plan and requested a full review of the claim. After several discussions, the plan agreed to pay the bills in full and took steps to redesign its handling of similar claims.
- A Lowell woman asked RID for help when her HMO denied coverage of special low-protein formula for her infant son. The plan stated in its denial that the infant did not meet medical eligibility criteria. A RID mediator contacted the infant's pediatrician and learned that the child did, in fact, meet the criteria. Working with the pediatrician and the family, RID appealed the denial. The HMO reversed its decision and provided coverage for the infant formula.

- A Chatham woman contacted the Insurance Hotline after all her efforts to appeal her HMO's denial of an emergency claim failed. The woman's husband had fallen down the cellar stairs head first and was rushed unconscious to the nearest emergency room. He was admitted to the hospital for three days and released with moderate injuries. The HMO refused to pay any of the bills because the hospital was out of network and the situation was not a bonafide emergency.

The HMO also provided contradictory information about appeals. A RID mediator contacted the HMO, and after also receiving contradictory information about appeals, was able to convince the HMO to reverse its denial and pay all the bills in full.

In addition to the many consumer complaints which the Division was able to resolve on behalf of consumers, members of the Division explained and worked with many consumers to guide them in such matters as: understanding the intricacies of various entitlement programs and the interplay between them; the billing practices of their health insurers; and continuation of health insurance coverage following termination of employment or following divorce. While no monetary consumer benefit can be placed on these activities, they provide a valuable service to Massachusetts consumers, many of whom are elderly or who have no other sources to turn to for help.

AG ELDER

The Attorney General's Elder Hotline is a recent initiative that began operation on June 16, 1997. The hotline was established in response to the high volume of calls from, or relating to, the elderly that come into the Attorney General's Office. When the Hotline first began, it primarily provided information and referral services and, with the exception of the director, was staffed solely by senior volunteers. Since that time, the role of the Hotline has expanded to include mediation services and two part-time staff people have been hired to help handle the increased work load. In the past Fiscal Year, the number of calls and the number of elders helped has continued to grow, showing an increase of 1,376 calls over the previous year. The total number of phone calls fielded were 6,617 calls and 2,408 elders were provided direct assistance. Mediation activities benefitted elders in the amount of \$61,663.46 during the past Fiscal Year.

The Hotline handles a wide variety of complaints for its targeted population, men and women age 60 and over. The Hotline also responds to inquiries from family members and professionals who have concerns about an elder. In these instances, in keeping with the philosophy of the Hotline, the elder is always contacted before any action is taken on the complaint.

Typically, the Hotline receives a large number of complaints against telemarketers, home improvement contractors, mail order businesses, car dealerships, collection agencies, and health care businesses. Complaints about prescription drug coverage and limitations in health care coverage are also frequent. Other types of complaints include tenant/landlord issues and complaints from elders living in senior housing complexes.

Although the issues that were raised by the callers were consistent with those raised in previous years, there were some variations in the emphasis. This year, there was an increase in the number of complaints from elders with limited means who had accrued unmanageable debts. Generally, these elders receive government benefits as their sole form of income and are considered "judgment proof." Much of the credit card debt consisted of late charges and other fees. The Attorney General's Office was able to assist these callers by educating them about the protection afforded their benefits and by assisting them with letter writing and through contacting the debt collectors on their behalf. In many instances, we were able to get the debt forgiven.

A second area of note was the increase in complaints against telemarketers and specifically those selling credit card protection services. Telemarketers used high pressure tactics and sometimes misrepresented their product in order to persuade elders to purchase the services. Mediation through the Elder Hotline resulted in refunds for nearly one hundred percent of the consumers who filed complaints against telemarketers selling this service.

Most complaints that come into the hotline are handled by first educating consumers about their rights and options and encouraging them to take steps to resolve the issue themselves. When this is not effective or appropriate the Hotline mediates complaints. In some instances, the complaint may be referred to another division within the Office of the Attorney General for follow-up.

Outreach Activities

The Elder Hotline has continued to grow and has become more widely known among other agencies in Massachusetts as evidenced by the growing number of referrals that come into the line through outside state agencies. The Hotline has encouraged collaboration with state agencies through the referrals that it gives and through the monthly trainings that the Hotline offers its staff. These trainings are often given by agencies that provide services to elders. In addition, Hotline staff has begun to increase its outreach to the larger community by seeking opportunities to address elders and elder service providers on issues of concern to them.

OTHER ACTIVITIES

Legislative Activities

A member of the Division worked actively with the Attorney General's legislative office and advocates to support two bills, S.733 and S.734. Both bills would prohibit discrimination by insurance companies on the basis of gender.

Guest Speakers

Members of the Division made presentations to several organizations regarding insurance and financial exploitation of the elderly. Division staff also participated on a panel sponsored by the Massachusetts Hospital Association to inform hospitals of recent community benefits developments. A member of the Division made presentations to groups of agents and consumers concerning long-term care insurance.

Regulatory Activities

A member of the Division presented testimony at a public hearing at DOI to consider the overall state of the Massachusetts Medigap market for health insurance for seniors. The "Medigap" market provides seniors with health coverage for gaps in Medicare, including a portion of hospitalization and physician costs and prescription drugs. The testimony discussed the principal issue in the Medigap market, cost, and urged the Commissioner to closely scrutinize proposed cost increases. The testimony also discussed two flaws in the functioning of the market that may be dangerous or disruptive to seniors: 1) the withdrawal of Medigap insurers from certain geographic areas within the state without providing patients with an opportunity to obtain alternative coverage, and 2) the termination of provider contracts without adequate notice to patients.

Amicus Briefs

- **Pegram v. Herdrich** A member of the Division was the primary author of an amicus brief filed in the U.S. Supreme Court on behalf of 17 states. The case addressed the preemption by ERISA of state actions regarding physician incentive plans in managed care organizations, and, by extension, the ability of the states to regulate managed care.

- **Szymanski v. Boston Mutual Life Insurance Co.** (Mass. App. Ct. No. 99-P-1756) A member of the Division was the author of an amicus brief filed in the Massachusetts Appeals Court on behalf of the Attorney General. This issue before the Court is whether the statute of limitations begins to run at the time an insurance policy fails to perform as promised or when the consumer receives the first statement regarding the policy. In this case, the consumer purchased a vanishing premiums policy in 1986 and then began receiving annual policy statements in 1987. The consumer did not become aware of any problems with his policy until 1996 when his premiums failed to vanish as promised. He then filed in suit in 1998. The Superior Court held that the statute of limitations had passed.

ESTIMATED SAVINGS TO CONSUMERS

Auto Rate Case	\$213,000,000
Medigap Insurance Rate Cases	15,477,978
FAIR Rate Case	225,000
Consumer Hotline	1,480,362
AGELDER Mediation	61,663
Total	\$230,245,003

UTILITIES

The bulk of the utility workload of the Regulated Industries Division in Fiscal Year 2000 involved advocacy of consumer interests in connection with the implementation of the dramatic changes underway in the telephone, electric and gas utility industries. There were no traditional rate cases, but a number of proceedings related to mergers between utility companies involved rate issues. Implementation of the 1997 Electric Restructuring Act (St. 1997, c. 164) continued with the final proceedings on individual electric utility company restructuring plans as well as proceedings concerning sales of electric generating facilities, annual transition cost reconciliation filings, and the design of the "default" power service that must be made available to all customers. Work continued among interested parties to make competitive gas supplies

available to more customers and further progress was made at expanding the range of activities in which competition could occur in the telecommunications industry. The Division was an active participant in all of these developments. It advocated new structures and rules to maximize the consumer benefits from the change in regulatory approach as well as to protect the interests of small residential and business customers during the transition to new regulatory frameworks. Most of this work occurred in adjudications of specific cases. Examples of the Division's public utility work relative to each industry in Fiscal Year 2000 include:

GAS MATTERS

- **Eastern Enterprises-Colonial Gas Company Merger**, D.T.E. 98-128 - Colonial is a natural gas local distribution company serving approximately 152,000 customers in 24 municipalities northwest of Boston and on Cape Cod. Colonial has one subsidiary, TransGas, which is in the business of trucking LNG and is not regulated by the Department.

Eastern Enterprises is a holding company under the Public Utility Holding Company Act of 1935, exempt from registration under the intrastate exemption pursuant to various orders of the United States Securities and Exchange Commission (SEC) which has concurrent regulatory, but separate subject-matter, authority with the Department over the merger. Eastern is the sole stockholder of all issued and outstanding common stock of Boston Gas and Essex County Gas which together serve approximately 580,000 customers in Massachusetts.

The Department is considering approval of the petition of Eastern Enterprises to acquire Colonial Gas Company which has proposed as part of its petition that a Rate Plan be adopted. In broad terms, the proposal posits that there would be a ten-year "rate freeze," meaning that base rates would not be increased for ten years; over that time Eastern would collect \$15.3 million per year through charges to Colonial's customers. Of this amount, \$8.2 million represents the annual cost to amortize the goodwill or acquisition premium (the amortization will last for another thirty years), \$4.1 million represents the annual interest on \$144 million in cash used to purchase Colonial shares of stock, \$1.7 million represents the annual amortization cost to reimburse Eastern for the cost necessary to achieve synergistic savings, and \$1.3 million per year for ten years is necessary to make Eastern whole for the transaction costs to complete the merger. Over the succeeding thirty years, Colonial's customers will be required to pay \$12.3 million per year, \$8.2 million for the amortization of goodwill and \$4.1 million in interest on the Eastern cash used to purchase Colonial's common stock. The Petitioners maintained that without these charges to Colonial's customers, there is no assurance that the merger will be in

the Eastern shareholders' interest. In other words, at a cost to Colonial's customers of \$522 million, Eastern's management can guarantee its shareholders that the merger will be profitable.

The Division requested that the Department should reject the ten-year rate freeze and the Petitioners' claimed savings because: (1) the Petitioners' proposal is contrary to the legislative intent that gas and electric companies be subject to performance based rates (PBR); (2) there is no record evidence that Colonial would have received an \$8.5 million rate increase if it filed a rate case in 2000; (3) the cast-off revenue requirement is based on flawed assumptions; and (4) 3.2 percent, not 1.0 percent is the most appropriate productivity offset, if Colonial's rates were to be subject to a price cap formula.

At the close of the Fiscal Year, all hearings had been conducted and the matter has been fully briefed. The Division awaits the decision of the Department.

- **Gas Collaborative, D.T.E. 98-32-B** - In 1997 the Department of Public Utilities, the predecessor of the Department, directed the ten local gas distribution companies to initiate an informal process to build a consensus among various interested parties on principles upon which to restructure the existing industry. The goal of this restructuring is to allow all customers to choose among competing suppliers of natural gas to be delivered by the local distribution company. The Division has participated in this process, representing the interests of residential and small business customers in numerous meetings and technical conferences, urging, among other things, the principle that any restructuring or unbundling should not result in an unfair shift of costs from large to small customers. Most of this effort has been taken as a member of the so-called "Customer Group" (an informal coalition including the Division of Energy Resources as well as representatives of business customers). As a result of the inability of the interested parties to reach an agreement on the allocation of responsibility for the cost of the gas companies' existing gas supply capacity commitments, the Department opened a notice of inquiry in April 1998 to examine the question of how to dispose of that capacity as well as the question of allocation of responsibility for those costs. In May and June 1998, the Customer Group had filed two rounds of comments and given testimony in support of a requirement that those existing customers of gas companies be assigned their pro-rata share of supply capacity if they elect to purchase gas from a third party. On February 1, 1999, the Department issued its decision in which it adopted the "mandatory assignment" position advocated by the Customer Group and set October 1, 1999 as the date upon which all of the gas companies would be required to provide all of their customers with the option to purchase gas from competitive suppliers.

To assure continuation of a market for gas supplies for those customers that already had competitive alternatives, the Division entered into a settlement agreement with interested parties that: (1) exempted customers who had migrated to transportation service before February 1, 1999 from the mandatory assignment of capacity, and (2) provided that those customers who entered into supply contracts between February 1 and November 1, 1999 (including a significant number of residential customers) would pay \$0.01/therm or CCF in lieu of a mandatory assignment of capacity through November 1, 2000, after which they will be assigned their respective slices of system capacity, with the funds collected being applied to reduce the gas supply costs of residential customers. The Department approved this settlement.

- **Fitchburg Gas and Electric Light Company**, D.T.E. 99-66-B - By Notice of Investigation, issued on November 1, 1999, the Department, on its own motion, opened an investigation into the Attorney General's allegation that Fitchburg Gas & Electric Light Company (the Company) had double-collected interest on gas inventories since 1987. The Department's Notice posed three questions for resolution: "(1) whether Fitchburg over-collected for costs related to gas inventory; (2) the amount of any such over-collection; and (3) whether Fitchburg's ratepayers are entitled to reimbursement for any over-collection."

The Department conducted a public hearing on December 8, 1999 and established a procedural schedule. The Attorney General was the only party to intervene.

On January 14, 2000, the Company pre-filed the testimonies of Susan F. Tierney, Ph.D., a consultant, formerly Assistant Secretary for Policy at the United States Department of Energy and Commissioner of the Massachusetts Department of Public Utilities from 1988 through 1991, and Karen M. Asbury, Manager of Regulatory Services for Unil Service Corp., an affiliate of the Company. On January 25, 2000, the Attorney General filed the testimony of Timothy Newhard, a financial analyst with the Regulated Industries Division of the Office of the Attorney General. Mr. Newhard testified to the ratemaking principles and precedent regarding the appropriateness of the return to the Company's customers of the "double-collection" of the interest on inventory amounts. He also testified as to the dollar amount to be returned to customers as well as the interest or carrying charges on those returned amounts. Evidentiary hearings were held at the Department's offices on March 14, 15, and 22, 2000 during which all witnesses were cross-examined.

The docket was reopened upon the discovery of additional relevant documents from the Department's own archives concerning the extent of the Company's over-collections. At the close Fiscal Year 2000, the additional hearings were not yet convened.

- **The Berkshire Gas Company**, D.T.E. 99-75 - The petition of the Berkshire Gas Company requested the Department to approve a new Local Distribution Adjustment Factor and to recover certain costs associated with its planned LNG storage and vaporization facility in Whately, Massachusetts, pursuant to the LDAC as well as the Company's Rate Schedule No. M.D.T.E. 266, Seasonal Cost of Gas Adjustment Clause. The Division opposed the method of cost recovery of the facility, and the Company withdrew its petition on January 18, 2000.
- **Bay State Gas Company**, D.T.E. 99-72 - The petition of Bay State Gas Company requested approval by the Department to modify the Service Quality Index that was approved as part of Bay State's two-year rate plan settlement and continued by the Department's Order approving Bay State's merger with NIPSCO Industries, Inc. In response to the Company's August 6 filing in which it proposed to modify the operation of the service quality plan adopted by the Department in a 1997 settlement and extended in a decision approving a rate plan proposed in connection with the acquisition of Bay State by Northern Indiana Public Service Company, the Division negotiated modifications to that proposal which the Company incorporated in a revised proposal filed with the Department on December 27. Issues related to the computation of the rate changes called for in the year 2000 under that agreement continued to be the subject of discovery. On January 18, 2000, the Department approved certain modifications to the Company's plan.
- **Boston Gas Company**, D.T.E. 99-76 - This case involved the petition of Boston Gas Company, Colonial Gas Company and Essex Gas Company, pursuant to G.L. c. 164, § 176 and 94A, for approval by the Department a Gas Resource Portfolio Management contract. The Division argued that the Department should resolve certain issues only after a thorough investigation, including evidentiary hearings. These issues are: (1) whether the portfolio management proposal chosen by the Companies provided the best price and non-price terms; (2) whether the proposed management contract, as a "replacement resource" provides net benefits to existing firm ratepayers relative to the existing resource; (3) whether approval of the portfolio management contract will result in inappropriate market power in light of the fact that El Paso's affiliate, Tennessee Gas Pipeline Company is the largest of the two pipelines that serve Massachusetts; and (4) whether the Companies' proposal to retain a portion of the results of

the portfolio restructuring is consistent with the "margin sharing" principles. By order dated October 18, 1999, the Department approved the Company's request.

- **Southern Union Gas / Fall River Gas Merger, D.T.E. 00-26; Southern Union Gas / North Attleboro Gas Merger, D.T.E. 00-25** - On January 27, 2000, Southern Union Company, headquartered in Austin, Texas, filed petitions with the Department requesting approval to acquire two small Massachusetts gas companies operating in southeastern Massachusetts, Fall River Gas Company and North Attleboro Gas Company. The Division entered into discussions with Southern Union which resulted in a settlement agreement in June 2000 in which the Attorney General agreed not to oppose the acquisitions, Southern Union agreed not to request rate recognition of any merger costs in this proceeding and to provide certain allocation of cost information on a continuing basis.

Fall River is estimated to save \$105,836 annually due to the merger and resulting elimination of "public company" expense such as are incurred with shareholder meetings, and the preparation and processing of required public filings. North Attleboro is estimated to save \$12,917.

Fall River's allocated share of the acquisition premium is approximately \$33.5 million, while its share of transaction costs is estimated at \$3.7 million, with no estimate of integration costs provided. North Attleboro's allocated share of the acquisition premium is approximately \$11.3 million, and no estimate of its transaction costs or integration costs is made. Finally, Southern Union commits to no layoffs as a result of the mergers.

ELECTRIC MATTERS

- **BEC Energy-Commonwealth Energy System Merger, D.T.E. 99-19** - Boston Edison is a Massachusetts electric company subject to the jurisdiction of the Department pursuant to G. L. c. 164, § 1, and a principal and wholly-owned subsidiary of BEC Energy. The Department approved the formation of the holding company in Boston Edison Company, D.P.U. 97-63 (1997), an unincorporated Massachusetts voluntary association, created by Declaration of Trust dated March 25, 1997, which is an exempt holding company under the Public Utility Holding Company Act of 1935. 15 U.S.C. § 79(b)(a)1. Boston Edison is currently engaged in the generation, transmission and distribution of electricity to approximately 633,000 retail residential, commercial and industrial customers over an area of 590 square miles in forty communities. Pursuant to a Settlement Agreement filed with the Department on July 8, 1997

and approved by the Department in Boston Edison Company, D.P.U. 96-23 (1997), Boston Edison agreed to freeze retail rates until December 31, 2000.

Commonwealth Energy System is composed of twenty subsidiaries including Com/Energy Services, which performs management services for the subsidiaries, Canal Electric Company, a wholly-owned generation company which historically has provided electric generation services to Commonwealth Electric and Cambridge, Hopkinton LNG, a natural gas company, Com/Energy Resources, Inc., MATEP, which owns a cogeneration facility located in Boston, and Com/Energy Marketing, Inc., a power marketer. Commonwealth Electric serves approximately 327,000 retail customers in southeastern Massachusetts, including Cape Cod and Martha's Vineyard. Cambridge provides transmission and distribution service to approximately 45,900 customers in the City of Cambridge, Massachusetts. It also makes wholesale sales under FERC-approved contracts and owns the 13.5 MW Blackstone generating station located in Cambridge. Commonwealth Gas provides local gas distribution service to approximately 239,000 retail customers in eastern Massachusetts.

On February 1, 1999, Boston Edison Company ("Boston Edison" or "BECo"), Cambridge Electric Light Company ("Cambridge Electric"), Commonwealth Electric Company ("Commonwealth Electric"), and Commonwealth Gas Company ("Commonwealth Gas") (jointly "the Companies") filed with the Department of Telecommunications and Energy ("the Department") a joint petition for approval pursuant to G. L. c. 164, § 94 of a rate plan related to the planned merger of BEC Energy. BEC Energy's other wholly-owned, primary subsidiary, Boston Energy Technology Group, Inc. ("BETG"), is the unregulated parent company of BecoCom, Inc., a 49% owner of RCN/BecoCom LLC which provides local and long-distance telephone service, video, and high-speed Internet access. BETG also owns Northwind Boston, LLC (75%), Coneco Corporation, Boston Edison Services, Inc., and RZT Corporation, the holding company and parent of Boston Edison and Commonwealth Energy System ("the Commonwealth System"), the holding company and parent of Cambridge, Commonwealth Electric and Commonwealth Gas. The holding companies have filed an Application for Approval of Merger with the Federal Energy Regulatory Commission, dated February 8, 1999. In that filing, the companies do not propose to charge their wholesale customers any part of the \$858 million acquisition charge, and state that "the merger requires the approval of the Massachusetts DTE."

The Companies estimate that an acquisition premium of \$502 million will be paid for COM/Energy's stock, assuming a share price of \$44.10 with 21.5 million shares outstanding and a

book value of \$446 million at \$20.75 per share. As of the time of the hearings, it was not determined how the acquisition premium would be allocated among the four utility distribution subsidiaries.

As elements of a rate plan tied to the merger, the Companies proposed that 1) distribution base rates for all four utility operating companies be frozen for four years following consummation of the merger; 2) merger costs be recovered over forty years; and 3) a service quality plan be instituted. Distribution base rates could be increased during the rate freeze for exogenous costs, consistent with the Department's decision in Eastern-Essex Acquisition, D.T.E. 98-27 (1998). Boston Edison's existing rate freeze, due to expire December 2000, would be extended by about two years.

As part of its proposal, the Companies sought Department approval to charge customers \$34.1 million a year during the first six years after the merger, an amount composed of \$20.6 million for the acquisition premium (\$824 million amortized over forty years) and \$13.5 million in costs to merge (\$135 million amortized over ten years). Over the succeeding thirty years, customers will be charged \$20.6 million a year for the acquisition premium. It is the Companies' position that these costs must be unconditionally approved. The Companies estimate net savings during the first ten years following the merger of \$532 million.

The Division proposed to compare Boston Edison's, Cambridge Electric's, ComElectric's, and ComGas' current rates to what they would be during each of the four years of the proposed rate freeze if determined using a price cap formula under performance-based regulation (PBR). The Division argued that for the proposed rate freeze to satisfy the no net harm standard, the Joint Petitioners must first demonstrate that the current rates are just and reasonable. The Division maintained that the Joint Petitioners made no attempt to demonstrate that their current rates are just and reasonable. In support of its position, the Division noted that the most recent full review of Cambridge Electric's, ComElectric's, and ComGas' rates were in 1993, 1991, and 1991, respectively. The Division concluded that the record demonstrates that rather than producing savings for customers, the Rate Plan deprives them of PBR-based rate decreases, to the benefit of shareholders. Consequently, the Division considered that the proposed four-year rate freeze fails to meet the no net harm standard and therefore should be denied. The Joint Petitioners inappropriately seek to shift all the risks related to merger costs and savings, including the acquisition premium, onto their respective ratepayers.

At the close of the Fiscal Year, all hearings had been conducted and the matter has been fully briefed. The Division awaits the decision of the Department.

- **New England Electric System and Eastern Edison Company Merger/National Grid and New England Electric System Merger**, D.T.E. 99-47 - Massachusetts Electric Company and New England Power Company, subsidiaries of New England Electric System and Eastern Edison Company, subsidiaries of Eastern Utilities Associates, filed a joint petition for approval by the Department of Eastern Edison Company's merger into Massachusetts Electric Company. At the same time, The National Grid Group, a global U.K.-based company, merged with New England Electric System, the parent company of Massachusetts Electric Company.

The Division worked with numerous interested intervening parties to arrive at an overall settlement that resolved all the issues in both proposed mergers.

The settlement provided for a rate freeze or "Rate Cap" period from the effective date of the Settlement through February 2005, giving customers an immediate \$10 million rate reduction. Then beginning in March 1, 2005 through December 2009, a Performance Base Ratemaking (PBR) mechanism was established that ties Mass Electric's rates to the rates of other companies in the region. Beginning March 1, 2005, the Company's distribution Rates will be set based on a regional index of similarly unbundled IOU's in New England, New York, New Jersey and Pennsylvania. The settlement requires that distribution rates will not exceed 90 percent of the regional index. During the Rate Index Period, distribution rates will be adjusted annually to track changes in the regional average, subject to both positive or negative adjustment for exogenous factors. Mass Electric's distribution rates are guaranteed to be below the rates for the Northeast region. Another important facet of the Settlement is a comprehensive service quality plan, based around a number of output measures, relating to reliability, customer service and worker safety. The settlement's Service Quality Plan has a system of incentives and penalties, which will be determined annually with the maximum net penalties in any year set at the equivalent of 2 percent of Company's transmission and distribution service revenues.

On March 14, 2000, the Department issued an order approving the settlement. In reviewing the settlement proposal, the Department evaluated the benefits and costs associated with the merger based on the following four factors: (1) effect on rates; (2) effect on service quality; (3) societal costs; and (4) distribution of resulting costs and benefits between shareholders and ratepayers. The Department concluded that the settlement was in the public interest and approved the mergers.

- **Western Massachusetts Electric Company**, D.T.E. 00-33 - This case involves Western Massachusetts Electric Company's transition charge reconciliation filing for the 22-month

reconciliation period from March 1, 1998 through December 31, 1999. The Division has engaged in negotiation regarding certain elements of the reconciliation, including the treatment of connection charges related to the sale of generation assets, tax credits and pension fund benefit retirement funding issues. As of the close of the Fiscal Year in June 2000, no final settlement had been reached with the Company.

- **Boston Edison Company**, D.T.E. 96-1A-1 / 97-1A-1 / 98-1A - On January 9, 1996, pursuant to G.L. c. 164, s. 94G and 220 C.M.R. s. 8.00 et seq., Boston Edison Company applied to the Department for review of its actual performance results relating to fuel procurement and use for the twelve-month period November 1, 1994 through October 31, 1995. These matters were docketed as D.P.U. 96-1A. On January 8, 1997, the Company applied for review of its actual performance results relating to fuel procurement and use for the twelve-month period November 1, 1995 through October 31, 1996. These matters were docketed as D.P.U. 97-1-A. The Department consolidated these dockets for hearing.

On June 30, 2000, the Division filed a settlement with the Department resolving most of the issues in these proceedings concerning the performance of Boston Edison's Pilgrim nuclear power plant during 1995-98. This agreement requires the Company to return \$2.5 million to its customers through a special credit against the transition costs it will otherwise recover from customers. No final order approving the settlement had been issued during this Fiscal Year.

- **Massachusetts Electric Company v. Braintree Electric Light Department**, D.T.E. 97-84 - Massachusetts Electric Company filed a petition, complaint and request for declaratory relief concerning unauthorized service by Braintree Electric Light Department to Massachusetts Electric Company's customer, Massachusetts Heavy Industries, Inc. The Division intervened in the matter. After negotiations, the complaint was withdrawn by the Company with Department approval on December 20, 1999.

- **ComElectric**, D.T.E. 99-69 - On July 22, 1999, Commonwealth Electric Company, petitioned the Department for approval of an Amended and Restated Power Sale Agreement that the Company executed with Lowell Co-generation Company Limited Partnership. The Commonwealth requests that the Department approve: (1) the termination of all obligations that the Company has with respect to purchasing electricity from Lowell Co-gen; and (2) the inclusion of the buy-out amount as an actual and fully mitigated transition cost in the fixed component of the Company's transition charge.

The Division argued that although the Amended Agreement appears to help mitigate transition costs and produce savings for ratepayers, the Division took no position concerning whether the Department should approve the Amended Agreement. The Division requested that the Department defer ratemaking treatment of the Amended Agreement to the Company's next annual reconciliation filing, and in that proceeding, the Division would seek additional information regarding whether using EIS funds to make payments to Lowell Co-Gen is appropriate and whether the Company is improperly seeking carrying costs on customer funds, that is, the unamortized amount of the buy-out costs. On October 29, 1999, the Department approved the petition, but did not order the further hearings requested by the Division.

- **Fitchburg Gas and Electric Light Company, D.T.E. 99-58** - On June 11, 1999, Fitchburg Gas and Electric Light Company petitioned the Department for approval to sell entitlements to specific units of its generation portfolio to Select Energy, L.L.C. The Division retained an outside expert consultant concerning the allocation of costs between the generation assets and the purchase power agreements. The Division negotiated a stipulation with the Fitchburg Gas and Electric Light Company that the Company agreed not to seek any mitigation incentive after the sales agreement is implemented. By order dated December 28, 1999, the Department found the Company's sale process to be equitable and structured to maximize the value of the existing generating facilities being sold.
- **Boston Edison Company, Cambridge Electric Light Company, Commonwealth Electric Company, Eastern Edison Company, Fitchburg Gas and Electric Light Company, Massachusetts Electric Company, Nantucket Electric Company and Western Massachusetts Electric Company, D.T.E. 98-13** - On January 22, 1998, the Department of Telecommunications and Energy (Department) opened an investigation in order to consider whether granting exemptions from some or all of the requirements of G.L. c. 164, §§ 94G and 94G1/2 (including fuel charges, performance reviews, goal-settings and oil conservation adjustments) for Boston Edison Company, Cambridge Electric Light Company, Commonwealth Electric Company, Eastern Edison Company, Fitchburg Gas and Electric Light Company, Massachusetts Electric Company, Nantucket Electric Company and Western Massachusetts Electric Company is in the public interest. The Division argued that as a result of the Restructuring Act the state's utilities agreed to sell their generating units and that the provisions of G.L. c. 164, §§ 94G and 94G1/2 were no longer applicable and therefore an exemption was appropriate. However, the Division also requested that the Department conduct a final audit of the fuel charge and performance review accounts in order to assure an accurate

closure of the process. This request was denied by the Department, stating that the Division's usual discovery powers would be sufficient.

- **Western Massachusetts Electric Company**, D.T.E. 97-120 (Phase II) - On December 1, 1999, the Department ruled on motions seeking clarification and reconsideration of the Department's September 17 decision on the Company's proposed restructuring plan. The Department denied a request for clarification regarding its rejection of an argument that the Company's proposal regarding the Northeast Utilities generation and transmission agreement would shift onto Massachusetts customers responsibility for significant costs that had previously been the responsibility of the customers of the Company's Connecticut affiliate. On October 18, 1999, the Company made a compliance filing in which it purported to have modified its restructuring plan to comply with the Department's September 17 order. After evidentiary hearings on November 22, 1999, and further briefing, the Department adopted many of the Division's objections to the compliance filing and ordered further amendment to the Company's filing. A group of industrial customers and a single customer representing a temple filed notices of appeal to the Supreme Judicial Court from the Department's September 17 decision. The Division subsequently negotiated and filed a comprehensive settlement agreement addressing issues regarding unit performance review proceedings, as well a pending matter before the FERC. Under the terms of the agreement, the Company will write off \$26.15 million of assets on its books and will abide by an incentive formula for its recovery of the underappreciated cost of the 1992 replacement generator at Millstone Unit 2.
- **Demand Side Management**, D.T.E. 98-100 - In connection with a rulemaking proceeding to establish practices and procedures for the evaluation and approval of energy efficiency programs under G. L. c., 25 §§ 11G and 19, the Division participated in weekly meetings with interested parties in an attempt to achieve consensus on the energy efficiency programs for both the gas and electric industries. The Department indicated that it intended to address four broad issues in this investigation: (1) the process by which the Department will review energy efficiency programs pursuant to G.L. c. 25, §§ 19, and c. 25A, §§ 11G; (2) the criteria that the Department will employ to determine whether a proposed energy efficiency program is cost-effective; (3) the monitoring and evaluation of savings that result from implementation of energy efficiency programs in order to determine program cost-effectiveness; and (4) the shareholder incentives that are included in energy efficiency plans. On January 7, 2000, the Department issued an order addressing numerous issues, including environmental impacts, economic consequences and low income customer impact.

- **Commonwealth Electric**, D.T.E. 99-90 - On October 27, 1999, pursuant to G.L. c.164, §1A(a) and 220 C.M.R. §11.03(4)(e) Cambridge Electric Light Company and Commonwealth Electric Company filed with the Department its annual Transition Charge Reconciliation Filing. The Division challenged many of the Companies' adjustments during six days of evidentiary hearings. Among the issues addressed was the Company's failure to apply promptly the proceeds from the sale of fossil units to reduce the transition costs related to the Seabrook nuclear power plant, ComElectric's attempt to collect a higher rate of carrying costs on certain balances than allowed under the terms of earlier settlements, and ComElectric's attempt to claim as transition costs the unrecoverable balance of a plant abandoned nearly a decade before the restructuring act. The Division was awaiting a decision at the end of the Fiscal Year.
- **Performance Based Ratemaking**, D.T.E. 99-84 - On December 3, 1999, the Division filed written comments with the Department responding to fourteen questions posed in a November 5, 1999 notice of inquiry concerning service quality plans implemented in connection with performance-based approaches to rate regulation for electric and gas utilities. In these comments, the Division urged the Department to act quickly to adopt separate sets of uniform service quality measures for the electric and gas industries and, at least for the immediate future, to base the required level of performance for individual utilities relative to those measures on the most recent five years' performance by each company. The Division urged the Department to require that any service quality plan provide for maximum level of penalties permitted by law – 2% of revenues – for extraordinarily poor performance and suggested that rewards be provided to encourage exemplary service. On December 23, the Division filed Reply Comments. The Division was awaiting a decision at the end of the Fiscal Year.
- **Fitchburg Gas and Electric Light Company**, D.T.E. 99-110 - On December 1, 1999, Fitchburg Gas and Electric Light Company, pursuant to G.L. c. 164, § 1A(a) and 220 C.M.R. § 11.03(4)(e), filed with the Department its electric reconciliation mechanisms and inflation adjustment filing. The Company also proposed changes in charges for energy efficiency and renewables programs pursuant to G.L. c. 25, §§ 19 and 20. The Company filed proposed tariffs, effective January 1, 2000, that incorporated these proposed charges and adjustments. The Division filed the testimony of David Effron of Berkshire Consulting, who challenged many of the Companies' adjustments during evidentiary hearings. Among the issues addressed were the Company's excessive administrative and general expenses, post-1995 plant additions, and over collection of the Seabrook costs. The Division was awaiting a decision at the end of the Fiscal Year.

- **Boston Edison Company**, D.T.E. 99-107 - On November 30, 1999, Boston Edison Company filed its 1999 transition charge true-up filing for approval by the Department. The Company also filed a reconciliation of standard offer service, default service, and transmission service costs and revenues for 1999, and proposed changes to charges and tariffs to be effective January 1, 2000. In early December, the Division filed comments objecting to the Company's transition (i.e., stranded) cost recovery report and requesting a full investigation. Among the issues identified is the Company's treatment of certain foregone revenues from sales to the MWRA as well as a depreciation account deficiency resulting from a recent sale of street lighting assets to a municipality. After numerous rounds of discovery, the Division entered into settlement discussions with the Company and interveners. These discussions resulted in an agreement which addressed some of the concerns held by the Division. At the close of the Fiscal Year, the Department had not yet issued an order addressing the proposed settlement.
- **Commonwealth / Cambridge Electric**, D.T.E. 99-89 - On October 27, 1999, Cambridge Electric Light Company and Commonwealth Electric Company, pursuant to G.L. c. 164, §§ 1A, 1G, 76, 94, and 94A, petitioned the Department for approval of a sixth amendment to a Power Contract by and between Canal Electric Company and the Companies. The Sixth Amendment provided for the Companies' buydown of their embedded cost obligation to Canal with respect to purchases of electricity from Seabrook Unit No. 1

The Division asserted that a buydown of Seabrook embedded costs would be in the best interests of the Companies' customers. Nonetheless, the Division argued that a number of factual and ratemaking issues remain unresolved, and that the Department's assessment of the buydown agreement must therefore address: (1) whether the Companies' Seabrook costs are generation-related transition costs or above-market PPA costs; (2) the propriety of the more than twelve-month delay between the time that the Companies received the proceeds of the Canal divestiture and the time that the buydown was proposed; and (3) what, if any, ratemaking treatment should be given to post-December 31, 1995 Seabrook investments as well as ongoing Seabrook costs. The Division also asserted that the Companies must provide information regarding the remaining available balance of EIS funds and clarify whether payout of the buydown funds will occur in one step or over a number of years. The Division did not oppose the proposed buydown, subject to a resolution of those matters. The Division was awaiting a decision at the end of the fiscal year.

- **Northeast Utilities Service Company**, FERC No. ER-99-3196 - The Northeast Utilities companies have operated pursuant to the FERC-jurisdictional Northeast Utilities

Generation Transmission (NUG&T) agreement as a means of reducing generation and transmission costs. In light of the recent electric industry restructuring, modifications to the NUG&T agreement were required to account for divestiture of generation units. Northeast Utilities Service Company, on behalf of Western Mass. Electric Company (WMECo) and certain other NU companies, filed an NUG&T amendment with FERC. The Division filed a protest with respect to the cost allocation mechanism of the modifications to the NUG&T as not in the best interests of Massachusetts consumers. FERC responded that the Company's proposed amendment had "not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful." FERC suspended the filing and set the matter for hearing pending resolution of state restructuring dockets. The Division reported to the FERC in January 2000, indicating that Department has declined to address interstate cost shifting issues raised by the proposed terms under which the Northeast Utilities generation and transmission agreement is to be terminated. In this report the Division requested that FERC appoint a settlement staff, and the Division has been negotiating with the parties for a resolution of the cost shifting issue. As of the end of the Fiscal Year no final settlement had been approved.

- **Western Massachusetts Electric Company, D.T.E. 00-11** - The Division participated in a one day evidentiary hearing held in connection with the Department's investigation of a proposed buyout of a purchase power contract for a portion of the output of the Vermont Yankee nuclear power plant. Under the terms of the buyout option proposed by WMECo, the Company is required to make a lump sum payment in exchange for the termination of its current life of the unit, cost of service contract. In the comments filed on June 6, 2000, the Division urged the Department to reject the Company's proposed buyout since the record evidence did not demonstrate that the lump sum payment option would likely result in savings for consumers.
- **Western Massachusetts Electric Company, D.T.E. 00-40** - The Division participated in two days of evidentiary hearings on the Company's April 18, 2000, request that the Department allow it to issue up to \$261 million of rate reduction bonds to refinance the principle amount of its remaining transition costs. The Division filed briefs urging the Department to limit the amount of rate reduction bonds authorized to the level shown to result in actual savings for customers. At the close of the Fiscal Year, an order has not yet been issued by the Department.
- **Default Service, D.T.E. 99-60** - On May 12, 2000, the Department issued an order in the investigation it initiated on June 21, 1999, into the pricing and procurement of Default Service under the Restructuring Act. In response to written comments previously filed, the Department

announced a modified pricing proposal that allowed utilities substantial flexibility in determining when and for how long to seek competitive bids to supply power, deferred the issue of class specific default service rates, and provided two pricing options for consumers. The Division participated in a public hearing / technical sessions on the proposal, which was adopted with limited modification in a June 30, 2000, order by the Department.

TELEPHONE MATTERS

- **Four Overlay Area Codes for Eastern Massachusetts, D.T.E. 99-11** - The Department opened this area code relief docket to determine whether new area codes were necessary for Eastern Massachusetts and, if necessary, whether the current area codes should be split or should be overlaid with new area codes. The North American Number Planning Administration (NANPA) filed area code implementation plans under which the Department could choose either a geographic split (where half the phone numbers stay the same and the other half are assigned a new area code) or an overlay (which requires ten-digit dialing for all phone numbers, old and overlay). The Department conducted public hearings on the NANPA proposals during which the Division issued public statements that urged the Department to conduct a thorough investigation before adopting any implementation regime. Verizon and other carriers urged the Department to implement overlays, rather than splitting the current area codes. The Department denied the Division's request for evidentiary hearings and on April 25, 2000, released its order creating four new overlay area codes. NANPA later announced the identity of the codes: 339 (781 area code overlay), 351 (978 overlay), 774 (508 overlay), and 857 (617 overlay). On May 11, 2000, the Division attended a NANPA implementation meeting for the four new overlays in Eastern Massachusetts. The new overlay area codes went into effect on May 1, 2000, and mandatory ten-digit dialing will go into effect on April 2, 2001.
- **Thousand Block Number Pooling in Eastern Massachusetts, D.T.E. 99-99** - Complementing the overlay docket, the Department had opened a new docket to investigate the feasibility of implementing thousand block number pooling. The Division filed reply comments on the Department number pooling trial for Eastern Massachusetts on November 1, 1999, and filed a motion on January 28, 2000, asking the Department to issue an order for number pooling for the 508, 617, 781, and 978 area codes by May 1, 2001. The Division also filed reply comments on March 13, 2000, to AT&T's motion for partial reconsideration of the Department's number pooling order regarding the Department's requirement of a 75% fill rate before a carrier could request a new exchange code.

- **413 Area Code Relief for Western Massachusetts**, D.T.E. 00-64 - The Department opened a new docket to examine the need for a new area code in Western Massachusetts. As part of that investigation, the Division attended a NANPA area code relief planning meeting in Holyoke, MA for the 413 area code on June 20, 2000.
- **Bell Atlantic/Verizon's Section 271 Application to enter the Massachusetts long distance market**, D.T.E. 99-271 - Verizon, then Bell Atlantic, filed a proposal with the Department on May 24, 1999, that attempted to demonstrate that the Company had opened the local markets to competition sufficient to merit the Department's support for Bell Atlantic to be granted entry into the long distance market under Section 271 of the Telecommunications Act of 1996. Under the Telecom Act, Bell Atlantic has to prove that it satisfies a fourteen-point competitive checklist, as well as showing that its entry into the long distance market is in the public interest. After completing an investigation at the state level, Bell Atlantic would then file a Section 271 application with the Federal Communications Commission, who then has 90 days to render its final decision based on input from the Department, the U.S. Department of Justice, and interested parties like the Attorney General's Office.

The Division assumed a high-profile stance that was critical to opening the local market to competition. As part of the Division's involvement, the Division filed written comments on July 19, 1999, on Verizon's Section 271 filing, attended public hearings conducted in Pittsfield (July 19, 1999), Worcester (July 20, 1999), New Bedford (July 26, 1999), Newton (August 4, 1999), and Gloucester (August 5, 1999), and procedural conferences at the Department on July 22 and September 9, 1999. The division filed proposed discovery requests on September 17, 1999, which the Department reviewed to determine which questions they would allow Bell Atlantic to be asked. The Division participated in 2-3 conference calls per week with KPMG and telecom carriers regarding Bell Atlantic's performance on operator support systems (OSS) from January 7, 2000 to May 2000. The Division also filed comments and proposals regarding Bell Atlantic's Performance Assurance Plan on April 21, 2000 and reply comments on May 19, 2000, and attended an FCC field hearing in Lowell, MA, regarding the deployment of advanced telecommunications services in Massachusetts. At the close of the fiscal year 1999-2000, the Department was continuing its investigation and had requested proposed discovery to be filed. Technical sessions had not yet been scheduled.

- **Verizon's Fifth Price Cap Compliance Filing**, D.T.E. 99-102 - In 1995, Verizon, then NYNEX, was ordered by the Department to file six annual compliance filings to show its adherence to the 1995 Price Cap Order's pricing rules issued by the Department on May 22,

1995 in DPU 94-50. On November 17, 1999, Verizon, then Bell Atlantic, filed its fifth annual price cap filing with the Department, and included a reduction in the productivity adjustment factor to recover past penalties. The Division filed comments on Bell Atlantic's filing on December 23, 1999, which challenged the method used by the Company to calculate penalty charges that were incurred in 1995 and 1996. The Division attended a public hearing and procedural conference on January 5, 2000 at the Department, filed request for evidentiary hearings on January 21, 2000 on issues, filed an initial brief on March 6, 2000 and a reply brief on March 20, 2000. The Department had not issued its final order as of the close of the fiscal year.

- **Bell Atlantic's Local Service Provider Freeze**, D.T.E. 99-105 - The Division intervened in this docket on February 4, 2000, and attended a public hearing and a procedural conference on February 8, 2000, at the Department regarding allowing Bell Atlantic to permit its customers to "freeze" their local and in-state toll lines, just as they do for long distance lines. Freezing requires the customer to specifically "unfreeze" the line before switching to another telecommunications service provider. The Division issued information requests on Bell Atlantic's pre-filed testimony and tariff revisions on March 1, 2000, and attended evidentiary hearings April 13-14, 2000, at the Department, filed an initial brief on April 26, 2000, and reply briefs on May 3, 2000. The Department subsequently approved the tariff revisions, and the Division filed an opposition to AT&T's motion for reconsideration on June 30, 2000.
- **Slamming**, D.T.E. 99-18 - The Division is an intervener in this case. On June 30, 1999, the Attorney General filed his initial comments and on July 23, 1999 filed his reply comments on the Department's rulemaking of the Massachusetts Anti-Slamming Law, G.L. c. §§ 108-113. The Department ultimately adopted new slamming regulations which are now codified at 220 C.M.R. 13.01-13.08.
- **Accelerated ("Rocket") Docket**, D.T.E. 00-39 - The Department opened a docket designed to expedite single-issue, two-carrier disputes. The Division filed comments on the Department's proposed regulations on June 28, 2000.
- **Consolidated Arbitrations**, D.P.U./D.T.E. 96-73 et seq. - Division staff attended technical sessions on dark fiber at the Department on February 16, 2000 and on UNE-P and HARC on March 2, 2000.

CONSUMER COMPLAINTS

Division staff conducted a joint meeting on December 6, 1999, with Department staff and telecommunications carriers regarding consumer complaints on unexpected impacts on phone bills from selecting a carrier other than Bell Atlantic. Later, Division staff met with MCI WorldCom representatives on May 25, 2000, regarding consumer complaints. During the Fiscal Year Division staff received, reviewed and processed 692 utility consumer complaints, of which 686 were related to telephone services, 4 to electricity services, and 2 to gas services. Division staff perform an important service to telephone, electricity, and gas consumers by serving as mediators between the consumer and the company where the consumer has been unable to reach a satisfactory resolution on their own. These complaints can also serve to highlight patterns of suspicious behavior and potential unfair and deceptive trade practices and can lead to further Division investigation.

The Division included the following staff members: George Dean, Chief; Joanna Connolly; Stacey Book; Wilner Borgella; George Brooks; Matthew Buchler; Victoria Carter; Michelle Cataldo; Norman D'Amours; Gerald D'Avolio, Jr.; Judith DePontbriand; Joanne Erickson; Barbara Fain; Mary Flohr; Maureen Forbes; John Grugan; Veronica Kane; Patricia Kelley; Helen Koroniades; Leo Lawless; Julayne Lazar; Peter Leight; Daniel Mitchell; Trevor Murray; Timothy Newhard; Thomas O'Brien; Rebeca Perez; Doe Pichard; David Publow; Karlen Reed; Joseph Rogers; Joseph Rogers; Danielle Solod; James Stetson; Anthony Taylor; Rachel Weiner; and Meghan York.

