

PROGRAMS OF THE OFFICE OF ATTORNEY GENERAL

Attorney General Steven Rowe is the chief executive of the Office of the Attorney General. He, along with Chief Deputy Attorney General Linda Pistner, handle significant policy issues, work with other staff on specific policy and legal issues, coordinate responses to opinion requests for Executive and Legislative Branches, and supervise and coordinate the services provided by the Office to state government. Senior Assistant Attorney General Chris Leighton serves as Chief of Operations and oversees day-to-day operations in the Office.

The Office is organized into a number of operating divisions that carry out the Office's civil, criminal and investigative responsibilities. Each division is headed by a chief attorney or other professional.¹

The primary program responsibility of the Office is to provide advice to and defend the actions of state government. Set forth below are descriptions of the various divisions, which are organized by the nature of the services they provide, followed by discussions of specific programs of the Office of the Attorney General. The descriptions conclude with a discussion of the relationship of the Office to the District Attorneys.

Administration Division

Division Profile: Sandra J. Harper, Chief; one personnel manager; one accountant; two administrative assistants; one receptionist; and two IT personnel.

Division Highlights: One of the major responsibilities of the Administration Division is dealing with the many sources of funding for the Office. As the percentage of general fund resources has diminished over the years, the Office has come to rely on a myriad of Memoranda of Understanding and other agreements for funding from the various departments and agencies of state government. The Division's ongoing workload consists of personnel matters and payrolls, processing nearly 11,000 invoices annually, preparing and filing Federal grant reports, and preparing and submitting budget requests and subsequent modifications. The Division also handles many personnel matters, the payroll, and the Federal grant budgets for all eight District Attorneys, which while burdensome is much more efficient than if this work were handled separately by the District Attorneys.

The Division has also contributed to the following initiatives: the new web-site; on-line automated legal research, a new agency billing system, improved technology support for the office (better hardware, software, and tech support to employees), improved automated phone system (auto attendant), and overall improved ergonomic conditions for employees. The Office computer system has been substantially upgraded.

¹ While the Chiefs have numerous administrative and supervisory responsibilities, all of them are practicing attorneys or other professionals. All of the Division Chiefs carry caseloads or regularly cover for their staff.

Child Protection Division

Division Profile: David Hathaway, Chief and 19 full-time equivalent AAGs; and share (with the Child Support Division) nine secretaries and four paralegals. The Division is based in Augusta and in three regional offices in Portland, Bangor, and Caribou.

Division Highlights: The Division's attorneys handle an estimated total of 3300² cases statewide, for an average of 180 cases per full-time attorney ("FTE"). For comparative purposes, the American Bar Association has noted that "a caseload of 40 to 50 active child welfare cases . . . appears to be a reasonable size, fewer than 40 cases is preferable, and an average caseload of over 60 seems to be unmanageable." ABA Child Law Practice, Vol. 17, No. 3, May, 1998.

Since changes to the child protection statute were implemented in 1997, the number of court hearings required annually has doubled. Each case must be reviewed every six months at a minimum. Many District Court judges require cases to be reviewed more frequently. On average, each FTE is responsible for approximately 43 court appearances each month. This figure has nearly doubled since 1995, when each FTE averaged 22 court appearances each month. The Division handles nearly 10,000 court appearances each year and prepares most of the resulting written orders as a convenience to the courts.

The Child Protection Division also coordinates and files between 40 and 80 appellate briefs annually in the Maine Supreme Court, provides legal training to new D.H.S. caseworkers through the Child Welfare Training Institute, and provides legal counsel to D.H.S. Central Office.

Finally, the Department is implementing a new appeals process for "substantiated" cases. These are cases where the Department has investigated an allegation of neglect or abuse and "substantiated" the allegation. Affected individuals are notified of this finding and their right to appeal. We anticipate hearings on these appeals will start in January or February of 2004. The best guess of Department officials and attorneys from this Office is that there may be 40 or so cases per month where an AAG may be requested to provide representation to the Department at the hearing. Discussions are taking place within the Office around staffing these cases as it is clear that the child protective attorneys have no additional capacity to absorb these cases.

Child Support Division

Division Profile: E. Mary Kelly, Chief; 7.5 full-time equivalent AAGs; and share (with the Child Protection Division) nine secretaries and seven paralegals. The Division is jointly housed with the child protective staff in Portland, Augusta, Bangor, and Caribou.

The Child Support Division provides legal counsel and representation to the Department of Human Service Division of Support Enforcement and Recovery. Representation is provided in

² The Department of Human Services 2002 Annual Report tallied 3,080 children in foster care. Our caseload numbers are somewhat higher, reflecting the additional cases where children are in the custody of another individual, living with a parent under a trial placement, or otherwise not in foster care. Some cases also involve more than one child.

cases in which parents are in receipt of public assistance, as well as in cases in which parents are not in receipt of any public assistance but request the State's assistance in establishing and collecting child support obligations or in establishing paternity for their children. The Division also provides representation to non-Maine residents under the Uniform Interstate Family Support Act.

The Division's work is primarily civil in nature. Division attorneys appear daily in child support cases that come before the Family Division of the Maine District Court, helping to determine paternity and to establish and modify child support orders. Division attorneys also appear in cases in which the Department of Human Services is attempting to enforce support obligations that are being ignored by an obligated parent. Where it can be established that the parent's failure to pay child support is willful, division attorneys ask the courts to take action against parents in civil contempt cases. They may also prosecute cases in which a parent's failure to pay child support constitutes criminal non-support. Division attorneys provide representation to the Department in cases coming before the Superior Court in which parents who owe child support challenge the enforcement action taken by the Department, such as when the Department initiates action against an obligor's licenses or an obligor's bank accounts, vehicles, or other property. The Division also files civil actions against employers who fail to comply with judicial and administrative orders requiring them to deduct child support from an employee's earnings..

In 2003, the Child Support Division received over 2,500 requests from the Department of Human Services to take legal action. The Division helped to obtain over 500 paternity judgments, and to establish support obligations totaling more than one million dollars.

In the past year there has been a substantial increase in the number of cases in which a party, who had previously been declared to be the legal father of a child, is asking the court to undo the finding of paternity on the basis of genetic testing that indicates that the party is not the child's biological father. These cases raise difficult issues of social policy, both in purely financial terms and more broadly in terms of the relationship that may have developed between the child and the man the child regarded as his father. The Family Law Advisory Commission is presently working on draft legislation which will address these difficult "disestablishment" cases.

Consumer Protection Division

Division Profile: Linda Conti, Chief; five AAGs; two paralegals; a supervisor of the complaint examiners and four assistant complaint examiners; one senior legal and one legal secretary.

The Consumer Protection Division focuses on three substantive areas: 1) consumer, including enforcement of the Unfair Trade Practices Act (UTPA), the Mediation Program and enforcement of the unauthorized practice of law statute; 2) antitrust enforcement of the Monopolies & Profiteering law (modeled on the Sherman Act) and the State's merger statute; and 3) charities regulation.

Division Highlights: The consumer mediation program utilizes the services of approximately 30 volunteers. These volunteers contributed 5,924 hours over the past 12 months. During that period the mediation program has received 7,359 phone calls, 1,254 letters, 141 in person visits,

2,927 emails, and 40 online complaints from consumers. There have been over 18,000 visits to the consumer portion of our website. The consumer mediation program and lemon law arbitration programs combined have mediated 1,468 claims with a 57% success rate resulting in the recovery of more than \$1.2 million for Maine consumers.

Other consumer highlights for the past year include successful litigation against various gifting pyramid schemes including the Women's Project and the NASCAR Racing Club.

The Division's attorneys have two actions pending in federal bankruptcy court seeking a determination that state court judgments for restitution, costs and civil penalties under the Unfair Trade Practices Act are not dischargeable.

The Division coordinated efforts with the FTC to register Maine consumers for the National Do Not Call List. As of January 9, 2004, there are 266,469 Maine telephone numbers on the National Do Not Call registry. Current investigations are focusing on telemarketing, in particular false product claims and other unfair trade practices such as negative option sales, automatic renewal plans and free trial offers. The Division recently published the third edition of the Attorney General's Consumer Law Guide.

Antitrust highlights include: a settlement involving allegations of market allocation activity among physicians and hospitals in northern Maine, following an investigation pursued jointly with the FTC; participation in non-public merger investigations with other states and the U.S. DOJ; a settlement which imposed conditions on the acquisition of a regional recycling enterprise by a competitor; and publication of a comprehensive market power study focusing on Maine's solid waste hauling and disposal industry. Antitrust staff have also been involved in multistate and joint state-federal investigations of anticompetitive activity in the pharmaceuticals industry.

The Attorney General is charged by law with ensuring that charitable assets, whether held in trust or by public benefit corporations, are preserved and applied to charitable purposes. In the last year the Attorney General has been party to several court actions seeking to remove obsolete restrictions on charitable trusts and regularly advises trustees of these assets on the applicable legal requirements. The Division's attorneys have been involved in proceedings with several nonprofit corporations which were no longer able to fulfill their charitable purposes, to ensure the appropriate distribution of their assets upon dissolution. We regularly provide information to lawyers, and members and directors of public benefit corporations regarding the scope of fiduciary duties and other legal requirements including the implementation of P.L. 2001 Chapter 550, which established updated standards for nonprofits and procedures for their conversion to for profit status.

Financial Crimes & Civil Rights Division

Division Profile: Leanne Robbin, Chief; six AAGs; four investigators; two senior legal secretaries. The Division prosecutes financial and white-collar crimes, including tax crimes, securities fraud, welfare fraud, healthcare crimes, and frauds against the State. The Division also

enforces the Maine Civil Rights Act and oversees the civil rights education program through the Civil Rights Team Project.

Division Highlights: The Division has successfully obtained orders for the restitution of public moneys, as well as restitution to private individuals who have been the victims of fraud. The most important aspect of criminal enforcement of financial crimes, however, is the deterrent effect of convictions and jail sentences on other potential offenders who might be tempted to engage in fraud or theft against the State or private individuals. As the value of such deterrence cannot be quantified, the restitution figures set out below reflect only a portion of the economic benefit of our criminal enforcement program.

Tax fraud - In the last fiscal year (July, 2002 though July, 2003), the Division obtained 31 convictions, and recovered restitution in the amount of \$450,480 and fines in the amount of \$17,550. Nineteen individual defendants served jail time during this period as a result of their attempts to evade their Maine tax obligations. In the prior fiscal year, fewer convictions were obtained (28), but the recovery of restitution was higher (\$969,204). The Division continues to work with the Maine Revenue Services on a Criminal Investigation Protocol to ensure that the most egregious cases are selected for criminal investigation and prosecution.

Securities Fraud - Since the creation of the position of a securities fraud prosecutor in April 2002, the Division has obtained restitution orders for Maine investors in the amount of \$1,219,598.

Healthcare Crimes - The Healthcare Crimes Unit ("HCU") investigates allegations of abuse, neglect and theft of patient funds from all healthcare facilities in Maine, as well as allegations of provider financial fraud against the MaineCare (Medicaid) program. For the period of 10/1/02 to 9/30/03, the HCU obtained 10 convictions and \$719,265 in civil recoveries. The HCU currently has 61 open cases, a number of which are being jointly investigated with federal agencies such as the FBI, Office of Inspector General, DHHS, the FDA and the U.S. Attorney's Office. The Unit communicates closely with these federal agencies in order to ensure that we are not duplicating efforts with our limited resources. On a monthly basis the HCU handles approximately 30 referrals from other state agencies and private citizens. The Unit also participates in numerous taskforces and committees, including the newly created Maine Elder Death Review Committee ("MEDART"). The HCU is a member of the National Association of Medicaid Fraud Control Units, and works with the units from other States in coordinating investigations and prosecutions of Medicaid fraud occurring on a nationwide basis.

Welfare Fraud and White Collar Crime - In the last 24 months, the Division has obtained orders of restitution in the amount of nearly \$60,000 welfare fraud cases. In addition, many of the welfare fraud defendants were ordered to perform community service as part of their sentences, for an aggregate of 1,250 hours. The Division also prosecutes other frauds against the State, as well as financial crimes which either are complex or take place over a number of prosecutorial districts, and has obtained nearly \$100,000 in court-ordered restitution in such cases, since April of 2002.

Investigation Division

Division Profile: Brian MacMaster, Chief; six investigators, one legal secretary.

The Investigation Division carries out a wide variety of investigations (both civil and criminal) and serves as a resource for specialized assistance and advice for other agencies with respect to investigations. The Division carries out statutorily required investigations of fraud against the state and the use of deadly force by police officers. The Division also provides investigative services for other divisions of the Attorney General's Office, several licensing boards and to the eight District Attorneys in the State when the need arises. In calendar year 2003, the staff in the division conducted 110 full-scale investigations and handled a total of 1,226 other complaints. Members of the division are often called upon to provide specialized training to other members of Maine's law enforcement community, including police chiefs and sheriffs.

Office of Chief Medical Examiner

Division Profile: Dr. Margaret Greenwald, M.D. Chief Medical Examiner; Michael Ferenc, Deputy Chief Medical Examiner; one administrator; one medical secretary; one technical secretary; one clerk/typist III; one laboratory supervisor; and one autopsy supervisor.

CASES INVESTIGATED: The number of deaths investigated has been gradually increasing over the last three years, with a major jump in numbers between 1998 and 1999. Over the last two years the OCME has investigated over 4,000 deaths. About 50 % of the reported cases are eventually released back to local, private physician who complete the death certificate. The other 50%, approximately 2,000 cases, were certified by the OCME during the years of 2001-2002. Actual numbers of cases investigated, cases examined by local Medical Examiners and cases autopsied in Augusta are below.

YEAR	2002	2003
TOTAL CASES INVEST.	2119	2129
AUTOPSIES	320	346
EXAM ONLY	828	785

Investigations include extensive interactions with law enforcement officers, scene visits, review of medical records and telephone interviews with family and physicians, as well as the expected external examination, autopsies, and toxicologic and other laboratory tests. Whenever possible in homicides and suspicious deaths, Dr. Ferenc, Dr. Edward David (who functions as a volunteer Deputy Chief Medical Examiner), or Dr. Greenwald attend the scene to assist in the initial investigation. Of the 36 homicides in 2001 and 2002, 11 died in the hospital. Of the 24 remaining cases, we attended the scene in 20 cases. The physicians also testify at homicide trials to provide expert information on the death. Dr. Ferenc is especially interested in crime scene investigation and, in particular, blood spatter evidence, and has assisted the Maine State Police with the interpretation of blood spatter evidence at crime scenes.

Dr. Greenwald, working in cooperation with the Dr. Marcella Sorg, the Office of Substance Abuse and the Attorney General's Office, published a report in December 2002, Maine Drug Related Mortality Patterns 1997-2002. This report has been used by federal and state agencies,

law enforcement and congressional staff to develop strategies to fight drug abuse in Maine. This was timely, as accidental drug overdoses increased more than fourfold from 1997 to 2002. Most drug overdoses involved at least one prescription narcotic drug, although heroin was a factor in many deaths.

Litigation Division

Division Profile: Paul Stern, Chief; eleven AAGs; three paralegals; and three senior legal secretaries. The Litigation Division is responsible for the defense of claims filed against the State under the Maine Tort Claims Act and by state employees under the Maine Workers' Compensation Act. The Division also defends the State and its employees in civil rights actions. The Division handles court actions not involving a particular agency and complex litigation matters. The Division represents the Department of Administrative and Financial Services (Division of Risk Management and Maine Revenue Services³). The Litigation Division oversees civil appeals, sometimes assists with criminal appeals, and serves as a resource for litigation related issues within the Office. The Division is also responsible for overseeing compliance with the Tobacco Manufacturer's Act.

The Office receives, on average, 30 cases per month. While many of these are small actions which require little in the way of response (such as notices of foreclosures), as noted above the Division handles numerous large and complex cases such as *PhRMA v. Walsh*, 123 S.Ct. 1855 (2003) where the United States Supreme Court upheld the Maine Rx program.

Community & Institutional Services

Division Profile: Doris Harnett, Chief; eleven AAGs; one senior legal secretary and one legal secretary. The Division provides legal counsel and representation to the Department of Human Services (DHS), the Department of Behavioral and Developmental Services (BDS), and the Department of Corrections (DOC), and the Governor's Office of Health Policy and Finance.

Division Highlights: The Community and Institutional Services Division represents DHS and BDS in a variety of matters that protect the public interest. One of the primary areas of representation involves representing both Departments on Medicaid matters and the significant litigation that exists within this area (such as the *Risinger* and *Rancourt* federal class action lawsuits). The Division's attorneys also invest significant amounts of time in the *AMHI* and *Community Consent Decree* cases. While the Medicaid and class action work is significant, the Division's attorneys are also involved in a wide range of other legal work. This other work includes licensing and enforcement actions involving hospitals, assisted living facilities, foster homes, day care centers and eating and lodging facilities. The Division provides representation to the departments in public guardianship and conservatorship proceedings, involuntary mental health commitment hearings and estate recovery actions for the Medicaid Program. Public Health work involves the Drinking Water Program, the Lead Poisoning Program, HIPAA compliance, and Infectious Disease Control Program. The Division's attorneys invest a considerable amount of time reviewing the rules proposed by the three departments prior to

³ Three AAGs provide full-time legal representation to Maine Revenue Service.

promulgation. Finally, the Division's attorneys also provide representation to DHS, BDS and DOC in administrative hearings as well as litigation matters in state and federal courts.

Natural Resources Division

Division Profile: Jeff Pidot, Chief; eight AAGs; one senior legal secretary. The Natural Resources Division provides legal services to the Department of Environmental Protection, the Board of Environmental Protection, the Department of Conservation (including the Bureau of Parks and Lands, the Land Use Regulation Commission, the Bureau of Forestry and the Maine Geological Survey), the Department of Agriculture, the Department of Marine Resources, the State Planning Office, the Department of Inland Fisheries and Wildlife, the Department of Treasury Abandoned Property Division, the Pesticides Control Board, the Maine Atlantic Salmon Commission, the Land for Maine's Future Program, the Maine Outdoor Heritage Fund Program, the Board of Underground Tank Installers, the Oil Fund Insurance Review Board and the State's Soil and Water Conservation Commissions.

Division Highlights: The Division's attorneys have been actively participating in multistate lawsuits challenging decisions by the U.S. Environmental Protection Agency's to weaken standards for air pollution emissions from large coal-fired power plants and other sources in the mid-west that significantly impact air quality in Maine. They have also been participating in multistate suits to compel USEPA to regulate emissions of carbon dioxide under the federal Clean Air Act in order to address global warming issues. Other examples include provision of legal assistance in connection with the decommissioning of the Maine Yankee Atomic Power Plant; provision of extensive legal assistance in connection with the State's acquisition of major conservation easements covering hundreds of thousands of acres of forest and farm land; defending legal challenges to scenic and wildlife impact criteria under the Natural Resources Protection Act; defending Maine's first-in-the-nation law designed to abate mercury pollution from vehicle switches, against a legal challenge brought by the nation's automobile manufacturers; and assisting the BEP in hearings and other administrative procedures in connection with a number of controversial permit applications, including one for a proposed Wal-Mart project in Bangor that ultimately the Board voted to deny, and a general permit for aquaculture operations, that the Board voted to approve.

Professional and Financial Regulation

Division Profile: Robert Perkins, Chief; eight AAGs; two senior legal secretaries. The Division provides legal counsel and representation to the Department of Professional and Financial Regulation (PFR), as well as the Maine State Retirement System and the Harness Racing Commission.

The Division provides legal advice to all the PFR bureaus and offices⁴. This includes the Office of Licensing and Registration which consists of 41 professional licensing boards, commissions,

⁴ PFR regulates financial services, including insurance companies, state-chartered banks and credit unions, investment advisors, and mortgage companies. PFR also regulates numerous professions and occupations. PFR includes the Office of Licensing and Regulation, Bureau of Financial Institutions, Office of Securities, Office of Consumer Credit Regulation, and Bureau of Insurance.

and registration programs dedicated to the protection of the public through licensure, inspection, enforcement/complaint handling, and discipline. The Divisions attorneys, in addition to providing legal advice, also present cases to the boards in licensing and disciplinary hearings and provide legal representation of the boards in court.

Division Highlights: Much of the work of the attorneys involves the provision of day-to-day legal counsel to the various clients of the Division. Highlights of their work may be found in appeals to the Law Court from various disciplinary decisions taken by the Board, or by the District Court at the request of the Board. For example, the Law Court upheld the District Court's disciplinary decision in *Board of Dental Examiners v. Ralph Dhuy*, 2003 ME 75. As part of its decision the District Court imposed various conditions on any future license to be held by the licensee. In a separate matter, the Superior Court upheld a Dental Board decision to impose similar conditions of licensure when it granted a license as a denturist to the same individual.

The Law Court also upheld the Board of Medicine's dismissal of a complaint against the State's Director of the Bureau of Public Health in *Roche v. Board of Licensure in Medicine*, as well as upholding decisions by other entities represented by the Division in two recent decisions: *Willis v. Maine State Retirement System*, and *Connolly v. Maine Board of Social Worker Licensure*. There are several cases pending in the Superior Court in which licensees disciplined by a licensing board have challenged some aspect of the decision on an appeal to the Court under Rule 80 C.

The attorneys for the Bureau of Insurance have been involved with several cases that challenge the burden of proof that must be met by a homeowner's insurer in proving that it refused to renew a homeowners policy for a good faith reason rationally related to the insurability of the property. They have also represented the Superintendent on several cases under the Freedom of Access Act. Attorneys have been called on to defend both the Superintendent's decision to release documents, as well as to not release documents.

Criminal Division

Division profile: William Stokes, Chief; thirteen AAGs; two program directors; two victim witness advocates; one paralegal; three senior legal secretaries and one account clerk. The Division is responsible for all homicide prosecutions in the State of Maine (with the exception of vehicular manslaughter cases); for providing significant support to the prosecution of drug-related crimes through six AAGs specializing in this area; interstate extraditions; and handling appeals in criminal cases arising from the Criminal Division and as needed and as requested by the 8 elected District Attorneys. The Criminal Division also advises the bureaus within the Department of Public Safety, including the Maine Criminal Justice Academy, Maine Emergency Medical Services, Maine State Police, State Fire Marshal's Office, and Emergency Services Communications Bureau. The Victims' Compensation program and the SAFE (Sexual Assault Forensic Examiner) Programs are also within the Criminal Division.

Division Highlights: In 2003 a total of 18 homicide cases were resolved, either by trial or plea. This is an average of one homicide case being resolved approximately every 3 weeks. On average, the length of time from indictment to trial is 9 to 12 months. The Criminal Division has

worked cooperatively with the Chief Justice of the Superior Court to move homicide cases expeditiously through the criminal justice process. A single prosecutor and a single Superior Court Justice are assigned to a homicide case as soon as possible so that the matter can be handled with the least amount of duplicative effort.

The Division's attorneys also handle a number of appeals from defendants in both state and federal court. In 2003, 31 direct appeals, state post-conviction review petitions, and federal habeas corpus petitions were filed in cases handled by the Criminal Division or the Financial Crimes Division. During the same time period, 40 cases were disposed of by the attorneys of these two divisions.

The Multi-Jurisdictional Drug Prosecution Support Program within the Criminal Division employs six Assistant Attorneys General as drug prosecutors, and one legal secretary. Of the six Assistant Attorneys General, one serves as Drug Prosecution Coordinator, and five serve as Drug Task Force Attorneys. These attorneys closed a total of 577 cases in 2003, a number that is up sharply from the previous year (426), and was a historic high. Past trends have continued: heroin and powder cocaine cases are growing, with prescription pill cases remaining steady at a high level. Marijuana cases continue to shrink as a proportion of cases handled, largely due to more focused targeting of schedule W cases by the Maine Drug Enforcement Agency and other law enforcement agencies. One-half the number of marijuana cases were prosecuted in FY 2003 compared to FY 2000.

General Government Division

Division Profile: William Laubenstein, Chief; six AAGs; one paralegal; and two senior legal secretaries. The General Government Division provides legal advice to and representation in administrative and judicial proceedings for the Bureau of General Services, the State Board of Property Tax Review, the Bureau of Alcoholic Beverages and Lottery Operations, and the Bureau of Human Resources, all within the Department of Administrative and Financial Services. The Division also provides legal and support services to the Department of Labor, the Department of Education, the Department of Defense (including the Maine Emergency Management Agency), the Commission on Governmental and Ethics and Election Practices, and the Bureau of Corporations, Elections and Commissions within the Department of the Secretary of State. Attorneys in this Division are often called upon to assist the AG and Chief Deputy in providing advice and opinions to the Legislature.

The Division is actively engaged in matters relating to child labor laws, bankruptcy, unemployment compensation, payment of wages, state and school construction contracts, State leases, the Maine Clean Election Act, election recounts, liquor licensing, teacher certification, special education, collections, and property valuation.

Division Highlights: The Division played major role in negotiating an agreement with Vishay Sprague that resulted in the payment of over \$4,000,000 in severance pay to employees of Vishay after Vishay decided to relocate a major part of its business to Israel. The Division has

been actively engaged in the pending litigation over Maine's school tuition statute that prohibits the payment of tuition for students attending sectarian schools. It is anticipated that this dispute over tuition payments will eventually result in an appeal to the United States Supreme Court.

The Division assisted in the restructuring on terms more favorable to the State of the contract with Apple, Inc. for the placing of laptop computers in grades seven and eight. The Division represented the Secretary of State in litigation concerning the voting recount provisions of the election statutes and undertook to defend the Ethics Commission in a dispute of the distribution of funds under the Clean Election Act.

The Division's work for the Department of Labor has resulted in the successful defense of numerous appeals from decisions of the Maine Unemployment Insurance Commission and the collection of thousands of dollars in fines for violation of the State's child labor laws and wage laws.

Programs Administered by the Office of the Attorney General

The Office of Attorney General houses within it a number of programs authorized by the Legislature. These programs, while operating on a shoestring as compared to similar programs around the country, are models of both efficiency and effectiveness. They are -

- Juvenile Tobacco Control Program
- Victim's Compensation Program
- Sexual Assault Forensic Examiner ("SAFE") Program
- Civil Rights Program
- Collections Program

Juvenile Tobacco Control Program

Program Profile: John Archard, Juvenile Tobacco Control Coordinator, and a .25 FTE investigator position. The Tobacco Control Program within the Attorney General's Office was created in 1996 to provide law enforcement oversight to the federally mandated enforcement of youth tobacco access laws required by the Synar Amendment⁵ and to implement the enforcement of PL1995, c. 470⁶. Since that time the program has grown to include enforcement of laws prohibiting smoking in public⁷ and workplaces⁸, development of the No Buts for Kids Here responsible tobacco retailer program and work with the National Association of Attorneys

⁵ Section 1926(b)(2) Public Health Service Act [42 USC 300x-26(b)(2)] 1992

⁶ 22 MRSA § 1551 et seq.

⁷ 22 MRSA § 1541 et seq.

⁸ 22 MRSA § 1580-A

General (NAAG) on multi-state settlements with national retailers to prevent underage access to tobacco and to develop and implement effective training and company policy.

Under the supervision of the Office of the Attorney General and in collaboration with the Department of Human Services (DHS) and Department of Behavioral and Developmental Services (BDS), random unannounced inspections of licensed tobacco retailers are ongoing. The program coordinator drafts, and periodically updates, procedures and protocols for these inspections, and administers contracts on behalf of DHS for enforcement agents, underage operatives and adult supervisors. The Office of the Attorney General trains all contract inspection teams that perform the inspections. The Office also files administrative complaints for all violations. The program has developed an electronic reporting system and leveraged this technology solution to free up limited support staff for other duties.

Youth Access: Based on the preliminary results of inspections conducted during FFY 03 under the supervision of the Attorney General's Office for DHS, the Maine Office of Substance Abuse will report a non-compliance rate of 9% in its Synar report to the Center for Substance Abuse Prevention (CSAP). This rate is based on 1158 inspections in a random sample of inspections selected for reporting in FFY 03. This rate shows a small increase of 2% in underage tobacco sales over the past year, the sixth consecutive year that Maine's underage sales have been at or below 10%.

Retailer Outreach: During the current reporting period the program conducted retailer introductions to the "No BUTS" training and outreach program, which now has approximately 680 participating stores. The program coordinator is working with a number of the Healthy Maine Partnerships and "One Maine" grantees to provide community resources for retailers regarding No Buts training and information. The Center for Substance Abuse Prevention has encouraged Maine to submit the No Buts program to the National Registry of Effective Prevention Programs.

Public Smoking & Workplace Smoking: The Office of the Attorney General has investigated 17 complaints of public smoking during FY 03 and four complaints during the current fiscal year, as well as nine complaints of workplace smoking during FY 03 and two complaints during the current fiscal year. In response business owners have agreed to adopt compliant policies.

Violations: In the past year 102 violations were cited resulting in 176 administrative complaints filed in District Court, with complaints filed against both the license holder and the employee that sold tobacco. Of these complaints 152 have been settled resulting in fines of \$23,650. Five licenses were suspended with one under emergency suspension pending a full hearing on revocation.

The Civil Rights Team Project

Division Profile: Thomas Harnett, Director; one Research Assistant. The mission of the Civil Rights Team Project ("CRTP") is to increase the safety of high school, middle school and elementary school students and to reduce the incidence of bias-motivated harassment and violence in schools. It does so through the development of local Civil Rights teams, and by to

training and working collaboratively with teachers, school administrators, parents, and community members, and local law enforcement agencies to address issues of bias and prejudice.

Highlights: Consistent with past practice, fall trainings were scheduled at the beginning of the academic year, with the first on September 24, 2002 and the last on October 31, 2002. The CRTP conducted four Faculty/Community Advisor trainings in Orono, Saco, Augusta and the Presque Isle. Student trainings were held in Orono, Farmington, Presque Isle, Augusta (two trainings) and Lewiston (two trainings).

The annual Statewide Conference was held on April 15, 2003 at the Augusta Civic Center and was the largest ever conducted by the CRTP with about 2,000 people attending. Conference attendees were able to select from over 30 different workshops. The conference was highlighted by a keynote address from the Lewiston High School Civil Rights Team. The team went to great lengths to work within Lewiston High School and the greater community to lower tension and conflict and to dispel many of the myths and assumptions that were swirling about the Somali community.

The CRTP also held its first regional conference in January 2003. The inaugural "I Have a Dream - Aroostook County Civil Rights Team Conference" was held in Caribou with teams from Aroostook County participating in this event. The CRTP hopes to hold other smaller regional conferences in the future. The CRTP conducted its first ever team trainings in York County in an effort to reach more teams and to reduce the travel times for teams from that region. Trainings were held as far south as Biddeford and as far north as Presque Isle.

The CRTP now has 218 active teams throughout Maine and has already completed its 2003-2004 fall training schedule. The program also provides in-service trainings to school faculty and administrators, meets with schools and teams on request, and supports teams through regional coordinators who also visit the schools and provide resources to teams.

Collections Program

Division Profile: Betsy Andrews, Collections Program Manager. The Collections Program, which began this year, consists of one paralegal, aided by a senior legal secretary. The purpose of the program is to secure delinquent unemployment contributions on behalf of the Department of Labor and money judgments including restitution, fines, penalties, costs, and attorney fees, owed to the State. The collection process generally involves the location of assets, filing of liens, one or more disclosure hearings in district court, and the negotiation of suitable payment arrangements.

Section 192 of Title 5 authorizes the Attorney General to recover money for the State; section 1509 directs state agencies to refer delinquent "items of income or taxes owed to the State" to the Attorney General for collection. Enactment of PL 278, "An Act Concerning the Representation of the State in Disclosure Hearings" this past spring now authorizes non-attorney employees of this office to appear in disclosure court on behalf of state agencies, thus leveraging attorney time in a cost effective manner.

During the past year, the Collections Program handled 103 disclosure hearings in district courts throughout the state in pursuit of delinquent unemployment contributions. The Program has also completed two Bureau of Medical Services Medicaid recoupment cases, collecting over \$75,000 in benefit overpayments. Finally, the Program has expanded to collect on judgments obtained by attorneys in the Consumer Protection Division under the Unfair Trade Practices Act. At the present time there are four such cases involving deceptive logging practices, a pyramid scheme, a home improvement contractor, and a telemarketing scam with judgments totaling \$420,439.

Maine Victims' Compensation Program

Division Profile: Deborah Shaw Rice, Director; one Paralegal, and one Account Clerk II. The Maine Victims' Compensation Program assists innocent victims of violent crime by reimbursing them to a maximum of \$15,000 for the out-of-pocket costs or losses they incur when they suffer physical and emotional trauma as a result of criminal victimization. The aftermath of a violent crime may leave victims and their families physically and emotionally overwhelmed, but each personal loss carries a financial loss as well. In recognition of the financial hardship crime victims often suffer, the Maine Legislature in the spring of 1992 created the Victims' Compensation Fund and Victims' Compensation Board. The Board, which decides claims to be paid from the Fund, is supported by the Program staff and is part of the Criminal Division. The Board is comprised of three members drawn from Maine's legal, medical and victim services communities.

The Victims' Compensation Program works closely with District Attorneys, Victim Witness Advocates, the Department of Correction, and advocates from domestic violence and sexual assault response agencies to reach and assist victims of violent crime. Training on all aspects of the program is available upon request. During the last year, the Director of the Program has been a member of a core committee to develop a Victim Assistance Academy to train advocates for victim services.

Monies for victim awards, forensic payments, and program administration come from the Victims' Compensation Fund. Funds for the Victims' Compensation Fund come from assessments levied against criminal offenders: \$25.00 for murder, Class A, B and C crimes, and \$10.00 for Class D and E crimes. No tax dollars fund either the administration of the Program or the payments of awards. Additionally, if a victim's award made from the Fund is duplicated by restitution or from recovery in a civil action or insurance settlement, the law requires reimbursement of the Fund. Staff pursue restitution recovery through the courts, the District Attorneys, and the Department of Corrections. Finally, the Program is eligible for and receives some Federal matching monies, which come from Federal criminal fines and penalties rather than tax dollars.

During State Fiscal Year 2003, the Program paid out \$370,052.67 on claims for victims who filed claims and another \$79,118.58 for payments directly to hospitals for sexual assault forensic examinations, for a total of \$449,171.25 in payments for violent crime victims and their families. The payments of \$370,052.67 were for 209 cases, an average payment of \$1770.59 per case. The forensic payments were for 167 cases with an average payment of \$473.76.

The Board issued 239 decisions during the year, 91.6% being favorable. Some cases had multiple decisions. Program staff successfully committed themselves to a reduction in case processing times. The time from receipt of application to first Board action was reduced to 102 days for FY 2003 from approximately 124 days in FY 2002.

SEXUAL ASSAULT FORENSIC EXAMINER PROGRAM

The Sexual Assault Forensic Examiner (SAFE) Program began in 1997 to better meet the medical and emotional needs of sexual assault victims, and to improve timely and accurate collection of forensic evidence to prosecute sexual assault crimes. The Program provides training and technical assistance to healthcare providers, primarily Registered Nurses, in the care of patients who have suffered the trauma of sexual assault, in the use of the Maine sex crimes kit for collection of evidence, and in preparation for court testimony. This national model utilizes an interdisciplinary, community-based approach for the dignified and compassionate care and treatment of sexual assault survivors.

The SAFE Program began in 1997 through the efforts of the Maine Coalition Against Sexual Assault (MeCASA). Administration of the Program was moved to the Office of the Attorney General (Title 5, Chapter 316B, § 3360-N, O, P) in 2001. Due to state budget issues and a hiring freeze, a Director was not hired until the first of this year. Over the past ten months the focus of the Program has been to build capacity by increasing the number of Sexual Assault Nurse/Forensic Examiners (SANE/SAFE) through training opportunities required for state certification. Training and Program activities have included:

- Sexual Assault Forensic Examiner 5-day didactic training; October; 53 participants including Registered Nurses, Nurse Practitioners, a Physician Assistant, Law Enforcement Officers, Sexual Assault Response Team Coordinators; at the Maine Criminal Justice Academy.
- Sexual Assault Criminal “Mock” Trial; August; 25 'SANEs-in-Training'; a collaborative effort between the SAFE Program, MeCASA, and Sexual Trauma and Recovery Services, Presque Isle.
- Sexual Assault Forensic Examination Simulation Training; May; 12 SANEs-in-Training.
- Formation and meetings of the Advisory Board.
- Development of partnerships with Family Planning Association and Planned Parenthood of Northern New England for ‘SANE-in-Training’ preceptorships.
- Procurement of a grant supporting a SAFE 5-day training, and four simulation trainings in the coming year.
- Meeting with SANE/SAFEs and those ‘in-training’ throughout the state.
- Inclusion in the Three Mountains Chapter of the International Association of Forensic Nurses; includes Maine, New Hampshire and Vermont.

The Program Director works closely with the Sexual Assault Response Team (SART) Coordinators and SART Teams of the ten member centers of MeCASA as well as with MeCASA staff. In addition, meetings have been held to promote the SAFE Program with: The Emergency Nurses Association Board, emergency department Nurse Managers across the state, hospital-based nursing clinical coordinators, and hospital administrators.