

MAINE STATE LEGISLATURE

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**Report of the Office of the
Maine Attorney General
November 2014**

Janet T. Mills, Attorney General

Letter from the Attorney General

Dear friend,

Sometimes it feels as if the deck is stacked against everyday citizens. Government, business and big money sometimes seem to call the shots. Our office is here to level the playing field for you and save taxpayers money at the same time.

- We pursue fraud at all levels and return millions of dollars to consumers and to state coffers.
- We protect the rights of homeowners threatened by foreclosure.
- We pursue and prosecute unethical contractors who prey on the elderly.
- We guard the voting and consumer protection rights of veterans.
- We mediate complaints between consumers and small businesses.
- We take multinational companies to court to protect Maine's environment.
- We prosecute family abusers, drug dealers and murderers and put them behind bars.
- We facilitate the citizen's right to know what goes on within government.
- We represent state agencies and advise them every day to make sure the actions of your government are legal, defensible, and constitutional.



We have over 100 attorneys in our office representing your interests every day of the year. I am proud of them. They are hired and evaluated based on their experience, integrity and skills. Politics plays no part in the process, and it never has under any Maine Attorney General of either party. Our staff's dedication and record of achievement – as is shown in these pages – is outstanding.

We are here to represent you and your state government. This report shows what the Maine Office of the Attorney General has done recently.

Yours,

A handwritten signature in black ink that reads "Janet T. Mills". The signature is written in a cursive, flowing style.

Janet T. Mills

Index



Contents

What We Do	2
How We Are Organized	3
Putting Criminals Behind Bars	4
Dealing with Domestic Violence	5
Fighting Drug Trafficking and Addiction	6
Protecting Children	7
Creating Alternatives to Foreclosure	8
Taking Your Side	9
Safeguarding our Air, Water, and Land	10
Helping Seniors	11
Protecting Veterans and their Families	12
Ensuring an Open and Transparent Government	13
Stopping Fraud and Protecting Taxpayers	14
Educating a New Generation about Justice	15

What We Do

The duties of the Attorney General are established by [Maine Revised Statutes Annotated, Title 5, Chapter 9](#). These statutes direct the Attorney General to:

- Represent the State and its agencies in civil actions
- Prosecute claims to recover money for the State
- Investigate and prosecute homicides and other crimes
- Consult with and advise the district attorneys
- Enforce proper application of funds given to public charities
- Give written opinions on questions of law submitted by the Governor, Legislature, or state agencies
- Perform a variety of other functions, as described on the next page.



AG Janet T. Mills swears in Lisa Marchese as a Deputy Attorney General and Chief of the Criminal Division of the Attorney General's Office.

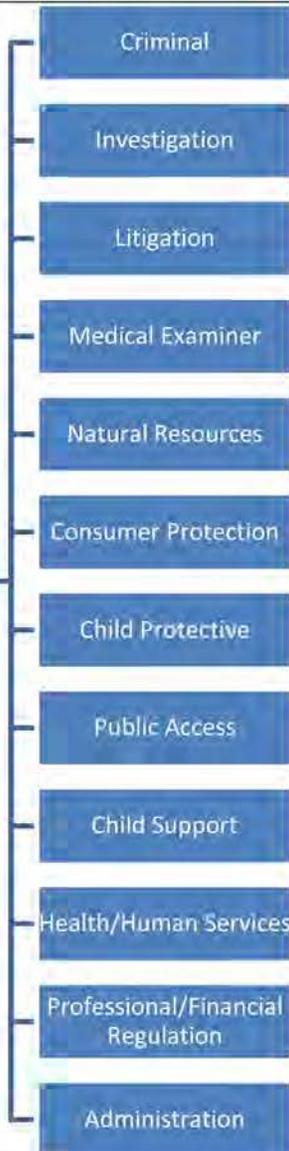
The Attorney General appoints deputy and assistant attorneys general, all of whom serve at the pleasure of the Attorney General. Maine's Attorney General's Office is one of only two AGs in the country with exclusive jurisdiction to investigate and prosecute homicides. In addition to these statutory powers, the Attorney General is vested with other authority deriving from the Office's common law powers.

Maine's highest court has recognized the unique role of the Attorney General as an independent Constitutional Officer and her duty to represent the public interest. *Superintendent of Insurance v. Attorney General*, 558 A.2d 1197 (Me. 1989).

On any given day the attorneys and staff of the Attorney General's Office has more than 6,000 matters pending; everything from child protection cases and child support enforcement actions, to rulemaking review and defending state agencies in federal court to homicide prosecutions.

How We Are Organized

Attorney General



The work of the Maine Attorney General's Office includes:

- **Criminal.** Lisa Marchese, Chief. Prosecutes homicides, major drug crimes, healthcare crimes, welfare fraud, financial crimes, securities fraud, computer crimes, tax fraud, civil rights violations, and assists the department of Public Safety.
- **Investigation.** Brian MacMaster, Chief. Investigates fraud, the use of deadly force by police, public corruption.
- **Litigation:** Paul Stern, Chief. Represents state agencies in civil litigation, administrative and judicial proceedings. Advises the Departments of Education, Corrections, AFS, Labor and others.
- **Office of the Chief Medical Examiner:** Dr. Mark Flomenbaum, Chief. Investigates and certifies unattended deaths.
- **Natural Resources:** Jerry Reid, Chief. Provides legal support to state agencies enforcing Maine's environmental, marine resource and agricultural laws.
- **Consumer Protection:** Linda Conti, Chief. Enforces consumer protection, antitrust, public charities, data breaches and tobacco laws.
- **Child Protective:** Nora Sosnoff, Chief. Represents the State in civil child abuse and neglect proceedings.
- **Public Access:** Brenda Kielty, Ombudsman. Responds to inquiries and complaints, provides training and resources about public record and meeting requirements.
- **Child Support.** Debby Willis, Chief. Represents the DHHS Division of Support Enforcement and Recovery in the collection of child support.
- **Health & Human Services.** Doris Harnett, Chief. Represents and advises the Department of Health and Human Services in a wide range of matters.
- **Professional/Financial Regulation:** Andrew Black, Chief. Represents state agencies that regulate insurance companies, banks, consumer credit, and professional licenses.
- **Administration:** Janet Joyeux, Chief. Responsible for budgeting, human resources and administration.

The Attorney General's Office also administers five programs established by the Legislature. The Juvenile Tobacco Enforcement Program; the Victim's Compensation Program; the Sexual Assault Forensic Examiner (SAFE) Program; the Civil Rights Program; and the Collections Program.

The Attorney General's Office supports the work of the 8 popularly-elected district attorneys by reviewing and assisting in criminal appeals; prosecuting felony drug cases; by prosecuting homicide cases; and by administering payroll, benefits, and human resources for district and assistant district attorneys.

Putting Criminals Behind Bars

There were 25 homicides in Maine in 2013. Of these, 12 were the result of domestic violence, 2 were drug-related, and the others were from various causes.

During 2013, 15 homicide cases were resolved, either through trial (7) or plea (8). Seven of these cases resulted in murder convictions, six in manslaughter convictions, and two in not guilty jury verdicts. Here are the kinds of cases that we successfully prosecuted.

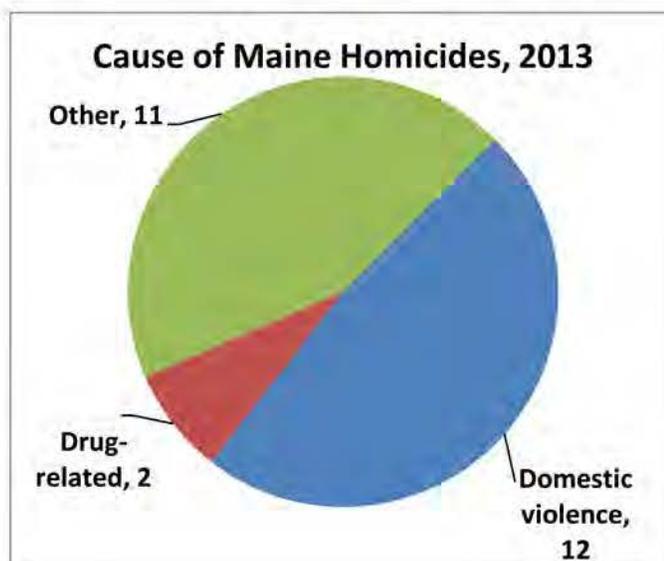


Joel Hayden, pictured at left, shot the mother of his four children to death in front of his then 7-year-old son, then shot and killed his friend who had driven up from Massachusetts to help him move. Hayden was sentenced to two life sentences.

David Silva was taken in by a kind man in Readfield when he was down and out. Silva shot and killed the man, Robert Orr, robbed the house, then burned it down. Silva was sentenced to 43 years in prison.

Star Vining didn't show up to work at her Presque Isle grocery store in October of 1998. George Jaime, whom she was seeing off and on, told people she had moved on. After trying to find her for years, her family filed a missing person report in 2006. Careful detective work established that Jaime had killed Vining in a jealous rage and disposed of her body. Jaime was sentenced to 40 years.

As the Jaime case shows, the Attorney General's Office keeps working on open cases until they are resolved. Our Assistant Attorney General is currently working on 13 unsolved cases, including the deaths of: Pam Webb, Janet Brochu, Kim Moreau, Judith Hand, Wendy Morello, Angel Torres, Ashley Ouellette, Frances Moulton, Mary Ellen Tanner, Marilyn Lehan, Alice Hawkes, Samantha Folsom, and Miguel Oliveras.



Dealing with Domestic Violence

The Hayden and Jaime cases both involved the murder of a former domestic partner. According to the research of the Maine Domestic Abuse Homicide Review Panel, chaired by Deputy Attorney General Lisa Marchese, the pattern of half of all murders being domestic-violence related is consistent with past years.

Domestic abuse starts with control – “If you really love me, you’ll stay.... Meet me this afternoon and I’ll give you back your cell phone.... You made me do it; I can’t stand to lose you.” These were among the statements made by perpetrators of domestic violence in Maine in 2012-13, exhibiting patterns of physical and emotional control leading up to these tragedies.

The Panel recommends closer cooperation between local police and domestic abuse resource centers; tougher prosecution of violations of Protection from Abuse orders; removal of firearms from a home where people have threatened homicide or suicide; and many other improvements in the practices of state agencies, the judiciary, and healthcare providers.

The Domestic Abuse Homicide Review Panel studied 21 cases of domestic murder in 2012; of the perpetrators, 9 died during the incidents (7 committing suicide), and 12 were prosecuted and are now in prison.

But by the time abuse perpetrators come to the attention of the Attorney General’s Office, it is often too late. The first line of defense for potential victims consists of friends, family, co-workers, and neighbors. When people hear someone say that “my life is over” and express a wish to commit suicide; or see a person with severe mental illness threatening violence; or encounter a person asking for help in getting away from a partner – they should contact local police or call 1-866-83-4HELP (or 1-866-834-4357) to get advice. If we all become better friends and neighbors, we can reduce the terrible toll of domestic violence in Maine on victims, children, families and communities.

The Attorney General’s Office has produced educational radio and television spots featuring Seth Wescott to help educate Maine people about these facts.

IN AN EMERGENCY – DIAL 911



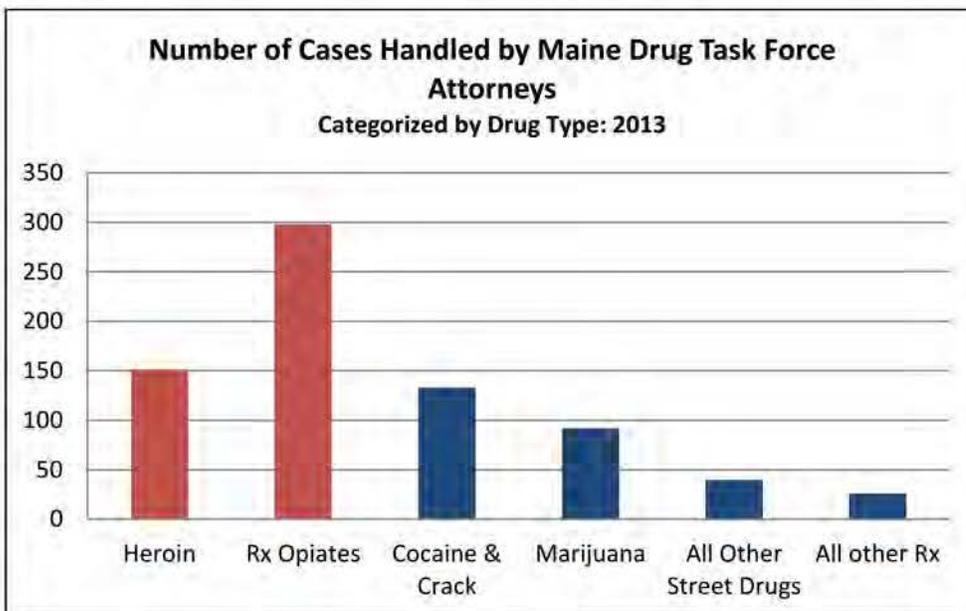
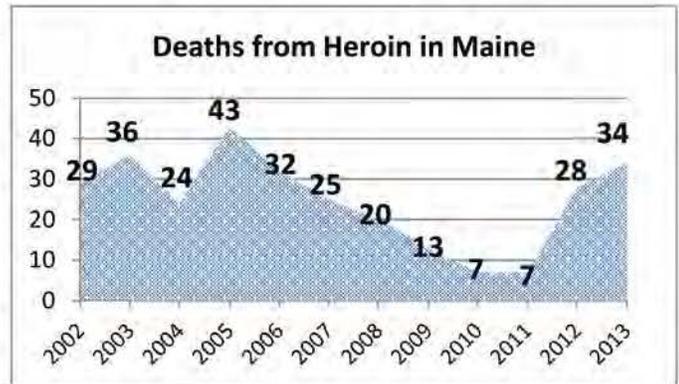
Love Should Not Hurt.

**FOR HELP IN DECIDING WHAT TO DO NEXT –
DIAL 1-866-834-4357**

Fighting Drug Trafficking and Addiction

The drug problem took a new turn in recent years. The proportion of criminal drug cases involving heroin nearly tripled from 8% in 2012 to 20% in 2013. Meanwhile, the number of heroin-related deaths rose from 7 in 2008 to 34 in 2013. Fifteen percent of impaired drivers have traces of heroin in their urine.

There are several major reasons for the increase in heroin use. Pharmaceutical manufacturers are changing the way they make prescription opioids, which makes it harder for such pills to be abused. Robberies of pharmacies involving a demand for opioid drugs, which had doubled in 2012, declined by half in 2013. The street price for heroin is dropping. Unemployment remains high among young people. Health coverage for young adults was cut by the Governor and Legislature, leading to people falling out of drug abuse treatment programs. All of these forces are contributing to an increase in heroin use.



Six Assistant Attorneys General serve as Drug Task Force attorneys. In 2013, they closed 830 cases, 76% of which were felony cases. During the same year, they opened 901 new drug prosecutions, up from 786 the year before.

The Attorney General's Office also supports the licensing boards of Maine that take action against health care providers who divert drugs to others, or abuse drugs themselves.

Key Telephone Numbers

In a crisis with an **overdose** – call **911**

For help finding **substance abuse counseling and recovery programs** – call **211**

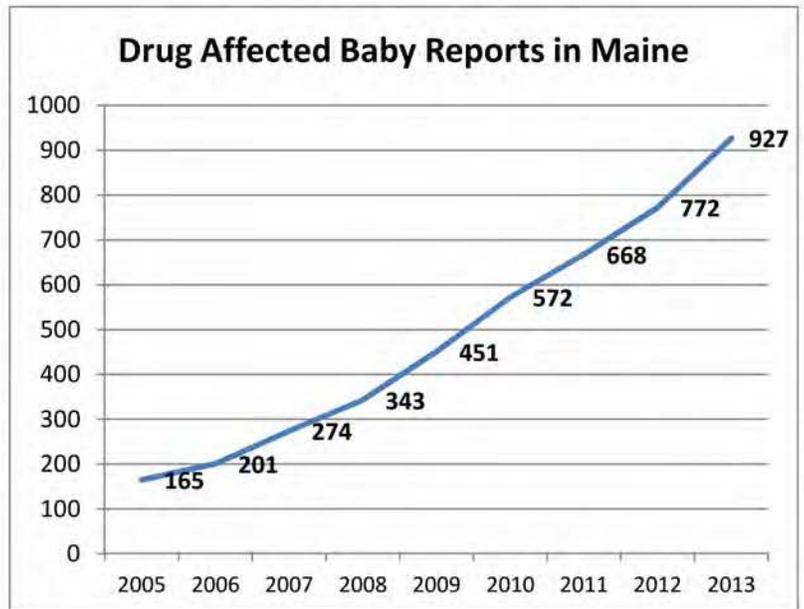
To **give a tip** to the Maine Drug Enforcement Agency about possible illegal activity – call **1-800-452-6457**

As with domestic violence, the first line of defense against heroin and drug abuse in Maine consists of family members, friends, neighbors, and co-workers. If you see something that doesn't look right, contact emergency services or substance abuse programs or the Maine Drug Enforcement Agency.

Protecting Children

The drug problems experienced by so many Maine people not only hurt the users and abusers, they also hurt the next generation as well. The number of drug-affected babies born in Maine has grown from 165 in 2005 to nearly 1,000 in 2013. The average number of children entering foster care has increased by a third since 2004/5.

The challenge of protecting these children falls on the shoulders of the 23 attorneys and 11 support staff of the Child Protection Division. They handle over 2,000 active cases, and on an average working day make 27 court appearances across the state.



Another set of attorneys work to make sure kids get the parental support they deserve. The 11 attorneys of the Child Support Division took action on 2,500 cases last year.

The Health and Human Services Division provides legal guidance to the Department in sensitive questions of mental health protection, adult protection, guardianships, the licensing of day cares and homes for adults and children, and MaineCare rules. In 2013, the attorneys in this group obtained an administrative suspension of a child care facility where sexual abuse had occurred and entered into a consent agreement with another child care facility to improve their operations.

Former Senator Hubert Humphrey once said that the “moral test of government is how it treats those in the dawn of life...” The Maine Attorney General’s Office tries to give children at risk every protection legally possible for a healthy start in life.



Creating Alternatives to Foreclosure



Thousands of Mainers fell behind on their housing payments during the recession. Some big national banks tried to rush people into foreclosure through practices like “robo signing,” or having a machine sign papers no one had ever reviewed. This practice was first discovered in Maine, became a national scandal, and resulted in the \$25 billion National Mortgage Settlement.

Attorney General Mills has worked over the years to make Maine a leader in creating a process that protects homeowners facing foreclosure. In 2013-14, Attorney General Mills worked with consumer representatives, municipalities, the courts, real estate professionals, and financial institutions to strengthen our housing counseling and mediation programs. The result was L.D. 1389, which was passed unanimously by the Legislature and signed into law by the Governor.

The newly enacted legislation:

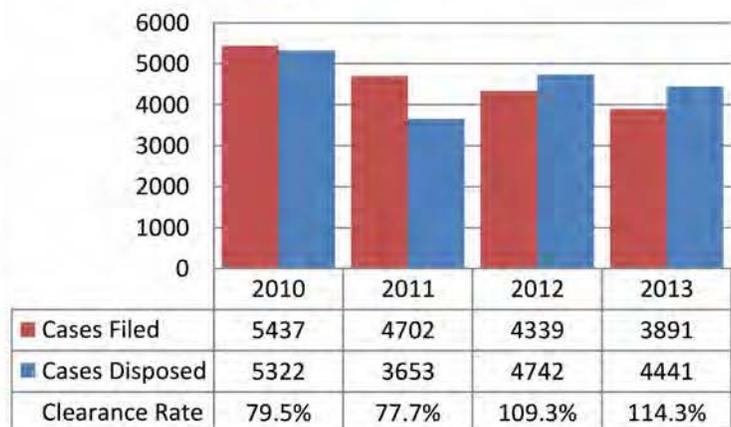
- Provides additional funding for housing counselors;
- Improves the quality of mediation;
- Implements the new tough standards of the National Mortgage Settlement; and
- Speeds up the process of dealing with abandoned properties, in order to protect neighbors and municipalities.

Having a problem paying your mortgage? Call the Foreclosure Prevention Hotline at the Maine Bureau of Consumer Credit Protection.

1-888-664-2569

They will put you in touch with housing counselors who can provide free housing advice.

Foreclosure Filings & Dispositions: Maine
Judicial System Clearance Rate



Taking Your Side

The Attorney General's Office protects Maine workers and consumers in many ways. Recently our attorneys:

- Protected injured Maine workers by preventing the workers' compensation fund at Irving Tannery from being turned over to the company's creditors;
- Protected consumers by permanently enjoining a substandard contractor from entering into any future contracts with consumers for major appliance repair services in Kennebec County;
- Protected consumers with poor credit by taking legal action against a Bangor car dealer who pressured them into buying cars that were not roadworthy.
- The Consumer Protection Division brings multi-state litigation against companies that engage in price fixing or false advertising. From 2010 to 2014 the Consumer protection division recouped nearly \$10 million from pharmaceutical companies that engaged in false advertising to Maine consumers.

If you have a consumer problem, contact us at:

- 1-800-436-2131, or
- Email
consumer.mediation@maine.gov

Attorney general sues My Maine Ride dealer over alleged illegal practices



Top 10 Consumer Complaints to the Maine AG in 2013

1. Auto Sales (both new and used)
2. Contests/Sweepstakes/Prize Promotions Scams
3. Landlord-Tenant/Mobile Homes
4. Nigerian/Grandparent/ "Sweetheart" Scams
5. Home Repair/Construction Complaints
6. Furniture/Appliances/Home Furnishings
7. Entertainment/Recreation
8. Satellite TV Sales and Service
9. Over the counter "health" products
10. Slamming/Cramming (adding charges to bill without OK)

Facts and Figures from the Consumer Protection Division in 2013

- 877 complaints mediated, resulting in \$373,000 returned to consumers
- 31 volunteer mediators spent 259 hours/month helping consumers
- 39 Lemon Law complaints from aggrieved car owners, 12 cases arbitrated
- 234 data breach notifications received
- Collected \$69,000 in unpaid fees to state agencies

Safeguarding our Air, Water, and Land

The great Maine outdoors – our rivers, mountains, forests, lakes, oceanfronts, trails – makes our state special. The Attorney General's Office is vigilant in protecting the state's environment whenever and wherever a threat emerges.

We have intervened in court against out-of-state coal-fired utilities who are challenging new federal rules which will force them to cut their mercury emissions by as much as 90%. Their smoke and pollution drifts eastward over Maine, harming our wildlife and vegetation.



The threat of a similar action from the Maine Attorney General's office and 10 other states and cities forced the U.S. Department of Energy to adopt tough new standards for industrial appliances and freezers. This action will also decrease air pollution from Midwest states, as well as save Maine consumers money on their electric bills.



We are also active against in-state polluters. We returned to court to require Mallinckrodt Inc., the successor to the HoltraChem company in Orrington, to meet its responsibility to clean up its mercury pollution in the Penobscot River. Their pollution has caused 7 square miles of the Penobscot Bay to be closed for lobster fishing. In April of 2014, the Maine Supreme Court sided with the state and reaffirmed the company's obligation to clean its mess.

Our office is also engaged in a low-key but important case to uphold the state's right to enforce its environmental laws on the upper reaches of the Penobscot River. The Penobscot Nation is in federal court claiming ownership and jurisdiction over the River from Medway to Indian Island. This is a complex case, but much is at stake. If the State of Maine loses, the state would lose the ability to enforce environmental protection laws for 60 miles of the Penobscot River. The Attorney General's office is dedicating many resources to defending our environmental laws in this case.

Beyond these major actions, the Natural Resources Division is defending state agencies in dozens of smaller cases challenging the application of state environmental laws.

Helping Seniors

Seniors are often the prey of scam artists. In 2013, Attorney General Mills issued periodic warnings to Maine's elderly about frauds such as:

- **The Grandparent Scam** -- An increasingly common scam involves a call from someone claiming to be your grandchild. The scammer will claim that there has been a mishap and money is needed immediately.
- **The Medicare Scam** -- Many Maine seniors have received phone calls claiming to be from Medicare or from the 'health office.' The callers ask for the Mainer by name and appear to be offering seniors some sort of supplemental health insurance or prescription coverage.
- **Lottery/Sweepstakes** -- You receive a letter in the mail saying you have won thousands of dollars in a lottery or sweepstakes. They send you a check to cover taxes or some other bogus fee. You deposit the check in your bank account and then wire the required fee, probably to Canada. Your bank contacts you days later to alert you that the check is fraudulent and you now have to pay the bank back.



The common ingredient in most scams is to get you to wire money or use pre-paid debit cards to pay a bill over the phone. Don't do it!

In 2013, the Consumer Division successfully defended a \$100,000 fine on Bankers Life for the actions of an agent who improperly sold an annuity to an elderly consumer; and defended the Superintendent of Insurance in revoking the license of a man who had deceived an elderly consumer.

In May of 2013, Meredith Purcell of East Millinocket was sentenced to 4 years in jail and \$50,000 in restitution after the Attorney General's Office successfully prosecuted her for stealing money from her mother. A month earlier, self-professed "handyman" Daniel B. Tucci of Portland,

Maine, was found guilty of numerous violations of Maine's Unfair Trade Practices Act, and was ordered by the court to provide more than a quarter of a million dollars in restitution to 14 different victims. "Mr. Tucci's behavior is truly reprehensible," Attorney General Mills stated. "He lied about his qualifications. He took money from people and didn't finish the job. The work he did do on people's homes was shoddy. Then, when people complained, he harassed and threatened them, threatened to sue them, even calling their work place and berating them."

Maine seniors worked hard for a lifetime to save money for retirement. The Maine Attorney General's Office helps protect them from scammers who are out to steal their hard-earned money.

To inquire about a possible scam or report a complaint, contact us at:

- 1-800-436-2131, or
- Email consumer.mediation@maine.gov

Protecting Veterans and their Families

Help for Maine veterans and their families:

The Bureau of Maine Veterans Services

<http://www.maine.gov/dvem/bvs/>

The Bureau's job is to "to ensure that Maine veterans and their dependents receive all entitlements due under the law, are relieved to the extent possible of financial hardship, receive every opportunity for self-improvement through higher education and are afforded proper recognition for their service and sacrifice to the Nation."

Pine Tree Legal Assistance SCRA web page

<http://www.ptla.org/maine's-service-members'-civil-relief-act>

Helps Maine servicemen and women involved in a civil law suit while they are away.

Military Consumer Protection Day website

<http://www.military.ncpw.gov/>

Resources, tip sheets and blog posts from national consumer protection experts tailored specifically for military members and their families.

U.S. Consumer Financial Protection Bureau

www.consumerfinance.gov/servicemembers

Assists military personnel to plan and protect their assets

Attorney General's Consumer Protection Division

<http://www.maine.gov/ag/consumer/>

1-800-436-2131, email: consumer.mediation@Maine.gov

For help with consumer fraud issues.



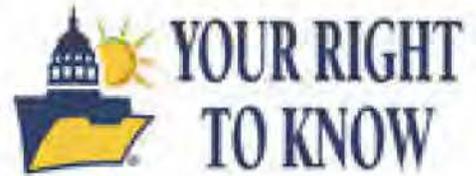
On July 17, 2013, Attorney General Janet T. Mills joined the Department of Defense, Pine Tree Legal Assistance, the Federal Trade Commission and other state and federal organizations to celebrate the first annual Military Consumer Protection Day and announce the posting of a new website to provide help.

Attorney General Mills said, "It is unforgivable that anyone would take advantage of these men and women who put their lives on the line to preserve our freedoms. These men and women in uniform need to be aware of the unique steps they should take to manage money, deal with credit and debt, build savings, protect personal information, recognize identity theft and avoid fraud."

Both the United States and the State of Maine have passed Servicemembers Civil Relief Act (SCRA) legislation. Both provide a number of protections to active-duty service members. The federal SCRA protects active-duty service members against default judgments, evictions, mortgage foreclosures, and repossession of property. It gives active-duty service members the ability to terminate residential and automobile leases, and it reduces to 6 percent the rate of interest for debts incurred before entering active duty. For more information on veterans programs in general or the SCRA in particular, contact one of the agencies in the box above.

Ensuring an Open and Transparent Government

What constitutes a “meeting” these days? It is no longer simply a group of people sitting in a room. Now a meeting can be any kind of group communication – be it skype or email, cell phone or twitter or text. How does a citizen or reporter find out what is really going on? And how does a government official know what discussions must be public?



The Public Access Ombudsman of the Attorney General’s Office is here to help both citizens and government officials to understand the requirements of open government in the electronic age.

The Ombudsman:

- Maintains a website: <http://www.maine.gov/foaa/> with information on the law, frequently asked questions, forms, training resources, etc.
- Responds to individual inquiries, complaints, and suggestions – 372 in all from September of 2012 to December of 2013.
- Trains elected and appointed officials at the state, regional, and local levels – legislators, selectpersons, city councilors, utility district board members, as well as students and the general public – about the ins and outs of the Freedom of Access Act.

How to Contact The Ombudsman

Phone: 207-626-8577

Mail

Office of the Attorney General
Public Access Ombudsman
6 State House Station
Augusta, Maine 04333

E-Mail: Brenda.Kielty@maine.gov

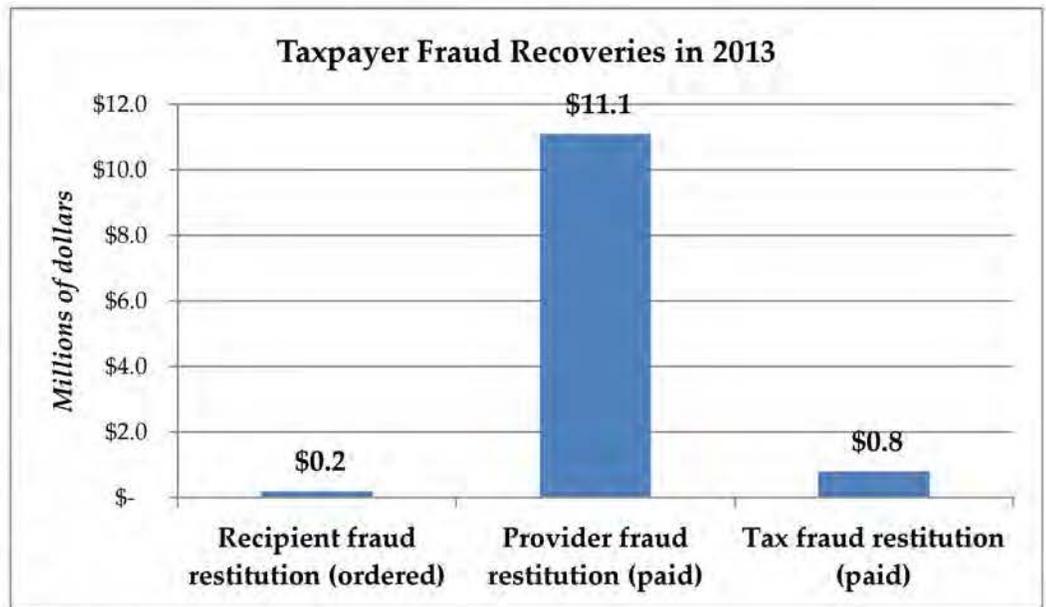
When necessary, the Attorney General’s Office takes legal action to ensure the principles of open government. This past year the Office represented the Maine Ethics Commission in its efforts to obtain donor information from the National Organization for Marriage, which spent \$1.9 million in Maine to oppose the referendum giving same sex couples the right to marry. In 2013, the Maine Supreme Court affirmed the position of the Commission that Maine people have the right to know who is spending money to influence their votes.



Stopping Fraud and Protecting Taxpayers

Fraud against the taxpayers is often in the news these days. The Attorney General's Office is prosecuting fraud of all sorts and getting money back for Maine citizens.

The Office received 66 referrals from the Department of Health and Human Services Fraud Investigation and Recovery Unit in 2013. Charges were filed in 31 cases in 2013. Convictions were obtained in 12 cases. Many are still pending.

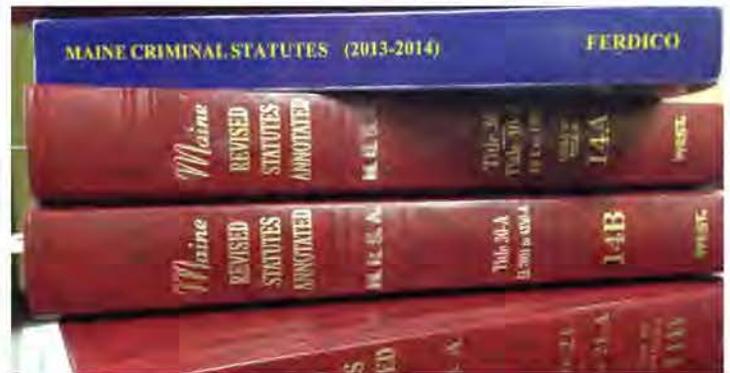


A total of \$581,000 in recipient fraud restitution has been ordered in cases from 2010 to 2013. Realistically, not all of this will be recovered. During the same 2010 to 2013 period, a total of \$55.2 million in restitution was recovered from health care providers, mostly for trying to defraud the MaineCare program.

The Attorney General's Office also helps Maine Revenue Services collect unpaid taxes, and supports the collection of funds for unemployment and workers' compensation insurance. In 2013, the Office collected over \$800,000 for state and federal coffers from tax cheats.

These activities alone can recover more for Maine taxpayers than the entire cost of the Attorney General's Office in one year.

Beyond fraud prosecutions, the Office also has a Tobacco Enforcement Assistant Attorney General who enforces statutes related to the national tobacco settlement. Maine's record of success in tobacco enforcement is ensuring that the roughly \$50 million a year continues to come into Maine to support the public health programs of the Fund for a Healthy Maine.



Educating a New Generation about Justice

The Attorney General's Office brings court cases against people who have violated the civil rights of others, too often by harassment and threats of violence. The Attorney General's Office is also home to the Civil Rights Team Project. The purpose of the project is to increase the safety of elementary, middle level, and high school students by reducing bias-motivated behaviors and harassment. Student civil rights teams help accomplish this through projects focusing on issues of race, national origin, ancestry, religion, disabilities, gender, and sexual orientation. Examples include:



- A high school civil rights team using their monthly presentation time during the school's Student of the Month assembly to give voice to an African American team member to talk openly about his experiences with racism in school;
- A middle school civil rights team responding to homophobic graffiti in the school's bathrooms with a special assembly where they educated students about the hurtful impact of what was written, how it might violate the Maine Civil Rights Act, and why they wanted the behavior to stop;
- A middle school civil rights team creating posters featuring pictures of themselves holding up signs explaining why they don't use derogatory terms.
- An elementary school civil rights team asked students to anonymously report their religions, compiled the results, and created a display listing all the religions represented in the school and a statement that "We respect and welcome religious diversity in our school."

For more information on the Civil Rights Team project, contact:

Brandon Baldwin
Schools and Curriculum Coordinator
brandon.baldwin@maine.gov
626-8548

Debi Lettre
Project Administrator
debi.lettre@maine.gov
626-8856

The Project publishes a regular newsletter in which students across the state share ideas for preventing hate crimes and bullying in their schools and communities.

Hundreds of Maine schools, at all age levels, public and private, rural and urban, and in all sixteen counties, have participated in the Project. There are currently more than 150 schools in the Civil Rights Team Project.