

MAINE STATE LEGISLATURE

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Program Evaluation Report

Office of the Attorney General

**PRESENTED TO THE JOINT STANDING COMMITTEE ON
JUDICIARY**

121st LEGISLATURE

SUBMITTED JANUARY 9, 2004

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Statutory References and Duties of the Attorney General
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3 MRSA §956

2. Program evaluation report; contents. Each report must include the following information in a concise but complete manner:

- A. Enabling or authorizing law or other relevant mandate, including any federal mandates;
- B. A description of each program administered by the agency or independent agency, including the following for each program:
 - (1) Established priorities, including the goals and objectives in meeting each priority;
 - (2) Performance criteria, timetables or other benchmarks used by the agency to measure its progress in achieving the goals and objectives; and
 - (3) An assessment by the agency indicating the extent to which it has met the goals and objectives, using the performance criteria. When an agency has not met its goals and objectives, the agency shall identify the reasons for not meeting them and the corrective measures the agency has taken to meet the goals and objectives;
- C. Organizational structure, including a position count, a job classification and an organizational flow chart indicating lines of responsibility;
- D. Compliance with federal and state health and safety laws, including the Americans with Disabilities Act, the federal Occupational Safety and Health Act, affirmative action requirements and workers' compensation;
- E. Financial summary, including sources of funding by program and the amounts allocated or appropriated and expended over the past 10 years;
- F. When applicable, the regulatory agenda and the summary of rules adopted;
- G. Identification of those areas where an agency has coordinated its efforts with other state and federal agencies in achieving program objectives and other areas in which an agency could establish cooperative arrangements, including, but not limited to, cooperative arrangements to coordinate services and eliminate redundant requirements;
- H. Identification of the constituencies served by the agency or program, noting any changes or projected changes;
- I. A summary of efforts by an agency or program regarding the use of alternative delivery systems, including privatization, in meeting its goals and objectives;
- J. Identification of emerging issues for the agency or program in the coming years;
- K. Any other information specifically requested by the committee of jurisdiction;

L. A comparison of any related federal laws and regulations to the state laws governing the agency or program and the rules implemented by the agency or program;

M. Agency policies for collecting, managing and using personal information over the Internet and nonelectronically, information on the agency's implementation of information technologies and an evaluation of the agency's adherence to the fair information practice principles of notice, choice, access, integrity and enforcement; and

N. A list of reports, applications and other similar paperwork required to be filed with the agency by the public. The list must include:

- (1) The statutory authority for each filing requirement;
- (2) The date each filing requirement was adopted or last amended by the agency;
- (3) The frequency that filing is required;
- (4) The number of filings received annually for the last 2 years and the number anticipated to be received annually for the next 2 years; and
- (5) A description of the actions taken or contemplated by the agency to reduce filing requirements and paperwork duplication.



Enabling Law

Article IX, Section 11 of the Maine Constitution provides: The Attorney General shall be chosen biennially by joint ballot of the Senators and Representatives in convention. Under 5 M.R.S.A. § 191-A, the Attorney General-elect then takes office after a transition period of not less than 30 days.

With regard to the powers of the office, in 1905, the Legislature enacted what now appears as 5 M.R.S.A. § 191, *et seq.* Laws of Maine of 1905, ch. 162. These laws provide that the Attorney General is directed to discharge various responsibilities including: 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 in the State; and give written opinions upon questions of law submitted by the Governor, Legislature, or state agencies. The Attorney General may appoint deputy and assistant attorneys general, all of whom serve at his or her pleasure. In addition to these statutory powers, the Attorney General is vested with certain other powers deriving from the office's common law powers.

The leading case on the powers and duties of the Attorney General is *Superintendent of Insurance v. Attorney General*, 558 A.2d 1197 (Me. 1989), (Appendix A). The essential principle stated by the Court in this landmark decision is that the Attorney General possesses constitutional and common law authority, independent of the agencies represented by the office, that may be exercised by the Attorney General in the public interest. Other important cases discussing the powers and duties of the Attorney General include *Lund ex rel. Wilbur v. Pratt*, 308 A.2d 554 (Me. 1973) and *State v. Lane & Libby Fisheries Co.*, 120 Me. 121 (1921).

There are many other state laws that provide or mandate a role for the Attorney General. These are set forth in Attachment A. The Office also works with many federal laws. Federal laws of most concern to the role of the Office are set forth in Appendix B.



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 through 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 Butts 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 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 also conducted its first ever team trainings in York County this fall 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.

DISTRICT ATTORNEYS

The eight popularly elected District Attorneys are responsible for handling the vast majority of criminal prosecutions in the State of Maine. Each District Attorney is solely responsible for his or her prosecutorial district. The Administration Division of the Office of Attorney General handles the payroll, benefits, and other human resource matters for all the District Attorneys and Assistant District Attorneys¹. The District Attorneys and the Attorney General also work together in the area of drug prosecutions - four Assistant Attorneys General serving as Maine Drug Task Force Attorneys are physically situated in five DA Offices² and work closely with the District Attorneys around drug prosecutions. Finally, the Maine Prosecutor's Association meets monthly at the Augusta Office of the Attorney General which provides an opportunity for the Attorney General and his staff to meet with the District Attorneys and discuss issue of mutual concern.

Recent data prepared by the Maine Prosecutor's Association reveals the magnitude of their work. All eight District Attorneys are responsible for the prosecution of the majority of all criminal offenses that occur within their respective prosecutorial districts. These eight District Attorneys, with the assistance of 76 Assistant District Attorneys, handle approximately 90,000 criminal and juvenile cases per year, as well as thousands of traffic and civil violations³. Their work goes beyond the processing of these cases. Their work includes reviewing thousands of police reports to determine whether there are sufficient grounds to issue a criminal complaint; sponsor police training and continuing legal education to law enforcement; provide legal advice to county governments; and handle the many criminal appeals that are filed every year.

Expressed another way, and by way of example, data from the Cumberland County District Attorneys Office shows that in 2002 there were 17 attorneys available to prosecute approximately 27,000 cases for a theoretical average caseload of 1,588. The American Bar Association has established standards for recommended maximum caseloads for prosecutors. These recommended maximums are as follows:

Misdemeanor – 300 cases per attorney per year
Felonies – 150 cases per attorney per year
Juvenile matters – 200 petitions per attorney per year

Even if these numbers were seen as an “ideal” rather than a recommended maximum it is clear that the caseload of Assistant District Attorneys is an extraordinary heavy one. They manage these caseloads by way of long hours and hard work. Recent funding cutbacks have placed even greater pressures on the District Attorneys and their ability to manage these heavy caseloads. The District Attorneys will continue to work with law enforcement, the Judiciary, and state and local governments to deal with the many challenges that face them and continue to pursue their goal of promoting public safety and justice for the people of Maine.

¹ Other staff in the DA Offices, such as clerical/administrative support or victim witness advocates, are county employees.

² One each in York, Cumberland County, and Androscoggin, and one AAG splits his time between Penobscot and Hancock.

³ The Criminal Division of the Office of Attorney General handles murder prosecutions.

PERFORMANCE MEASUREMENTS

Section 956(2)(B) asks agencies to provide the following:

- (1) Established priorities, including the goals and objectives in meeting each priority;
- (2) Performance criteria, timetables or other benchmarks used by the agency to measure its progress in achieving the goals and objectives; and
- (3) An assessment by the agency indicating the extent to which it has met the goals and objectives, using the performance criteria. When an agency has not met its goals and objectives, the agency shall identify the reasons for not meeting them and the corrective measures the agency has taken to meet the goals and objectives

The Office of Attorney General has in place a “Strategic Plan”, a requirement of 5 MRSA §1710-P¹. This plan, developed in 1999 pursuant to this law, follows financial “groupings” of the Office rather than a Division-by-Division analysis of performance. While the performance indicators of the Strategic Plan will be presented below, we will first begin with an overview of the human resource systems that have been developed over the past few years which have played an important role in ensuring high levels of performance from all employees of the Office of the Attorney General.

In the fall of 2001 the Attorney General reorganized the management of the Office in order to better attend to the many operational issues facing the Office. The primary change was the shifting of an existing Chief position to a new management position, the Chief of Operations. The Chief of Operations has the responsibility for overseeing the overall running of the office. The position also provided valuable focus on human resource issues which are crucial to the functioning of any entity. This emphasis by the Attorney General on management and human resource issues has led to the following:

- Creation of an Office Policy manual
- Policies and Procedures on the hiring processes for both classified and unclassified personnel
- Development of both an internet website and an intranet site for office use
- Implementation of more comprehensive AA/EEO oversight and services

¹ Sub-section 11 of this law provides as follows:

11. Biennial strategic plan revisions and performance budgets. Each state agency shall periodically review, and after consultation with the joint standing committee of the Legislature having jurisdiction over that agency's matters, update and revise its strategic plan, including goals, measurable objectives and strategies for fulfilling its statutory responsibilities. Revised plans must be submitted no later than December 1, 2000 and no later than December 1st of each even-numbered year thereafter to the Director of the State Planning Office, the State Budget Officer, the Director of the Office of Fiscal and Program Review, the Director of the Office of Policy and Legal Analysis and the joint standing committee of the Legislature having jurisdiction over that agency's matters for their review and comment.

- Creation and implementation of a Domestic Violence Workplace policy
- Hiring of IT Coordinator (two staff total) and upgrading computer systems
- Updating of the performance evaluation system for all employees
- Encouraging volunteerism within the Office, both for committee work (such as the in-house CLE Committee and the Health & Safety Committee) and to “pitch-in” when coverage issues arise or large cases need additional staffing

Development of these systems, policies and procedures has led to increased performance by individual employees and by the office overall. Our experience with this focus on human resource needs clearly demonstrates that energy, time, and resources devoted to this area of endeavor provide an enormous return in productivity, performance, and employee satisfaction.

STRATEGIC PLAN

The Office of the Attorney General’s Strategic Plan is broken into the following program strategies:

0310 Administration: Goal -Administer a program to provide legal services and defend and represent the State and its agencies and provide investigative and legal services to enforce the law and prosecute crime. Objective – Increase the responsiveness and efficiency of the legal and investigative services provided to the state’s Departments, the Legislature and the public.

<u>Performance Measures</u>	2003 Estimated	2003 Actual	2004 Estimated
Avg Cost per legal Service hour	\$64.23	\$64.01	\$66.64
% of total AAG hours w/ nonrestrictive funding sources	21.19%	19.19%	19.19%
% of clients who rate services as very good or excellent	90% ²	90% ²	92%

² These are estimates based upon anecdotal evidence.

0696 Human Services: Goal - Prosecute child abuse and neglect cases, prosecute child support cases and provide legal assistance to programs administered by DHS. Objective – Improve the quality, effectiveness and efficiency of legal services provided to the Department of Human Services by the office of Attorney General.

<u>Performance Measures</u>	2003 Estimated	2003 Actual	2004 Estimated
Avg # of cases per Child Support AAG	247	280	300
Avg # of cases per Child Protective AAG	180	180	180
% of successful appeals	91%	91%	91%
% of DHS supervisors rating legal services good to excellent	92%	92%	94%
Affirmative actions filed (Child Support)	1,700	1,900	2,000

0711 Victims Compensation Board: Goal - Administer a statewide victim’s compensation program to provide financial assistance to eligible victims of crime. Objective – Increase the responsiveness of the program to meet the financial needs of the victims of crime.

<u>Performance Measures</u>	2003 Estimated	2003 Actual	2004 Estimated
Avg # of days for processing of application	120	102	105
Avg # of days for payment of compensation	14	13	13
# of claims reviewed	260	239	240
# of claims approved	234	219	220

0947 FHM (The Tobacco Manufacturer’s Act and the Tobacco Distributor’s Act): Goal - Provide the litigation team with the resources required to enforce the Tobacco Manufacturer’s Act and the Tobacco Distributor’s Act and to ensure payment of the Master Settlement

Agreement. Objective – Enforce the Tobacco Manufacturer’s Act and the Tobacco Distributor’s Act.

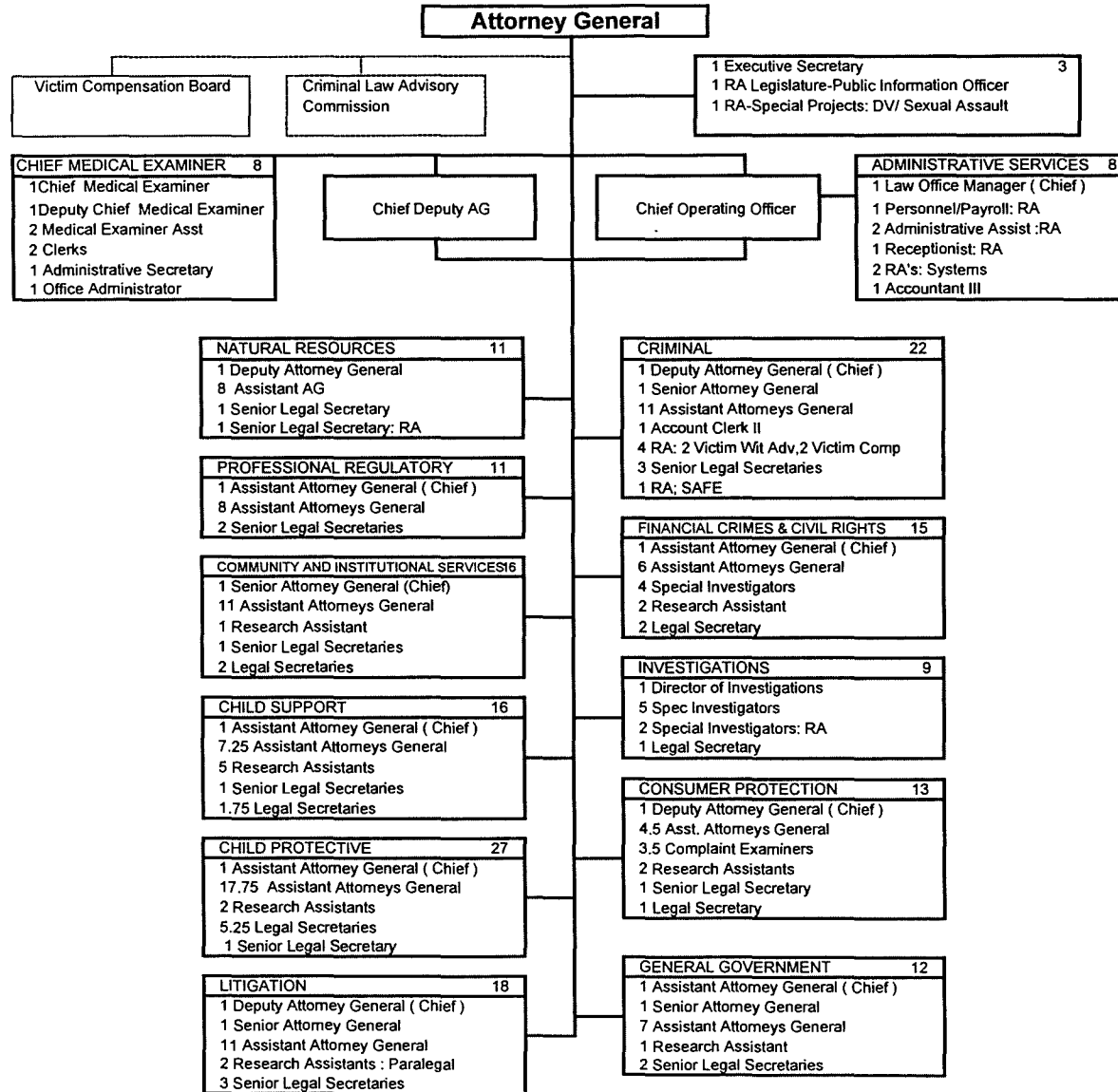
<u>Performance Measures</u>	2003 Estimated	2003 Actual	2004 Estimated
% of distributors monitored	100%	100%	100%
% of non-participating manufacturers monitored	100%	100%	100%
Amount of funds contributed To escrow	300,000	\$296,000	\$100,000
% of non-participating sales monitored	100%	100%	100%

0039 Civil Rights Program: Goal - Provide training and leadership to the state’s schools in order to increase safety and respect in the schools and reduce bias-motivated harassment. Objective – Decrease violence and prejudice in Maine schools.

<u>Performance Measures</u>	2003 Estimated	2003 Actual	2004 Estimated
# of schools participating in Civil Rights Project	200	218	230
# of students registered for team training	2,230	2,270	2400
Persons attending training	9,500	9,900	10,500

0412 Chief Medical Examiner: Goal - Develop uniform statewide protocols for death investigations that meet national standards and train medical examiners and other death investigators to use the protocols consistently. Objective - Improve the quality of the statewide medical examiner system to meet national standards.

<u>Performance Measures</u>	2003 Estimated	2003 Actual	2004 Estimated
# of reported deaths investigated	2119	2129	2150
# of reported deaths	365	346	365



*This chart reflects headcount of 192: 184 for the Office of the Attorney General and 8 for the Office of the Chief Medical Examiner
 ** This chart includes vacant positions

DEPARTMENT OF THE ATTORNEY GENERAL
Position Breakdown FY04

Office of the Attorney General

Administration, DHS, Victims' Compensation, Civil Rights

Fund	Attorney	Investigator	Research Assistant	Secretary	Other	Total
General*	23	5	15.5	8	3	54.5
General-DHS	11.5		1	2		14.5
GF Subtotal	34.5	5	16.5	10	3	69
Federal	18.5	5	6	8	0	37.5
Block	7				2	9
OSR	47.5		11	9	1	68.5
TOTAL	107.5	10	33.5	29	4	184

* includes Admin and Civil Rights

Chief Medical Examiner

Fund	Doctor	Med Technical	Research Assistant	Secretary	Other	Total
General	2	2	0	1	3	8
Federal	0	0	0	0	0	0
Block	0	0	0	0	0	0
OSR	0	0	0	0	0	0
TOTAL	2	2	0	1	3	8

District Attorney Offices

Fund	Attorney	Investigator	Research Assistant	Secretary	Other	Total
General	76	0	0	0	0	76
Federal	2	0	0	0	0	2
Block	0	0	0	0	0	0
OSR	7	0	0	0	0	7
TOTAL	85	0	0	0	0	85

Total

Fund	Attorney/ M.D.	Investigator/Med Tech	Research Assistant	Secretary	Other	Total
General	112.5	7	16.5	11	6	153
Federal	20.5	5	6	8	0	39.5
Block	7	0	0	2	0	9
OSR	54.5	0	11	9	1	75.5
TOTAL	194.5	12	33.5	30	7	277

Compliance with Federal Health and Safety Laws

Policy Against Harassment

Domestic Violence Workplace Policy

Non-Discrimination Notice

Equal Opportunity Affirmative Action Policy Statement

Health and Safety Committee

OFFICE OF THE ATTORNEY GENERAL POLICY STATEMENT AGAINST HARASSMENT

I. General Policy Statement

The Maine Office of the Attorney General recognizes the dignity of the individual employee and the right of employees to work in an environment that is free of intimidation and harassment. Such intimidation or harassment based on sex, race, color, religion, national origin, age, marital status, physical or mental disability, sexual orientation, whistleblower activity or previous assertion of a claim or right under the Maine Workers' Compensation Act is a violation of State policy. Because harassment on the basis of sex, race, color, religion, national origin, age, physical or mental disability, sexual orientation, whistleblower activity or previous assertion of a claim or right under the Maine Workers' Compensation Act seriously undermines the integrity of the work place and adversely affects employee morale, it is unacceptable and will not be tolerated. In addition, it is considered grounds for disciplinary action up to and including discharge. Harassment based on sex, race, color, religion, national origin, age, physical or mental disability, whistleblower activity or previous assertion of a claim or right under the Maine Workers' Compensation Act may also constitute illegal employment discrimination.

Examples of harassment related to race, color, sex, national origin, age, religion, marital status, physical or mental disability sexual orientation, whistleblower activity or previous assertion of a claim or right under the Maine Workers' Compensation Act, include the following, which may be a series of incidents or a single occurrence:

- Unwelcome sexual advances, gestures, comments, or contact;
- Threats;
- Offensive jokes;
- Subjecting employees to ridicule, slurs; or derogatory actions;
- Basing employment decisions or practices on submission to such harassment;
- Refusal to cooperate with employees in performing work assignments;
- Inequitable disciplinary actions and work assignments.

Further examples of sexual harassment include: Behavior that is sexual in nature may be **verbal** – such as comments about a person's looks, personal inquiries, sexual jokes, use of derogatory sexual stereotypes, uttering sexually suggestive sounds, writing sexual notes, use of State computer equipment to send, receive and/or download material of a sexual nature; **non-verbal** - such as looking someone up and down, staring or leering at someone's body, deliberate blocking of a person's path, displaying sexual visuals, making sexual gestures; or **physical** – such as massaging, touching, deliberate brushing up against someone, hugging, pinching, grabbing, or actual sexual assault.

As a matter of State policy, any behavior of a sexual nature in the workplace is considered unprofessional regardless of whether it constitutes illegal sexual harassment. Similarly, any conduct that degrades, ridicules or otherwise draws unwanted attention to any employee or other person having dealings with the Office on the basis of sex, race, religion, disability, national origin, age, sexual orientation, whistleblower activity or previous assertion of a claim or right under the Maine Workers' Compensation Act is considered unprofessional regardless of whether it constitutes unlawful harassment. Such unprofessional conduct will not be tolerated in the work place because it undermines morale, interferes with performance and demeans its victims. Each employee is personally responsible for compliance with this policy.

As part of their supervisory responsibilities, supervisors are required to actively prevent or stop inappropriate, unprofessional conduct in the workplace regardless of whether the conduct rises to the level of illegal harassment. If they become aware of any such conduct occurring, they must take immediate and appropriate corrective action, including discipline, to end the conduct. Corrective action is required regardless of whether a complaint is made or the conduct appears to be unwelcome.

The Office's EEO Coordinator may be consulted for advice and direction and **must** be contacted if a complaint is received, even if the complainant requests that no action be taken. Managers and supervisors who fail to fulfill their obligations under this policy will be subject to disciplinary action, up to and including discharge.

II. Definitions

"Sexual harassment" is defined as unwelcome sexual conduct that is a term or condition of employment. Unwelcome sexual conduct is sexual harassment when submission to such conduct is expressly or implicitly made a term or condition of employment.

"Quid pro quo" harassment occurs when submission or rejection of such conduct is used as the basis for employment decisions affecting an individual, *such as promotions in exchange for sexual favors, or an unfavorable change of duties in response to rejected sexual advances.*

"Hostile Work Environment." Unwelcome sexual conduct that unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive working environment also constitutes illegal sexual harassment. Conduct, which is not sexual in nature, may still create a sexually hostile work environment if it is based on the victim's gender. Such conduct may include excluding or isolating employees, tampering with belongings or equipment, or physical or verbal abuse based on gender.

III. Applicability

This policy applies to:

- Co-workers and supervisors
- Outside parties having dealings with the Office (i.e., customers, vendors, contractors)
- Interactions between individuals of the same or opposite sex
- Interactions in the workplace during work hours as well as outside activities related to the workplace (i.e., parties, trips, conferences)

IV. Complaint Process

The Office of the Attorney General is committed to preventing harassment prohibited by this policy through education and dissemination of information as well as employee accountability. Such harassment may be reported by any employee, regardless of whether that employee is the recipient of the harassment, a witness or otherwise becomes aware of harassment prohibited by this policy.

Internal complaints may be filed by contacting any of the following individuals:

- Immediate supervisor or any supervisor/manager in the chain of command
- Office EEO Coordinator
- Office Human Resource Manager

Although every attempt will be made to resolve complaints at the lowest possible level, if an investigation is warranted, it will be conducted promptly and with as much confidentiality as possible, respecting the rights of all parties involved. All employees are expected to cooperate in any Office investigation of harassment.

In addition to initiating the internal complaint procedure, employees covered by collective bargaining agreements may file a grievance through the applicable grievance procedure. A discrimination complaint alleging harassment on the basis of sex, race, color, religion, national origin, age, physical or mental disability, whistleblower activity or previous assertion of a claim or right under the Maine Workers' Compensation Act may also be submitted to the Maine Human Rights Commission at any time within 180 days of the alleged discriminatory incident. It is not required that any of the above procedures be utilized first or in any sequence, nor is it required that any procedure be exhausted before the other is used. In those instances where the prior workers' compensation claim or right is made against the State of Maine, the complaint may be submitted to the Maine Workers' Compensation Board.

For more information, contact:

Maine Human Rights Commission624-6050
	624-6064 (TTY)
State EEO Coordinator.....	624-7368
	287-4537 (TTY)
Office EEO Coordinator.....	626-8852

V. Retaliation

Any form of retaliatory action or threat or suggestion of retaliation by either employees or supervisors against any person filing a complaint under this policy or assisting in an investigation is a violation of State and Office policy. Any discriminatory action against any individual because the individual has opposed a practice that would be a violation of the Maine Human Rights Act, Title VII, the Americans with Disabilities Act, or the Age Discrimination in Employment Act or because the individual has made a charge, testified or assisted in any investigation, proceeding or hearing under the Maine Human Rights Act, Title VII, the Americans with Disabilities Act or the Age Discrimination in Employment Act is illegal. A complainant is protected from retaliation regardless of the merits of the original complaint. Retaliation should be reported in the same manner as described above for complaints of harassment and will be promptly investigated. Such retaliatory conduct will be grounds for disciplinary action, up to and including discharge.

Assistant Attorney General Elizabeth Wyman, the Office's EEO Coordinator, is responsible for handling complaints and providing technical assistance to staff regarding these issues. She may be contacted at (207) 626-8852.

Laurel Shippee, the state EEO Coordinator in the Bureau of Human Resources, is also available as a resource to any state employee or supervisor. She may be reached at (207) 624-7368 (TTY - 287-4537).

Dated: 8/1/2003

/s/ G. Steven Rowe
G. Steven Rowe, Attorney General

**OFFICE OF THE ATTORNEY GENERAL
DOMESTIC VIOLENCE WORKPLACE POLICY**

I. STATEMENT OF PURPOSE

The Office of the Attorney General (hereinafter “the Office”) is committed to promoting the health and safety of its employees. This commitment includes the prevention and reduction of the incidence and effects of domestic violence.

While the Office recognizes that both men and women are victims of domestic violence, the overwhelming majority of victims of domestic violence are women. In fact, domestic violence is the leading cause of injury to women in the United States.

The Office recognizes that domestic violence is a workplace issue. Domestic violence does not stay at home when victims go to work. Victims may be especially vulnerable while they are at work. Domestic violence can compromise the safety of employees and directly interfere with the mission of the Office by decreasing morale and productivity, as well as by increasing absenteeism and health costs.

For these reasons, the Office has established this workplace domestic violence policy. The specific purposes of the policy are to:

- Create a supportive workplace environment in which employees feel comfortable discussing domestic violence issues and seeking assistance for domestic violence situations;
- Develop responsive policies and procedures to assist employees who are affected by domestic violence;
- Provide immediate assistance to victims;
- Provide assistance and/or disciplinary action to employees who are perpetrators of abuse; and
- Offer training on recognizing and responding to domestic violence.

This policy recognizes that, in accordance with 26 M.R.S.A. § 850, an employer must grant reasonable and necessary leave from work, with or without pay, to an employee who is a victim to prepare for and attend court proceedings; receive medical treatment; attend to the medical treatment of a child, parent or spouse who is a victim; or obtain necessary services to remedy a crisis caused by domestic violence, sexual assault or stalking. The necessity of the leave must be based upon the employee or the employee’s daughter, son, parent or spouse being a victim of violence, assault, sexual assault, stalking or any act that would support an order for protection from abuse.

The Office will not tolerate any act of domestic violence in the workplace, and will take action to prevent and correct the misuse of the State’s resources in

connection with any act of domestic violence. Misuse of the State's resources in connection with any act of domestic violence will result in discipline up to and including discharge.

II. DEFINITIONS

- A. **Domestic Violence:** A pattern of coercive behavior that is used by a person against family or household members to gain power or control over the other party in the relationship. This behavior may include any of the following: physical violence, sexual abuse, emotional and psychological intimidation, verbal abuse and threats, stalking, isolation from friends and family, economic control, and destruction of personal property. Domestic violence occurs between people of all racial, economic, educational, and religious backgrounds. It occurs in heterosexual and same-sex relationships, between married and unmarried partners, between current and former partners, and between other family and household members.
- B. **Batterer, Perpetrator, or Abuser:** An individual who commits an act of domestic violence.
- C. **Survivor or Victim:** An individual subjected to an act of domestic violence.
- D. **Domestic Violence Response Team/Responder:** Designated employees with specialized training to handle disclosures, referrals, and office safety planning. *See Appendix for a list of current Responders.*

III. STATEMENT OF CONFIDENTIALITY

The Office recognizes and respects a victim's need for confidentiality and autonomy. To the extent permitted by law and unless the substance of the employee's disclosure demands otherwise, the Office will maintain the confidentiality of the victim's disclosure. Responders will share disclosures with the Chief of Operations (COO). However, unless necessary, the information will not be shared with other employees in the Office. Whenever possible, the employee will be given notice of necessary further disclosures. Further disclosure may be necessary if, in the opinion of the person to whom the initial disclosure is made, an abuser presents a threat to the safety of any person, the victim has expressed homicidal or suicidal intentions, or there is reasonable cause to suspect abuse, neglect or exploitation of children or incapacitated or dependent adults.¹

¹ Certain persons are "mandated reporters" of abuse or neglect of children, and abuse, neglect or exploitation of incapacitated or dependent adults. Mandated reporters include law enforcement officials. *See* 22 M.R.S.A. § 4011-A; 22 M.R.S.A. § 3477. In addition, any person may make an optional report if that person has reasonable cause to suspect that a child or incapacitated adult has been or is likely to be abused. Victims should be aware that situations involving suspected abuse, neglect or exploitation of children or incapacitated or dependent adults may be reported to outside agencies, as provided by law.

IV. EDUCATION AND OUTREACH

- A. This policy will be distributed to all current employees. New employees will receive the policy upon commencing employment. All employees are expected to become familiar with this policy and to attend domestic violence training as provided by the Office.
- B. Managers, supervisors, and members of the Domestic Violence Response Team will attend specialized training, as provided by the Office, focused on identifying and responding to issues of domestic violence in the workplace.
- C. An Education and Outreach Committee will be established to provide continuing opportunities for education and discussion. Such activities may include “Lunch and Learn” sessions, speakers, and a lending library. The Committee will attempt to maintain, publish, and post a list of resources for survivors of domestic violence in locations of high visibility, such as bulletin boards, break rooms, and the Office intranet. Resources should include but not be limited to: the hotline numbers of local domestic violence projects, local Employee Assistance Programs (“EAP”), the Maine Coalition to End Domestic Violence (statewide domestic violence coalition), and the phone number and description of other domestic violence resources in the community (court, police, victim advocates, legal assistance, and sexual assault services and hotlines). The Committee will also maintain a current list of state-certified batterers intervention programs.

V. RESPONSE AND ASSISTANCE

A. Disclosure; Requests for Information, Referral, and Assistance

The Office seeks to offer support and referrals for assistance to those employees who disclose concerns or request help. The Office will designate trained persons to whom disclosures may be made. Designated persons include members of the Response Team and all Division Chiefs, the Chief of Operations, the Chief Deputy, and the Attorney General. All employees wishing to discuss domestic violence issues are encouraged to speak with whomever they are most comfortable.

B. Response to Victims

- 1. The Office recognizes all persons’ rights to privacy, autonomy, and safety, and the corresponding need to control the process following any disclosure. To the extent that disclosures do not implicate issues of workplace safety and performance, and to the extent permitted by law and this policy, the Office’s response will be guided by the expressed wishes of the victim, and may include the following:

- a. Referrals to appropriate agencies and services, including EAP, domestic violence and sexual assault hotlines, local shelters and advocates, legal services, law enforcement, medical and counseling services;
 - b. Assessment of the victim's need to be absent from work;
 - c. Information regarding employment benefits, including processes for changing insurance benefits, requesting paid and unpaid leave, and changing pay arrangements (such as direct deposit of paychecks); and
 - d. Information regarding the availability of unemployment benefits in certain circumstances.
2. Any person who is concerned about his or her safety at work should speak to a member of the Response Team, a Division Chief, the Chief of Operations, the Chief Deputy, or the Attorney General. The Office will immediately contact local police and/or Capitol Security in the event of imminent danger.
 3. If domestic violence is occurring in the workplace, is affecting the performance of the victim or the victim's co-workers, or if the victim otherwise requests, the Office will assist the victim by:
 - a. Referring individuals to appropriate agencies and services, including EAP, domestic violence and sexual assault hotlines, local shelters and advocates, legal services, law enforcement, medical and counseling services;
 - b. Developing an individualized workplace safety plan in conjunction with appropriate agencies and services. The Office and the victim may consider, for example, screening telephone calls, changing the affected employee's phone extension or physical location, arranging for escort to and from parking areas, changing work schedules, and providing information concerning the perpetrator to Capitol Security, law enforcement, and/or the receptionist.
 4. If any person is at immediate risk in the workplace, the Office will follow protocols for notifying law enforcement and Capitol Security, and follow applicable emergency or safety procedures.
 5. Victims are encouraged to disclose the existence of Temporary and Permanent Orders for Protection from Abuse or Harassment to a member of the Domestic Violence Response Team, especially where the order includes a provision that the perpetrator is not to have contact with the victim at the victim's place of employment. The responder will follow the provisions of this policy with respect

to response and assistance to the victim, and address the issue of safety plans with the victim as appropriate.

C. Response to Employees Concerned about Domestic Violence

1. If an employee has a concern that a co-worker is a victim of domestic violence, the employee is encouraged to contact a member of the Response Team to discuss the concern. The responder will work with the concerned employee to decide how best to approach the victim. In addition, the responder may discuss the matter with the Chief of Operations, the Chief Deputy Attorney General, or the Attorney General if there is an immediate safety risk to anyone in the workplace, or if the perceived problem has an affect on the workplace, including but not limited to safety, job performance, and morale. The responder will maintain the confidentiality of the disclosing employee to the extent permitted by law and this policy.
2. If an employee experiences or witnesses violence or threats of violence in the workplace, the employee should report the incident to a supervisor or the Chief of Operations immediately.
3. Employees may wish to seek advice and information from a responder before speaking with a perceived victim, but this approach is not required. If an employee discusses concerns about safety with a victim, the employee should only offer help, not judgment. The employee should also:
 - a. Refer the victim to appropriate agencies and services, including EAP, domestic violence and sexual assault hotlines, local shelters and advocates, legal services, law enforcement, medical and counseling services; and
 - b. Encourage the victim to seek assistance when addressing personal safety issues.

D. Documentation

The COO will maintain copies of orders for protection from abuse and other documents that demonstrate workplace domestic violence in a confidential file. The Office will develop necessary protocols related to maintaining records of domestic violence disclosures.

VI. WORK PERFORMANCE

The Office recognizes that victims of domestic violence may have performance or conduct problems, such as chronic absenteeism or an inability to concentrate, because of the abuse.

When an employee confides that job performance or a conduct problem is caused by domestic violence, referrals and assistance should be offered in accordance with this policy.

The Division Chief or supervisor, in collaboration with the employee and any other appropriate agencies, which may include the EAP, the Bureau of Human Resources, or the collective bargaining agreement, should allow a reasonable amount of time away from work for the employee to obtain assistance regarding domestic violence. This time may be drawn from sick or vacation leave, unpaid leave, or a leave bank, as determined appropriate and available. Any such leave will be consistent, at a minimum, with 26 M.R.S.A. § 850.

Nothing in this policy alters the authority of the Office to establish performance expectations, counsel employees, impose discipline, reassign duties, place an employee on leave, or take other action as it deems appropriate.

VII. PERPETRATORS

- A. If an employee discloses that he or she is or has been a perpetrator of domestic violence, the responder should refer the employee to EAP and a local state-certified Batterers' Intervention Project. In every situation where an employee makes this disclosure, the COO or other appropriate individual will immediately be included in the discussion related to the disclosure.
- B. If an employee is concerned that a co-worker is a perpetrator of domestic violence, the employee should notify a member of the Response Team. The employee is discouraged from confronting the co-worker directly. Instead, the responder will discuss the issue with the employee and work with the COO to decide how best to address the situation.
- C. Any incident of domestic violence committed by an employee while on office premises, during working hours, or at an office-sponsored event will not be tolerated. Employees found to have violated this policy will be subject to corrective or disciplinary action, up to and including discharge.
- D. The use of State resources, work time, or equipment in connection with any act of domestic violence is prohibited. The Office will prevent and correct misuses of State resources in connection with any act of domestic violence. An employee violating this section will be subject to corrective and disciplinary action, up to and including discharge.
- E. Employees of the Office must disclose to their Division Chief any order for protection from abuse or harassment, or any condition of bail or probation that includes:
 - 1. Conditions prohibiting or limiting contact with other

- employees of this Office; or
2. Conditions that may interfere with the employee's ability to perform job duties.

VIII. CONCLUSION

The Office is committed to providing a supportive workplace environment free of domestic violence. The Office will work to respond and provide immediate assistance to a victim who seeks it. Victims will be treated with compassion and will not be judged.

Employees with questions about this policy or ideas to improve this policy should contact a responder or Division Chief.

Effective Date: September 4, 2003

Memo

To: ALL Attorney General Staff, interns, volunteers
From: G. Steven Rowe, Attorney General
Date: May 27, 2003
Re: Department of Attorney General Non-Discrimination Notice

The attached Non-Discrimination Notice prohibiting discrimination on the basis of disability, race, color, creed, age, sex, religion or national origin in admission to, access to, or operation of the services, programs, activities, hiring or employment practices of the Department of Attorney General is hereby adopted. All employees, interns and volunteers are expected to comply with its provisions. If you have any questions about the notice, please speak to your division chief or Elizabeth Wyman, Assistant Attorney General, the Equal Employment Opportunity/Americans with Disabilities Act Coordinator for this office.



G. Steven Rowe
Attorney General

**STATE OF MAINE
DEPARTMENT OF ATTORNEY GENERAL
NON-DISCRIMINATION NOTICE**

The Department of Attorney General does not discriminate on the basis of disability, race, color, creed, age, sex, religion or national origin in admission to, access to, or operation of its services, programs, activities or its hiring or employment practices.

This notice is provided under Title II of the Americans with Disabilities Act of 1990 (42 U.S.C. § 12131 *et. seq.*), Section 504 of the Rehabilitation Act of 1973 as amended (29 U.S.C. § 794), Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 1981, 2000d *et. seq.*), the Age Discrimination Act as amended (42 U.S.C. § 6101 *et. seq.*), the Omnibus Crime Control and Safe Streets Act of 1968, as amended (42 U.S.C. § 3789d), the Victims of Crime Act (42 U.S.C. § 10601 *et. seq.*) and Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 *et. seq.*) and the regulations promulgated thereunder.

The Equal Employment Opportunity/Americans with Disabilities Act Coordinator (“EEO/ADA Coordinator”) of the Department Attorney General has been designated to coordinate the efforts of the Department of the Attorney General to comply with the above referenced federal laws and regulations. Inquiries concerning application of these laws and regulations and the grievance procedure for resolving complaints alleging violation of these laws and regulations may be referred to the EEO/ADA Coordinator for the Office of the Attorney General. The EEO/ADA Coordinator for the Department of Attorney General may be reached at 6 State House Station, Augusta, ME 04333-0006 or (207) 626-8800 or (207) 626-8865 (TTD). Inquiries concerning application of Title II of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973 may also be referred to the ADA Coordinator for the State of Maine. The ADA Coordinator for the State of Maine may be reached at 2 Anthony Avenue, 150 State House Station, Augusta, ME 04333-0150 or (207) 624-5956, (800) 698-4440 (TTY), or (207) 624-5980(fax). A person with a complaint of discrimination under the above referenced laws may also file a complaint with the Maine Human Rights Commission, the Civil Rights Division of the U.S. Department of Justice, or with any other appropriate court or governmental agency.

Individuals who need auxiliary aids or services for effective communication in services, programs and activities of the Department of Attorney General are invited to make their needs and preferences known to the EEO/ADA Coordinator for the Department of Attorney General. This information is available in alternate formats upon request.

May 27, 2003

**OFFICE OF THE ATTORNEY GENERAL
EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION POLICY STATEMENT**

The Maine Office of the Attorney General shall continue to pursue a policy of non-discrimination in all employment actions, practices, procedures and conditions of employment.

1. Employment decisions will be based on the principles of equal employment opportunity. Unless a bona fide occupational qualification exists, recruitment, testing, selection, and promotion will be administered without regard to race, color, religion, sex, national origin, ancestry, age, physical or mental disability, sexual orientation, whistleblower activity, previous assertion of a claim or right under the Maine Workers' Compensation Act, or marital status.
2. Further, personnel actions and conditions of employment, such as compensation, benefits, layoffs, job assignments, employee development opportunities and discipline shall be administered without regard to race, color, religion, sex, national origin, ancestry, age, physical or mental disability, sexual orientation, whistleblower activity, previous assertion of a claim or right under the Maine Workers' Compensation Act, or marital status.
3. Reasonable accommodations will be made for any qualified individual, applicant or employee, in accordance with the provisions of the Maine Human Rights Act and the Americans with Disabilities Act.
4. Managers and supervisors are responsible for awareness of and response to potential discriminatory situations. Employees are required to cooperate fully with the investigation and/or resolution of any discrimination complaint. Managers and supervisors are required to actively prevent and correct retaliation or harassment toward any employee who has been involved in the filing, investigation, or resolution of a discrimination claim.
6. The Office will address and attempt to resolve employee complaints regarding discrimination and harassment as expeditiously as possible. Supervisors and managers are required to contact the Office Equal Employment Opportunity Coordinator if they receive a complaint of this nature.
7. This policy shall not be construed to prohibit any employment action or policy that is required by federal law, rule or executive order.

I have assigned responsibility for the implementation, monitoring, and record keeping of the EEO/AA Program to Assistant Attorney General Elizabeth Wyman, the Office's EEO Coordinator. The EEO Coordinator is also responsible for providing technical assistance to applicants and employees.

The State EEO Coordinator in the Bureau of Human Resources, Laurel Shippee, is also available as a resource to any employee or supervisor. She may be reached at 624-7368 (TTY - 287-4537).

I sincerely appreciate the continued cooperation and support of all employees and supervisors in making the Office a successful equal opportunity employer and a positive example for other employers in the State.

Dated: 8/1/2003

/s/ G. Steven Rowe
G. Steven Rowe, Attorney General



HEALTH & SAFETY COMMITTEE NEWSLETTER

OFFICE OF THE ATTORNEY GENERAL
Issue 1, June 2003

Hello everyone!

We are pleased to announce the formation of the Health and Safety Committee of the Office of the Attorney General. The members of this committee are: **Andrew Black, Laurie Brann, Linda Conti, Celeste Gaylord, Debi Gray, Stephanie Grenier, Renee Guignard, Bill Laubenstein, Ruth McNiff, Scott Michaud, Sue Ann Robinson and Kelly Turner.**

Mission Statement:

"The fundamental mission of this committee is to help protect the most valuable resource of the Office of the Attorney General—its employees—by promoting workplace safety and employee health through sharing information, encouraging healthy and safe practices, and facilitating the achievement of group and personal health and safety goals."

Grant money:

The committee has an opportunity to apply to Employee Health and Benefits for a \$3,500 grant to assist us in improving the health and safety of our staff. One half of the money must be used for safety and the other half for health. Any ideas on what areas we should focus on should be provided to any member of the committee by the end of the day on Wednesday, June 18, 2003.

What have we been doing?

We have been discussing several suggestions offered by our members regarding what activities could be offered and funded by the potential grant money that we may receive. They include:

- CPR and 1st aid classes (\$45.00 per person) to be offered in June. Each course will be 4 hours and requires at least 8 people per class;
- Programs offered at local health clubs or gyms: massage, yoga, pilates;
- Lectures from Anthem on health care issues;
- Flex time so that employees could incorporate time for fitness activities into their workday schedule.
- Fruit baskets and bottled water in the break rooms;
- AG's Office-sponsored events or notification of charitable events, e.g., walk-a-thons;
- Purchase of a blood pressure cuff;
- Health/Safety tip of the day/week via e-mail;
- Audio/video clip with stretch-of-the-day; and
- Purchase of exercise mats to be kept in break room for back exercises.

These are just some ideas that we have discussed so far. Suggestions from all of you would be great!

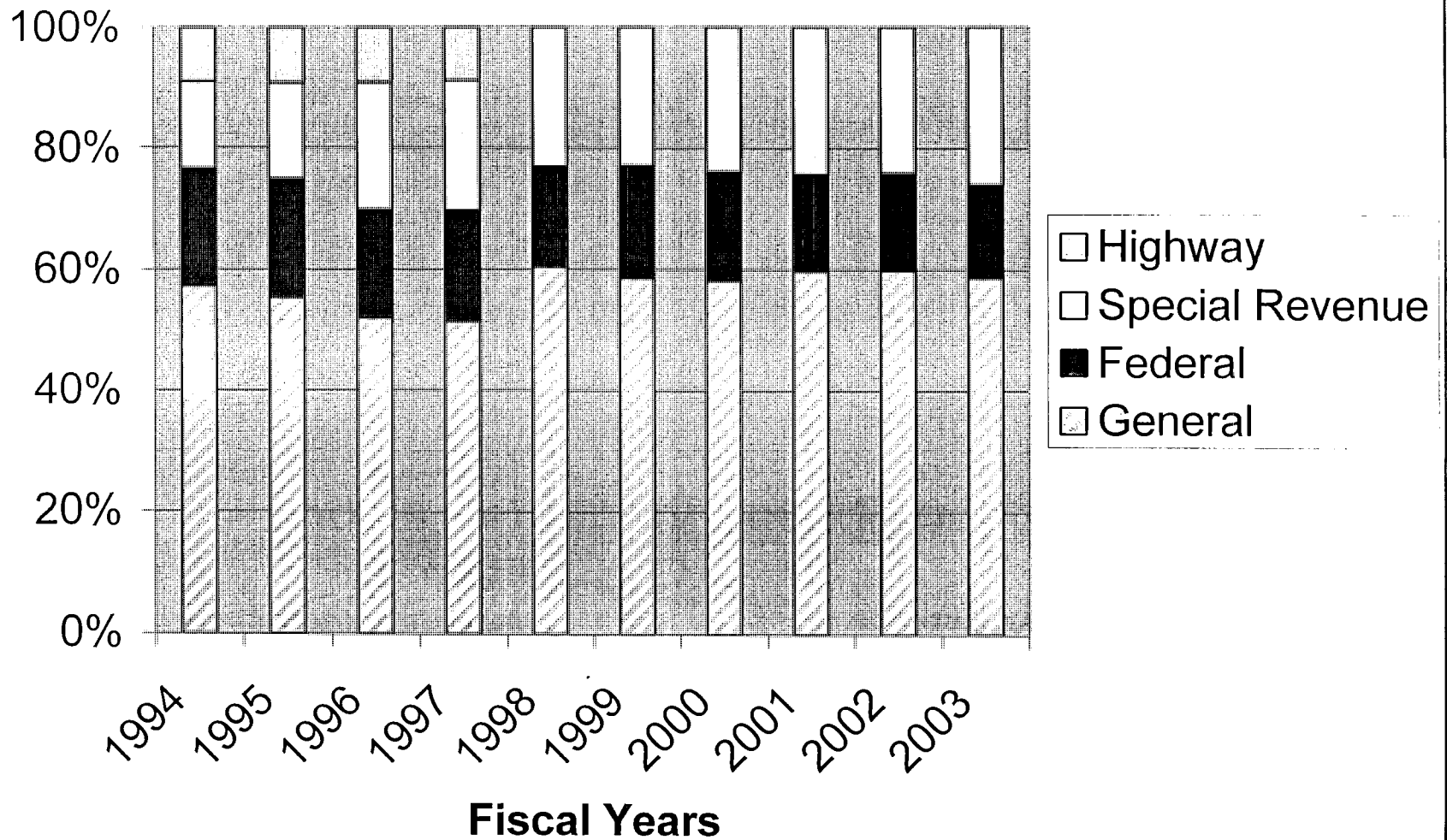
Communication of Issues and Activities

In order to notify employees of the AG's Office of health and safety issues and activities, the HSC will maintain a bulletin board in the office. Information posted on the bulletin board will include walking maps, a list of gyms in the area with hours and other information, and a list of golf courses, tennis courts, horseback riding stables, swimming pools, etc., and suggestions for other activities.

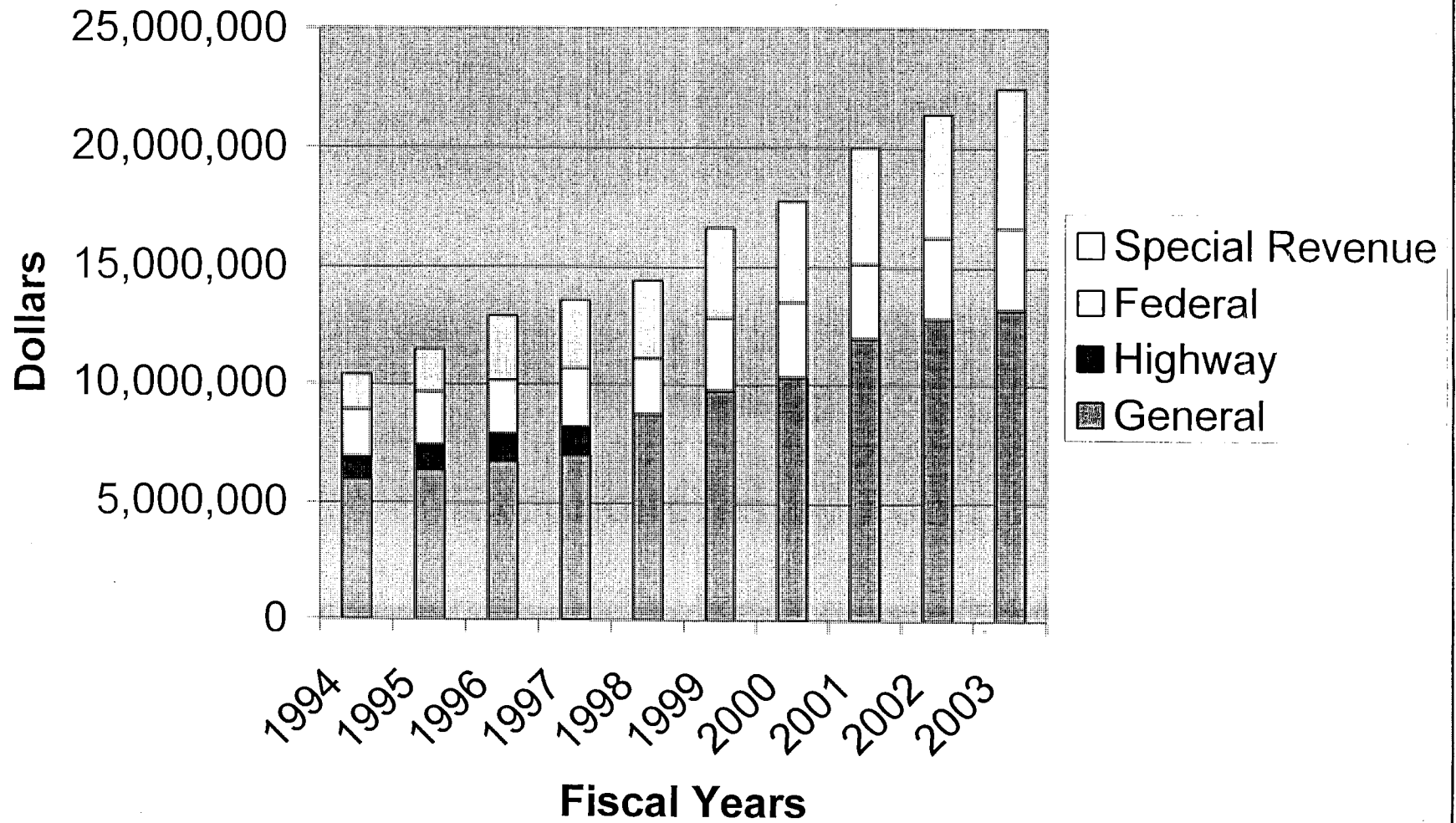
Office of the Attorney General
Actual Expenditures by Program by Fund

FY	Program	FUND					Total
		General	Highway	Federal	OSR	Block grant	
1996	Attorney General	3,343,518		894,661	2,300,292		6,538,470
	District Attorneys	2,180,529	1,174,554	114,537			3,469,621
	Chief Medical Examiner	640,258					640,258
	AG- Human Services	533,804		830,758	170,321	463,573	1,998,457
	Victims' Comp				249,704		249,704
	TQM	8,591					8,591
	Total FY96	6,706,700	1,174,554	1,839,957	2,720,317	463,573	12,905,101
1997	Attorney General	3,299,413		1,036,330	2,525,913		6,861,656
	District Attorneys	2,422,906	1,195,864	107,781	14,928		3,741,479
	Chief Medical Examiner	616,122					616,122
	AG- Human Services	655,749		830,787	167,827	474,189	2,128,551
	Victims' Comp			36,027	217,523		253,550
		Total FY97	6,994,189	1,195,864	2,010,925	2,926,192	474,189
1998	Attorney General	3,501,857		879,531	2,787,015		7,168,402
	District Attorneys	3,723,172		153,038	50,468		3,926,678
	Chief Medical Examiner	789,696					789,696
	AG- Human Services	713,862		844,895	174,636	452,333	2,185,725
	Victims' Comp			50,972	319,640		370,612
		Total FY98	8,728,586	0	1,928,436	3,331,758	452,333
1999	Attorney General	3,604,166		1,233,633	3,204,134		8,041,934
	District Attorneys	4,537,980		281,817	48,061		4,867,858
	Chief Medical Examiner	884,946			-620		884,326
	AG- Human Services	726,107		1,042,772	258,575	506,887	2,534,341
	Victims' Comp				310,157		310,157
	Contingent-Lawsuit	253					253
	Total FY99	9,753,453	0	2,558,221	3,820,308	506,887	16,638,869
2000	Attorney General	3,901,890		1,184,516	3,369,141		8,455,548
	District Attorneys	4,647,213		270,552	141,631		5,059,395
	Chief Medical Examiner	919,722			-501		919,220
	AG- Human Services	865,971		1,170,426	325,874	520,493	2,882,764
	Victims' Comp			25,897	428,271		454,168
	Contingent-Lawsuit	5,544					5,544
	Total FY00	10,340,340	0	2,651,391	4,264,416	520,493	17,776,640
2001	Attorney General	4,297,654		1,150,434	3,963,346		9,411,434
	District Attorneys	5,534,506		176,643			5,711,150
	Chief Medical Examiner	1,000,637					1,000,637
	AG- Human Services	1,005,322		1,271,193	377,269	581,211	3,234,996
	Victims' Comp	58,856			545,759		604,615
	Contingent-Lawsuit	43,461					43,461
	Total FY01	11,946,687	0	2,598,271	4,886,374	581,211	20,012,543
2002	Civil Rights Teams	159,213					159,213
	Attorney General	4,534,970		1,178,244	4,017,943		9,731,156
	District Attorneys	5,977,562		55,180	219,756		6,252,498
	Chief Medical Examiner	1,103,911		16,207	1,367		1,121,485
	AG- Human Services	1,008,664		1,480,984	460,437	633,399	3,583,484
	Victims' Comp			51,766	489,697		541,463
	Contingent-Lawsuit	3,084					3,084
	Contingent-Lawsuit	6,536					6,536
	Total FY02	12,793,939	0	2,782,381	5,189,200	633,399	21,398,919
2003	Civil Rights Teams	255,884					255,884
	Attorney General	4,677,229		1,152,640	4,296,665		10,126,535
	District Attorneys	6,090,240			400,412		6,490,652
	Chief Medical Examiner	1,110,317		16,522			1,126,839
	AG- Human Services	1,030,332		1,538,729	557,567	649,409	3,776,036
	Victims' Comp			74,750	560,038		634,788
	Contingent-Lawsuit						0
	Contingent-Lawsuit	12,897					12,897
	Total FY03	13,176,899	0	2,782,641	5,864,634	649,409	22,473,584

Fund as Percent of Total Expenditure



Expenditures by Fund



Office of the Attorney General

Consolidated Financial Summary
Actual Expenditures by Fiscal Year

Fiscal Year	Fund				Total
	General	Federal	Special Revenue	Highway	
1994	5,948,524	2,007,357	1,500,590	932,688	10,389,159
1995	6,354,705	2,242,727	1,819,849	1,058,775	11,476,056
1996	6,706,700	2,303,530	2,720,317	1,174,554	12,905,101
1997	6,994,189	2,485,114	2,926,192	1,195,864	13,601,359
1998	8,728,586	2,380,769	3,331,757		14,441,112
1999	9,753,453	3,065,108	3,820,308		16,638,869
2000	10,340,340	3,171,884	4,264,416		17,776,640
2001	11,946,687	3,179,482	4,886,374		20,012,543
2002	12,793,939	3,415,780	5,189,200		21,398,919
2003	13,176,899	3,432,050	5,864,634		22,473,583

Fiscal Year	Fund				Total
	General	Federal	Special Revenue	Highway	
1994	57.26%	19.32%	14.44%	8.98%	1
1995	55.37%	19.54%	15.86%	9.23%	1
1996	51.97%	17.85%	21.08%	9.10%	1
1997	51.42%	18.27%	21.51%	8.79%	1
1998	60.44%	16.49%	23.07%	0.00%	1
1999	58.62%	18.42%	22.96%	0.00%	1
2000	58.17%	17.84%	23.99%	0.00%	1
2001	59.70%	15.89%	24.42%	0.00%	1
2002	59.79%	15.96%	24.25%	0.00%	1
2003	58.63%	15.27%	26.10%	0.00%	1

**State of Maine
Budget & Financial Management System**

Position Count by Account

			2004-G01 Prior Yr Actual 2002	2004-G01 Total Part I & Part II FY 2004	2004-G01 Total Part I & Part II FY 2005
ATT00	DEPARTMENT OF THE ATTORNEY GENERAL				
01026A003901	CIVIL RIGHTS				
	LEGISLATIVE COUNT	006000	1.000	1.000	1.000
	Account Total		1.000	1.000	1.000
01026A031001	ATTORNEY GENERAL				
	LEGISLATIVE COUNT	006000	56.500	53.500	53.500
	Account Total		56.500	53.500	53.500
01026A040901	DIST ATTORNEYS SALARIES				
	LEGISLATIVE COUNT	006000	76.000	76.000	76.000
	Account Total		76.000	76.000	76.000
01026A041201	CHIEF MEDICAL EXAMINER				
	LEGISLATIVE COUNT	006000	8.000	8.000	8.000
	Account Total		8.000	8.000	8.000
01026A069601	HUMAN SERVICES - DIVISION OF				
	LEGISLATIVE COUNT	006000	14.500	14.500	14.500
	Account Total		14.500	14.500	14.500
	TOTAL 010 GENERAL FUND				
	LEGISLATIVE COUNT	006000	156.000	153.000	153.000
	FTE COUNT	006200	0.000	0.000	0.000
	TOTAL 010 ATT00		156.000	153.000	153.000
01326A031001	ATTORNEY GENERAL				
	LEGISLATIVE COUNT	006000	8.000	8.000	8.000
	Account Total		8.000	8.000	8.000
01326A031002	LEGAL EDUCATION PROGRAM				
	LEGISLATIVE COUNT	006000	1.000	1.000	1.000
	Account Total		1.000	1.000	1.000

**State of Maine
Budget & Financial Management System**

Position Count by Account

				2004-G01	2004-G01	2004-G01
				Prior Yr Actual 2002	Total Part I & Part II FY 2004	Total Part I & Part II FY 2005
ATT00	DEPARTMENT OF THE ATTORNEY GENERAL					
01326A031005	MEDICAID FRAUD CONTROL UNIT					
	LEGISLATIVE COUNT	006000		7.000	7.000	7.000
	Account Total			7.000	7.000	7.000
01326A040902	DISTRICT ATTORNEYS'					
	LEGISLATIVE COUNT	006000		2.000	2.000	2.000
	Account Total			2.000	2.000	2.000
01326A069601	HUMAN SERVICES - DIVISION OF					
	LEGISLATIVE COUNT	006000		21.500	21.500	21.500
	Account Total			21.500	21.500	21.500
	TOTAL 013 FEDERAL EXPENDITURES FUND					
	LEGISLATIVE COUNT	006000		39.500	39.500	39.500
	FTE COUNT	006200		0.000	0.000	0.000
	TOTAL 013	ATT00		39.500	39.500	39.500
01426A031001	ATTORNEY GENERAL					
	LEGISLATIVE COUNT	006000		13.500	15.500	15.500
	Account Total			13.500	15.500	15.500
01426A031002	LEGAL ASST TO OTHER AGENCIES					
	LEGISLATIVE COUNT	006000		32.500	31.500	31.500
	Account Total			32.500	31.500	31.500
01426A031003	CONSUMER FRAUD DIV/RUST BOOK					
	LEGISLATIVE COUNT	006000		2.500	2.500	2.500
	Account Total			2.500	2.500	2.500
01426A031007	LEGAL SERVICES					
	LEGISLATIVE COUNT	006000		4.000	4.000	4.000
	Account Total			4.000	4.000	4.000

**State of Maine
Budget & Financial Management System**

Position Count by Account

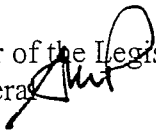
			2004-G01 Prior Yr Actual 2002	2004-G01 Total Part I & Part II FY 2004	2004-G01 Total Part I & Part II FY 2005
ATT00	DEPARTMENT OF THE ATTORNEY GENERAL				
01426A031008	LEGAL SERVICES				
	LEGISLATIVE COUNT	006000	4.000	5.000	5.000
	Account Total		4.000	5.000	5.000
01426A031010	PETROLEUM MARKETING FUND				
	LEGISLATIVE COUNT	006000	1.000	1.000	1.000
	Account Total		1.000	1.000	1.000
01426A040902	DISTRICT ATTORNEYS				
	LEGISLATIVE COUNT	006000	7.000	7.000	7.000
	Account Total		7.000	7.000	7.000
01426A069601	HUMAN SERVICES - DIVISION OF				
	LEGISLATIVE COUNT	006000	6.000	6.000	6.000
	Account Total		6.000	6.000	6.000
01426A071101	VICTIMS' COMPENSATION FUND				
	LEGISLATIVE COUNT	006000	3.000	3.000	3.000
	Account Total		3.000	3.000	3.000
TOTAL 014	OTHER SPECIAL REVENUE FUNDS				
	LEGISLATIVE COUNT	006000	73.500	75.500	75.500
	FTE COUNT	006200	0.000	0.000	0.000
	TOTAL	014 ATT00	73.500	75.500	75.500

State of Maine
Budget & Financial Management System

Position Count by Account

		2004-G01 Prior Yr Actual 2002	2004-G01 Total Part I & Part II FY 2004	2004-G01 Total Part I & Part II FY 2005
ATT00	DEPARTMENT OF THE ATTORNEY GENERAL			
01526A069601	HUMAN SERVICES - DIVISION OF			
	LEGISLATIVE COUNT 006000	9.000	9.000	9.000
	Account Total	9.000	9.000	9.000
TOTAL 015	FEDERAL BLOCK GRANT FUND			
	LEGISLATIVE COUNT 006000	9.000	9.000	9.000
	FTE COUNT 006200	0.000	0.000	0.000
	TOTAL 015 ATT00	9.000	9.000	9.000
TOTAL ATT00	DEPARTMENT OF THE ATTORNEY GENERAL			
	LEGISLATIVE COUNT 006000	278.000	277.000	277.000
	FTE COUNT 006200	0.000	0.000	0.000
	TOTAL ATT00	278.000	277.000	277.000
TOTAL		278.000	277.000	277.000

DEPARTMENT OF THE ATTORNEY GENERAL
6 STATE HOUSE STATION
AUGUSTA, ME 04333-0006
TEL: 207-626-8599
FAX (207) 287-3145

To: David E. Boulter, Executive Director of the Legislative Council
From: Linda Pistner, Deputy Attorney General 
Date: September 23, 2003
Re: 2003-2004 Regulatory Agenda

The Office of the Attorney General issues the attached regulatory agenda pursuant to 5 M.R.S.A. § 8060. As required by statute, the office is providing sufficient copies of the materials for each member of the three committees who will receive the regulatory agenda.

Please contact me if you need additional information.

CC: Dan A. Gwadosky Secretary of State

OFFICE OF THE MAINE ATTORNEY GENERAL

2003-2004 REGULATORY AGENDA

(September 23, 2003)

AGENCY UMBRELLA-UNIT NUMBER: 26-239

AGENCY NAME: Office of the Attorney General

EMERGENCY RULES ADOPTED SINCE THE LAST REGULATORY AGENDA: None

EXPECTED 2003-2004 RULE-MAKING ACTIVITY:

A. CHAPTER 1: Rules for Strip Searches, Mouth Searches, and Body Cavity Searches of Arrestees

STATUTORY AUTHORITY: 5 M.R.S.A. § 200-G(1) (Strip Searches and Body Cavity Searches).

PURPOSE: The Office of the Attorney General expects that these Rules will conform preexisting rules to developments in case law since the rules were initially promulgated.

ANTICIPATED SCHEDULE: Promulgation over the course of the next year.

AFFECTED PARTIES: Persons arrested and who may be subject to a strip search or body cavity search.

CONSENSUS-BASED RULE DEVELOPMENT: While we will certainly consult with interested parties, the Act Regarding Strip Searches and Body Cavity Searches is a law enforcement statute and Consensus-Based Rule Development will not always be appropriate.

CONTACT PERSON: Donald W. Macomber, Assistant Attorney General, Criminal Division, 6 State House Station, Augusta, ME 04333-0006, Tel: (207) 626-8507

B. CHAPTER 107: Unfair Trade Practice Rules

STATUTORY AUTHORITY: 5 M.R.S.A. § 207(2) (The Maine Unfair Trade Practices Act) and 10 M.R.S.A. § 1169(3) (Maine Lemon Law Arbitration).

PURPOSE: The Office of the Attorney General expects that these Rules will deal with the following areas:

1. Advertising in the sale and leasing of automobiles.

2. Lemon Law procedures (10 M.R.S.A. § 1169(3)).
3. Lead Paint disclosures and warnings

ANTICIPATED SCHEDULE: Promulgation on a priority basis over the course of the next year.

AFFECTED PARTIES: Maine consumers and businesses.

CONSENSUS-BASED RULE DEVELOPMENT: While we will certainly consult with interested parties, the Maine Unfair Trade Practices Act is a law enforcement statute and Consensus-Based Rule Development will not always be appropriate.

CONTACT PERSON: Linda Conti, Chief, Consumer Protection Division, 6 State House Station, Augusta, ME 04333-0006, Tel: (207) 626-8591

C. CHAPTER 200: Rules for Tobacco Sales

STATUTORY AUTHORITY: 22 M.R.S.A. § 1580-G, et seq. (Tobacco Manufacturers Act) and 22 M.R.S.A. § 1580-L (Tobacco Product Manufacturers).

PURPOSE: The Office of the Attorney General expects to promulgate comprehensive Rules to implement 22 M.R.S.A. § 1580-G, et seq. and § 1580-L by providing tobacco product manufacturers, distributors and retailers with clear definitions, instructions, and guidance to comply with the laws.

ANTICIPATED SCHEDULE: Promulgation on a priority basis over the course of the next year.

AFFECTED PARTIES: Tobacco manufacturers, importers, distributors, retailers and Maine consumers.

CONSENSUS-BASED RULE DEVELOPMENT: While we will certainly consult with interested parties, the Maine Unfair Trade Practices Act is a law enforcement statute and Consensus-Based Rule Development will not always be appropriate.

CONTACT PERSON: Melissa Reynolds O'Dea, Assistant Attorney General, 6 State House Station, Augusta, ME 04333-0006, Tel: (207) 626-8800

No other Board (including the Victims' Compensation Board), Unit or Division of the Attorney General's Office has any current plan for rulemaking prior to the next regulatory agenda due date.



Coordination With Other State and Federal Agencies

The Office of Attorney General and members of our staff belong to, or cooperate with, a number of committees, boards, and task forces on both the state and local level. They are listed below.

Child Protection - AAGs participate in the following: the Local Level Agreement Implementation Task Force (dealing with the Houlton Band of Maliseet Indians and child protection issues); the Advisory Panel for the Court Appointed Special Advocates (the CASA Program); the Child Death and Serious Injury Review Panel; the Open Adoption Study Group; the Domestic Violence Homicide Review Panel; the Child Protection Advisory Committee; the Child Abuse and Neglect Evaluators Project; the Child Abuse Action Network; the Maine Indian Child Welfare Task Force; the Family Treatment Drug Court (FTDC) Steering Committee; and the Child and Family Services Review Performance Improvement Plan

Civil Rights - The Civil Rights Team Project and the Civil Rights Enforcement Unit work cooperatively with the United States Attorneys Office; the Lewiston-Auburn Community Task Force (a bias crime task force); with "Project Sentry", a federally funded project (through the Department of Justice) to enhance community safety and to reduce gun and other forms of violence in schools; the Maine Criminal Justice Academy; and all Maine law enforcement agencies and departments through officer training and our Designated Civil Rights Officer program.

Health Care - On the State level the Healthcare Crimes Unit is a member on the Maine Elder Death Review Team ("MEDART"). On the Federal level staff of the Unit participate in the Healthcare Fraud Working Group of the District of Maine with the USAO, FBI, OIG-HHS, Postal Inspectors, IRS, HUD, etc. The Unit is a member of the National Association of Medicaid Fraud Control Units and currently the Director of the Unit is the regional representative to this group.

Corrections - the Commission to Improve the Sentencing, Supervision, Management, and Incarceration of Prisoners and the Victim Advisory Group, which advises the Department of Corrections on policies, procedures, and other issues affecting crime victims

Criminal Justice/Investigations – Members of these two divisions participate in a wide variety of committee work and cooperative ventures. These are set forth below.

The Victims' Compensation Program within the Office of Attorney General and the Department of Corrections cooperate to collect restitution from convicted criminals for the benefit of crime victims and the Victims' Compensation Fund. Also, the Department of Justice has awarded the Office a grant to develop a Victims of Crime Act (VOCA) orientation guide for new state compensation program administrators. The Office's Victims' Compensation Program Director is an officer of the National Association and have been named by the Association president to be a member of the VOCA Orientation Guide Committee.

The Federal Office for Victims of Crime (OVC) has provided a grant to the Department of Human Services to develop a Victim Assistance Academy. A number of staff from the Office of Attorney General are actively engaged in this effort. The goal is to create a self-sustaining, academically based, training academy at the conclusion of the three-year grant. Each academy will provide 40 hours of curriculum for professionals in various fields providing services to crime victims.

The Maine Computer Crimes Task Force provides computer investigation services and expertise to law enforcement agencies statewide. The Task Force is a collaborative effort between the Attorney General's Office, the Maine State Police, the Brunswick Police Department and the Lewiston Police Department, with additional associate members from various municipal and county police departments throughout the state. It is funded through a federal Internet Crimes Against Children grant from the US Department of Justice, and through state budget allocation.

Staff from the Investigations Division are involved in a number of committee assignments. Investigators have been on the committee to review/revise the death investigation protocol to include deaths in jails and drug related deaths; the committee reviewing use of deadly force by law enforcement agencies that want to employ "less lethal" rounds deployed by firearms; the committee reviewing/proposing a statewide domestic violence reporting form and a repository for all pertinent DV data; the Justice Assistance Council, a multidisciplinary committee that receives applications and awards (Justice Dept.) grants for Byrne Grants and The Stop Violence Against Women (STOP) grants; and the Rapid Response Advisory Committee (a program designed to provide immediate assistance to children that have been exposed to violence or trauma). The Chief of the Investigations Division is the current chair of the Maine Criminal Justice Academy Board of Directors. Polley Campbell serves on the Sexual Assault Forensic Examiner Advisory Board.

Attorneys from the Criminal Division serve on the Criminal law Advisory Committee, the Advisory Committee on Criminal Rules, and the Advisory Committee on Rules of Evidence.

Consumer Protection - Staff of the Consumer Protection Division work with the NAAG Antitrust Task Force and its various subcommittees. In addition, the Division works with the Federal Trade Commission and the Department of Justice on antitrust investigations on an ad hoc basis.

Litigation - Tobacco Master Settlement Agreement Enforcement Committee: The Tobacco Committee is a part of NAAG that oversees tobacco Master Settlement Agreement matters. A subcommittee of the Tobacco Committee is the Enforcement Committee -- it oversees enforcement of the public health provisions of the MSA. The Attorney General chairs that committee, and an AAG chairs the staff-level working group that performs the day-to-day work of that committee.

Natural Resources - the Senior Cleanup Council (SCC). The SCC's purpose is to advise the EPA Administrator on issues related to the cleanup laws administered by EPA, including CERCLA and RCRA. These issues include how to fashion and enforce institutional controls on properties where some contamination remains after remedial measures have been implemented.

The Senior Cleanup Council includes a number of fairly high level EPA officials and some of their counterparts from state environmental programs. An AAG from the Natural Resources Division serves as a member of the Council.

Other Work - the Committee on Media & the Courts; the Maine State Bar Association Continuing Legal Education Committee; the Maine Law & Civics Advisory Board; the Anti-Terrorism Advisory Council; and in the area of domestic violence, Project Safe Neighborhoods Task Force (with the U.S. Attorneys Office) and the Maine Commission on Domestic and Sexual Abuse.



Constituencies Served by the Agency or Program

The Attorney General provides legal counsel and representation to the various departments, agencies, and offices of State government. Assistant Attorneys General also provide representation to employees of State government pursuant to the provisions of the Maine Tort Claims Act, 14 MRSA §§ 8101 – 8112. In all of this work the Attorney General represents, in a larger sense, the people of the State of Maine.

In this section it is worth noting the valuable assistance the Consumer Division provides directly to consumers here in Maine through the Consumer Mediation program. As noted in the Programs section of this report, in 2003 the volunteer mediators received 7359 telephone calls, 1254 letters, and 2927 e-mails regarding consumer questions, complaints and concerns. The work of this program resulted in recoveries of approximately \$1.4 million dollars to Maine consumers. The Attorney General's much-improved website is also a source of information and assistance to Maine consumers. The Consumer Protection web page (a copy of the front page is attached) received well over 18,000 "hits" last year. The website is also a source of information to many others. A copy of the front page of the website (attached) reveals a wealth of information and resources for victims of crime, for senior citizens, for people concerned about health issues, and for many others.

The Attorney General and all of his staff are committed to the principle that fairness and justice for the people of Maine should be the foundation for the work of the Office.



Office of the
Maine Attorney General

Consumer Alerts

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Consumer Protection

The Office of the Attorney General currently offers information and links about the following:

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[Attorney General Needs Volunteer Consumer Mediators](#)

[Bankruptcy](#)

[Consumer Alerts](#)

[Charities](#)

[Compact Disk Minimum Advertised Antitrust Litigation](#)

[Consumer Complaints or Questions](#)

[Consumer Law Guide](#)

[Consumer Mediation](#)

[Consumer Resources: Where to Seek Help](#)

[Home Construction / Repair](#)

[Identity Theft](#)

[Insurance](#)

[Landlord / Tenant](#)

[Laws](#)

[Legal Services](#)

[Lemon Law](#)

[Motor Vehicles](#)

[Public Utilities](#)

[Pyramid Schemes](#)

[Telemarketing](#)

[Tobacco Manufacturers](#)

Resources and Links

[Cardizem Settlement](#)
If you took Cardizem, you may be entitled to a refund.

[Report your e-mail SPAM](#)

[Taxol Settlement](#)
If you took Taxol, you may be entitled to a refund

[BuSpar Settlement](#)
If you took BuSpar, you may be entitled to a refund.

[Legal Guide To Door-To-Door Criminals](#)
Door-to-door home repair fraud is a serious problem for Maine homeowners. Click onto this Attorney General Guide to view the laws that currently protect Maine homeowners.

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Welcome. The mission of the Office of the Attorney General is to use the law to protect and serve the people of Maine. This web site will provide you with access to our Office's services and information from other sources regarding your rights and responsibilities. Thank you for visiting.

Attorney General Steven Rowe



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Alternative Delivery Systems

Sub-section (2)(I) of §956 asks for a summary of efforts regarding the use of alternative delivery systems, including privatization, in meeting goals and objectives.

At the present time there do not appear to be alternative delivery systems that could provide the same level of high-quality, cost-effective legal services now provided by the Office of Attorney General. The most logical alternative, securing legal assistance from outside counsel in the private sector, does not appear to be cost-effective in that the average cost of outside counsel¹ is in the \$175 per hour range, while the average cost per AAG hour is approximately \$64 per hour².

The Office also is “lean” on support staff. At the present time the ratio of support staff to attorneys is approximately 3.5 attorneys for every legal/senior legal secretary. While the Office cannot cite a study, it is the observation of those attorneys coming to the Office from the private sector that the common ratio in the private sector is two to one.

Finally, Office administration is similarly lean. The Office of Attorney General has a total budget of approximately \$22 million per year, and must look to approximately sixty different funding sources. The Office must provide human resource services to 192 employees of the Office, and must provide payroll and benefit services to these employees and to the District Attorneys (eight) and the Assistant District Attorneys (77) of this state. Finally, it must deliver a full range of computer technical support to over 200 computers in four offices statewide. It does all of this, and more, with an administrative staff of seven: One Chief; one Personnel Manager; one Accountant III; two IT personnel; and two Administrative Assistants. The salaries of these seven staff members represents only 2.5% of the personnel in the Office, and only 2.5% of the salary costs of the office.

¹ The Attorney General, pursuant to 5 MRSA §191, must approve all requests by state agencies for outside counsel. Outside counsel is sometimes required when the Attorney General has a conflict in providing representation or does not have the necessary expertise (such as providing complicated bankruptcy legal advice). The record of these requests reveals that the average cost for outside counsel is \$175 per hour, with requests for rates of \$200 per hour or more becoming more common.

² This includes attorney salaries, salaries of supervisors support staff salaries, and estimated ongoing overhead costs.

Emerging Issues

Growth of Complex Litigation: The most significant emerging issue for the Office is the increasing number of lawsuits that are best described as “complex litigation” and present a significant strain on resources. Over the past several years the Office has handled, and continues to handle, a number of cases that require assignment of multiple Assistant Attorneys General, significant paralegal help, the securing of experts, and management of tens of thousands of pages of documents. Well known examples of this trend include PhRMA’s challenge to the Maine Rx law, the AMHI Consent Decree case and the Kittery Naval Shipyard/New Hampshire boundary line dispute. Less well known, but equally demanding, have been suits against BDS/DHS based on Medicaid entitlement claims such as the *Risinger* and *Rancourt* cases. The Office has also become more involved in multi-state litigation (mainly in the area of consumer protection) which offers significant benefits to the citizens of this State. A good example of this is the Household Finance case, where the settlement brought \$1.6 million to approximately 2,200 Maine consumers.

Significant Growth of Health Care Legal Needs: There has been tremendous growth in the area of health care law. Additional resources have been committed to provide legal support to new initiatives such as Dirigo Health and the Governor’s Office of Health Policy and Finance. Explosive growth in the number and complexity of Medicaid related issues involving both DHS and BDS have required the dedication of six AAGs, with frequent support from a number of others, where for many years two attorneys were sufficient. The Office devotes significant resources to prescription drug pricing issues, as well as in support of state programs such as Medicaid, Drugs for the Elderly, and Maine Rx. The growing need for experienced legal counsel in the health care area will continue.

Gaming regulation: Legalization of slot machines at harness racing tracks has already (as of early January) demanded a substantial commitment of resources in areas such as background investigation of license applicants, licensing hearings, and advising agencies with regulatory responsibility.

These issues, together with many others addressed in the program description part of this report, have generated the following **staffing and personnel issues:**

Need for Additional Paralegal Support: The increase in complex litigation has revealed a lack of paralegal support for this type of litigation. The paralegals the Office does have are currently committed to ongoing caseloads (such as child support) or are restricted by funding source from committing substantial amounts of time to these cases. In order to meet the need for paralegal assistance the Office has in several cases looked to clients to provide funding for outside contracted paralegal help. While we have been able to secure the help, the need for an additional paralegal is clearly warranted.

Loss of Assignment Flexibility: Over the past two decades, the Office has lost many unrestricted General Fund positions due to state budget constraints. While many of these positions were restored, in many cases due to agencies committing funds to meet their legal needs, there has been an increasing reliance federal or other special revenue funding that limits the work that can be performed by these attorneys. At the present time, only 23 of the 107 attorney positions¹ are funded by the general fund. As a result, the Attorney General has much less latitude to align legal resources to meet new challenges and shifting demands. This lack of flexibility was particularly evident this year as the Office sought significant attorney time to deal with a number of class action lawsuits, work on the racino licensing matter, the ongoing AMHI Consent Decree case, and a number of other cases which did not fit into ongoing caseloads. The Office is continuing to explore ways to secure more flexibility in apportioning its legal resources to meet new challenges.

Salaries for Support Personnel: No large office can run efficiently without top-notch support staff, and the Office of the Attorney General depends heavily upon its secretarial staff. Unfortunately, it has become all too clear that the private sector now pays wages to legal secretaries that in many cases are far in excess of the state salary scale for legal secretaries. By way of example, experienced candidates are informing interviewers that they would have to take a pay cut averaging \$5,000 or more to work for our Portland Office. Extreme difficulties attracting experienced legal secretaries have resulted in long periods when the Portland Office was short of secretarial staff to handle a very heavy caseload that absolutely requires timely secretarial support for effective processing. This situation was very stressful for all staff, reduced the Office's ability to process large numbers of child support cases (which are very form intensive and require a significant amount of secretarial help) and created employee retention concerns.

The Bureau of Human Resources recognizes this problem as a serious issue for many state agencies, particularly those with employees in southern Maine. An ongoing study of the classes and ranges of these positions may result in a revised classification system sometime in the fall of 2004. As an Office we are hopeful that this review will bring some parity with the private sector to salaries paid to support staff.

Additional Information Technology Support: The Office has come far from the days in the mid – 1990's when the staff made do with Macintoshes without internet/e-mail access and without a single dedicated Information Technology ("IT") professional to run the system. Currently the Office is supporting approximately 200 desktops and laptops through eleven servers in four locations with two IT staff. While the Office has not requested any additional IT staff in the budget, it is very clear that this is a pressing need.

¹ This count include the Attorney General, the Chief Deputy, and the Chief of Operations.



Other Information Requested by the Committee of Jurisdiction

At the time of publication no requests had been made by the Judiciary Committee for other information. The Office will promptly respond to any requests for additional information and will amend this document accordingly.

Comparison of Related Federal Laws to the State Laws Governing the Agency or Program

This requirement of §956 does not seem to be applicable to the Office of Attorney General. Federal laws in common use within the Office are found in Appendix B.

Agency Policies for Collecting, Managing and Using Personal Information

This requirement of §956 does not appear applicable to the Office of Attorney General as it does not collect personal information in order to discharge its responsibilities to the State.

Paperwork to be Filed with the Agency by the Public

At the present time there is no report, application or other paperwork required to be filed by members of the public with the Office of Attorney General.

Statutory References and Duties of the Attorney General

1 M.R.S.A. § 8 Before transfer of legislative jurisdiction over land areas to the United States, Governor, Attorney General must transmit comments and recommendations to the Legislature.

1 M.R.S.A § 353. With the assistance of the Secretary of State, Attorney General shall prepare explanation of proposed amendments to the Constitution and statewide referendum for publication.

1 M.R.S.A § 1006. Shall assist the Ethics Commission when called upon for aid.

1 M.R.S.A § § 1008. Participate in an ethics seminar for Legislators before the convening of the Legislature, in every even-numbered year and provide each Legislator with a bound compilation of the laws of this State pertaining to legislative ethics and conduct.

1 M.R.S.A. § 1013(F). Ethics Commission findings regarding possible criminal conduct by legislator referred to the Attorney General.

1 M.R.S.A. § 1019. Ethics Commission findings of fact regarding possible willful filing of a false statement by a Legislator referred to the Attorney General.

3 M.R.S.A. § 322. Ethics Commission may request the Attorney General to investigate complaints regarding violations of Lobbyist disclosure requirements.

3 M.R.S.A. 736. Representation of the Maine Legislative Retirement System.

3 M.R.S.A. § 994. If the Joint legislative committee on program evaluation and government accountability matters determines that there is probable cause that a witness has committed perjury by testifying falsely, the committee may direct the Attorney General to institute legal proceedings as provided by law.

4 M.R.S.A. § 454. Criminal Division attorneys of the Office made members of Maine Criminal Justice Sentencing Institute.

4 M.R.S.A §§ 808-809. Investigation and enforcement relative to the unauthorized practice of law.

5 M.R.S.A. §§191-205 General duties and responsibilities of the Attorney General including the obligation to appear on behalf of the State, the head of any department or institution in all civil actions in which the state is a party.

4 M.R.S.A. § 1236. Representation of the Maine Judicial Retirement System.

5 M.R.S.A. § 95-A Petition the Superior Court on behalf of the State Archivist for the recovery of public records

5 M.R.S.A. § 126 Shall prosecute the State Treasurer for any personal use of public moneys.

5 M.R.S.A. § 138 Duties relative to the permanent trust funds of the State and guaranty funds required by statute.

5 M.R.S.A. § 1504 Certification to State Controller of accounts receivable as impractical of realization.

5 M.R.S.A. § 1509 Items of income or taxes owed to the State which are not paid within 90 days referred to the Attorney General for collection.

5 M.R.S.A. § 1541(9) Bureau of Accounts and Control report for such action, civil or criminal, all facts showing illegality in the expenditure of public moneys or the misappropriation of public properties.

5 M.R.S.A. § 1728-A Approval of property and liability insurance arrangements; representation in claims for personal injury and property damage against the State, and in claims against 3rd parties in all cases in which the State may be subrogated to the rights of injured employees or where damage to state property may have resulted from the negligence of a 3rd party.

5 M.R.S.A. § 1816-A Written approval of contracts for legal counsel required.

5 M.R.S.A. § 3307-D Recovery of penalties for violations of State petroleum set aside statute.

5 M.R.S.A. § 3358 Membership on Maine Criminal Justice Commission.

5 M.R.S.A. § 3360- 3360-M Victims' Compensation Board - duties regarding appointment of members, payment of claims and administration of fund.

5 M.R.S.A. § 3360-N - 3360-P Sexual Assault Forensic Examiner Advisory Board - administrative oversight for the board's policies and responsibilities; when necessary employ personnel necessary to carry out the purposes of the board; lease, rent or acquire adequate equipment and facilities; accept federal funds or grants that are available to carry out or implement the board's objectives; and provide technical assistance and training to sexual assault forensic examiners.

5 M.R.S.A. § 4681 Civil Rights Act, prosecution of violations of constitutional rights.

5 M.R.S.A. § 8056 Review and approval of agency rules for form and legality.

- 5 M.R.S.A. § 9060 Approval of agency subpoenas for certain administrative proceedings.
- 5 M.R.S.A. § 17102 Representation of the Maine State Retirement System.
- 7 M.R.S.A. § 2213 Enforcement of State Horticulturist orders for proper treatment or destruction of infested or diseased plants.
- 8 M.R.S.A. § 282 Representation of State Harness Racing Commission and enforcement of harness racing law.
- 9-A M.R.S.A. § 6-104 Enforcement of the Maine Consumer Credit Code.
- 9-B M.R.S.A. § 228 Representation of the Superintendent of Banking and enforcement of banking laws and regulations.
- 10 M.R.S.A. § 1015 Legal services relative to the implementation of a student financial assistance program.
- 10 M.R.S.A. §§ 1104, 1107 Enforcement of antitrust and monopoly laws.
- 10 M.R.S.A. § 1169 Promulgate rules regarding state-certified arbitration proceedings and arrange for arbitration of consumer complaints dealing with new motor vehicles.
- 10 M.R.S.A. §§ 1208-1209 Investigation of unfair sales practices involving motor fuel and filing of written reports by wholesalers regarding certain motor fuel sales.
- 10 M.R.S.A. § 1273 Enforcement of law for protection of social security numbers.
- 10 M.R.S.A. § 1328 Enforcement of the Fair Credit Reporting Act.
- 10 M.R.S.A. § 1499 Enforcement of telephone solicitation restrictions.
- 10 M.R.S. § 1660 Enforcement of chapter regulating sales and labeling of internal combustion engine fuels, lubricating oils and other like products.
- 10 M.R.S. § 1671-1682 Duties relative to the Petroleum Market Share Act including an annual report to the Legislature.
- 10 M.R.S.A. §§ 1704, 2368, 2506, 2655 Enforcement of various weights and measures types of provisions.
- 10 M.R.S.A. § 8003-C Boards and commissions, prosecute unlicensed practice.
- 10 M.R.S.A. § 9011 Enforcement of violations of Manufactured Housing Act.

- 12 M.R.S.A. § 901 Member of Baxter State Park Authority,
- 12 M.R.S.A. § 6431 Issue certain written certifications relative to lobster measurement and minimum size.
- 12 M.R.S.A. § 8003 Investigate and approve the title to lands acquired for state forest purposes or as natural areas.
- 12 M.R.S.A. § 8427 Enforce payment of the spruce budworm program excise tax.
- 13 M.R.S.A. § 3061 Filing of actions for the appointment of trustees for abandoned religious property.
- 13-A, 13-B, 13-C corporations
- 14 M.R.S.A. § 5963 In declaratory judgment actions, if the statute, ordinance or franchise is alleged to be unconstitutional, the Attorney General shall be served with a copy of the proceeding and be entitled to be heard.
- 14 M.R.S. § 7202 When directed by the Legislature or Governor, file an information for the recovery of certain lands and grants.
- 14 M.R.S.A. § 8107 Copies of notices of tort claim filed with the Attorney General.
- 14 M.R.S.A. § 8109 Approve settlement of tort claims against the State.
- 15 M.R.S.A. § 104-A Role in proceedings for release and discharge of committed persons acquitted in criminal cases on basis of mental disease or defect.
- 15 M.R.S.A. §§ 204-223 Responsibilities relative to extradition matters.[CHECK]
- 15 M.R.S.A. § 605 Shall adopt standards for the operation of arrest warrant repositories and authorize warrants to be entered in the National Crime Information Center data base.
- 15 M.R.S.A. § 710 Any communications common carrier shall promptly report to the Attorney General illegal intercepts of wire or oral communications.
- 15 M.R.S.A. § 1462 Receive notice of any summons for a prisoner to testify in another state.
- 15 M.R.S.A. § 2115-A Written approval of state's appeals in criminal cases.
- 15 M.R.S.A. § 2116 Role in state court proceedings after a federal court finding that prisoner's constitutional rights have been violated.

- 15 M.R.S.A. § 5822 Duties relative to forfeiture proceedings and adoption of rules providing standards for prosecution, settlement, and transfer of forfeited property.
- 16 M.R.S.A. § 633 Member of the Maine Criminal Justice Information System Policy Board
- 17 M.R.S. § 317-A Enforce subpoenas issued by Chief of MSP in beano/bingo license actions or investigations.
- 17 M.R.S.A. § 343-A Enforce subpoenas issued by Chief of MSP in games of chance license actions or investigations.
- 17 M.R.S.A. § 2701-B Improper manure handling cases referred in writing; may file an action to abate a nuisance.
- 17 M.R.S.A. § 2805 Insect infestation constituting public nuisance referred and enforcement of failure to adopt best management practices when required.
- 17 M.R.S.A. § 3860 Prosecute criminally or civilly upon complaint of a person being denied access to a great pond, any person who denies such right of access or egress.
- 17-A M.R.S. § 958 File complaint to enjoin formation of any lottery or selling or otherwise distributing tickets, certificates, or shares.
- 17-A M.R.S.A. § 1352 Appoint members of the Criminal Law Advisory Commission.
- 19-A M.R.S.A. § 2103 Enforcement of child support obligations.
- 19-A M.R.S.A. § 4012 Shall develop a written policy regarding prosecution of domestic abuse cases under the provisions of Title 17-A.
- 19-A M.R.S.A. § 4013 Membership on Maine Commission on Domestic and the Sexual Abuse and Domestic Abuse Homicide Review Panel.
- 20-A M.R.S.A. § 6801-A Enforcement of educational reporting, program or other requirements if a school administrative unit is not in compliance.
- 20-A M.R.S.A. § 7206 Failure to comply with requirements for serving exceptional students referred for action.
- 21-A M.R.S.A. § 33 Designate a Deputy Attorney General or an Assistant Attorney General to investigate and prosecute alleged violations of the election laws.
- 21-A M.R.S.A. § 1003 Shall aid in any investigation, provide advice, examine any witnesses or otherwise assist the Ethics Commission in the performance of its duties upon request of the commission and prosecute violations of law.

- 22 M.R.S.A. § 2 Shall furnish such legal assistance, counsel or advice as the Department of Human Services may require in the discharge of its duties.
- 22 M.R.S.A. § 13 Referral of fraud or attempted fraud cases by Human Services Fraud Investigation Unit.
- 22 M.R.S.A. § 14 Institute and prosecute legal proceedings against 3rd parties liable for medical care rendered to Medicaid assistance recipients.
- 22 M.R.S.A. § 349 Upon the request of DHS, seek injunction or other appropriate action for any project for which a certificate of need as required by this chapter has not been obtained.
- 22 M.R.S.A. §§ 688, 690 Duties under the Radiation Protection Act.
- 22 M.R.S.A. § 808 Approve subpoenas requiring persons to disclose or provide to the DHS information or records in their possession that are relevant to an investigation of a report of a public health threat.
- 22 M.R.S.A. § 1580-I Tobacco Product Manufacturers Act; civil action against any tobacco product manufacturer failing to place required funds into escrow.
- 22 M.R.S.A. § 1711-C Confidentiality of health care information; enjoin intentional and unlawful disclosure of health care information.
- 22 M.R.S.A. § 1715 Enforcement of access to health care requirements applicable to certain health care providers.
- 22 M.R.S.A. §§ 1883-1889 Duties imposed by the Hospital Cooperation Act.
- 22 M.R.S.A. § 2054 Approve surety bonds required for members and certain staff of the Maine Health and Higher Educational Facilities Authority.
- 22 M.R.S. §§ 2619-2620 Enforcement of safe drinking water requirements.
- 22 M.R.S. § 2697 Enforcement of prohibition against profiteering in prescription drugs.
- 22 M.R.S.A. § 3022-342 Duties of the Office of Chief Medical Examiner with in the Office.
- 22 M.R.S.A. § 3184 Recovery of illegal payments of aid to needy persons.
- 22 M.R.S.A. § 3280 Actions to compel certain relatives to contribute to the support of

recipients of state supplemental income.

22 M.R.S.A. § 4004 Membership on child death and serious injury review panel.

22 M.R.S.A. § 4087-A Prosecutions for obstruction or hindrance of child welfare services ombudsman duties.

22 M.R.S.A. § 8703 Shall furnish legal assistance, counsel or advice to the Maine Health Data Organization.

23 M.R.S.A. § 1965 Approval of Maine Turnpike security bonds.

23 M.R.S.A. § 7002 Enforcement of penalty against railroad corporations for disconnected cars left on tracks.

23 M.R.S.A. § 7302 Enforcement of penalty for running of passenger trains without a certificate of safety.

24 M.R.S.A. § 2301 Participation in proceedings before the Superintendent of Insurance involving conversions of nonprofit hospital service plans, nonprofit medical service plans and nonprofit health care plans.

24 M.R.S.A. § 2321 Participation in rate filings before the Superintendent of Insurance on individual subscriber and membership contracts.

24-A M.R.S.A. §§ 12-A, 214 Enforcement of violations of the insurance laws, rule adopted by the superintendent or lawful orders of the Superintendent of Insurance.

24-A M.R.S. §§ 3307, 3310, 3481, 3489 Duties relative to certificate of organization for insurers, amendments, mergers and consolidations.

24-A M.R.S. § 4360 Commencement of delinquency proceeding against insurer.

25 M.R.S.A. § 2003 Develop model forms for applications and permits for concealed firearms.

25 M.R.S.A. § 2704 Enforcement of physical disability design and construction requirements for public buildings or facilities.

25 M.R.S.A. § 2802 Serve on the Board of trustees for the Maine Criminal Justice Academy.

25 M.R.S.A. § 2806 Enforce certification requirements of law enforcement officers.

25 M.R.S.A. § 2954 Serve on Maine Drug Enforcement Agency Advisory Board.

25 M.R.S.A. § 2955 Shall appoint one assistant attorney general as a full-time coordinator of drug prosecution matters who is responsible to coordinate the efforts of each of the attorneys assigned to the Maine Drug Enforcement Agency.

26 M.R.S.A. § 53 Enforcement of Bureau of Labor Standards violations.

26 M.R.S.A. § 588 Enforcement of housing standards for agricultural labor.

26 M.R.S.A. §§ 602, 613, 671 Enforcement of employment practice laws.

26 M.R.S.A. § 777 Approve form for minor work permits.

26 M.R.S.A. 1082 Represent the Department of Labor, the Unemployment Compensation Commission and the State in court action relating to unemployment compensation.

27 M.R.S.A. § 375, 376 Enforcement of prohibitions against unlawful excavation at archaeological sites, sale of state-owned artifacts and removal of state-owned artifacts from the state.

28-A M.R.S.A. § 2519 Member of Server Education Advisory Committee which determines specific criteria that an alcohol server education course must contain to receive approval.

29-A M.R.S.A. § 2251 Designate an assistant attorney general familiar with federal commercial vehicle laws and regulations to serve as a resource to any district attorney who initiates a prosecution arising from an accident involving a bus or truck with a gross vehicle weight rating or a registered weight in excess of 10,000 pounds that results in the death of any person.

29-A M.R.S.A. § 242 Adopt rules in accordance with Title 5, chapter 375, for the disposition to state, county and municipal agencies of forfeited motor vehicles.

30-A M.R.S.A. § 257 File complaint for removal of any district attorney from office.

30-A M.R.S.A. § 372 Civil action to recover forfeiture if sheriff fails to give required security.

30-A M.R.S.A. § 3010 Receive notices and certifications regarding quality of service to subscribers of cable services.

30-A M.R.S.A. § 5951 Approve surety bonds required for commissioners and executive director of the Maine Municipal Bond Bank.

30-A M.R.S.A. § 6111 If Board of Emergency Municipal Finance takes control of a municipality under certain circumstances and believe that the municipality has incurred

debts and obligations in excess of the debt limit fixed by the Constitution of Maine, the Attorney General may bring a complaint in the name of the inhabitants of the municipality in the Superior Court in the county in which the municipality is located against all of the known persons holding any debts or obligations against the inhabitants of the municipality, to have the validity of all the debts and obligations of the municipality determined.

31 M.R.S.A. § 405 Enforce provisions governing use of assumed name by domestic or foreign limited partnerships.

31 M.R.S.A. § 498 Enjoin foreign limited partnerships from doing business without authority.

31 M.R.S.A. § 605 Enforce provisions governing use of assumed name by domestic or foreign limited liability company.

31 M.R.S.A. § 719 Enjoin foreign limited liability company from doing business without authority.

31 M.R.S.A. § 805 Enforce provisions governing use of assumed name by limited liability partnerships or foreign limited liability partnerships.

32 M.R.S.A. § 60-A Complaints received by an occupational and professional regulatory board regarding that board's administrative procedure must be filed by the board with the Attorney General.

Title 32 Professions and Licensing Boards – disciplinary actions, hearings, consent decrees.

32 M.R.S.A. § 10604 Enforcement of Revised Maine Securities Act.

32 M.R.S.A. § 11053 Enforcement of Maine Fair Debt Collection Practices Act.

32 M.R.S.A. § 14511 Door-to-Door Home Repair Transient Sellers; shall prepare a form contract for door-to-door sales, that fully meets the obligations of a transient seller of home repair services and provide these forms at no cost.

32 M.R.S.A. § 14709 Advise on review and approval of waiver of security deposit applications for Door-to-Door Home Repair Transient Sellers.

33 M.R.S.A. § 608 Actions for removal of Register of Deeds for misconduct or incapacity.

33 M.R.S.A. § 1209 Consultation and review of claims to coastal islands.

33 M.R.S.A. § 1974 Duties relative to the Uniform Unclaimed Property Act.

34-B M.R.S. § 5606 Receive reports of violation of the rights of a person receiving services from the Department of Behavioral and Developmental Services.

35-A M.R.S.A. § 115 Aid in Public Utilities Commission investigation of violations of state laws and bring actions on its behalf.

35-A M.R.S.A. § 2904 Approve surety bonds required of the commissioners and executive director of the Maine Public Utility Financing Bank.

35-A M.R.S.A. § 3155 Authorized to intervene before the Public Utilities Commission to protect consumer interests.

35-A M.R.S.A. § 3203 If the Public Utilities Commission believes that any competitive electricity provider or transmission and distribution utility has violated any provision of law for which criminal prosecution is provided and would be in order or any antitrust law of this State or the United States, the Commission shall notify the Attorney General who shall promptly institute any actions or proceedings considered appropriate.

35-A M.R.S.A. § 4359 Provisions relating to the decommissioning of nuclear power generating facilities shall be enforced by the Department of the Attorney General, with the cost of enforcement paid from the decommissioning trust fund.

35 M.R.S.A. § 7106 If the Public Utilities Commission believes that any local or intrastate telecommunications carrier has violated any provision of the law for which criminal prosecution is provided and would be in order or any law regarding fraud or consumer protection, the Commission shall notify the Attorney General who shall promptly institute any actions or proceedings considered appropriate.

36 M.R.S.A. § 174 Actions for collection of the taxes imposed by Title 36.

37-B M.R.S.A. § 185 Duty of the Attorney General to defend an officer or enlisted member of the state military forces in civil actions.

38 M.R.S.A. §§ 347-A, 348, 413, 443-A, 444, 570, 1296, 1310-F, 1316-C, 1318-A, 1365 Examples - Enforcement of state's environmental laws.

39-A M.R.S.A. § 355 Provide legal representation for any claim made under this section which establishes the Employment Rehabilitation Fund including the enforcement of an assessment made under subsection 7 or the defense of an employer's appeal of that assessment.

39-A M.R.S.A. § 356 Funding of Supplemental Benefits Fund; enforce payment by civil action against insurers for the amount of the assessment.

FEDERAL LAWS

Federal law is important to many state agencies. Below is a list of federal laws that are often referred to by the staff of the Office of Attorney General. The list is not comprehensive, but provides a good idea of the interplay between state programs and federal law.

Office of Chief Medical Examiner: 45 CFR 164.512(g) - Standard: Uses and disclosures about decedents. (1) Coroners and medical examiners. A covered entity may disclose protected health information to a coroner or medical examiner for the purpose of identifying a deceased person, determining a cause of death, or other duties as authorized by law. A covered entity that also performs the duties of a coroner or medical examiner may use protected health information for the purposes described in this paragraph.

Child Protection Division: The Adoption and Safe Families Act of 1997 (PL 105-89) ("ASFA"); The Adoption Assistance and Child Welfare Act, 42 USC sec. 622 et seq.; HHS Regulations relating to Title IV-E, 45 CFR sec. 1356.21 et seq.; and the Indian Child Welfare Act, 25 USCS §§1901 et seq.

Child Support Division: Title 1V-D of the Social Security Act – 42 U.S.C. §§ 651-669 (1994, Supp. IV 1998 & Supp. IV 1999); The Child Support Recovery Act, as amended by the Deadbeat Parents Punishment Act 18 U.S.C. § 228 (1994 & Supp. V 1999); Federal Full Faith and Credit for Child Support Orders Act, 28 U.S.C. § 1778(B) (1994 & Supp. 1999); Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), 42 U.S.C. §666 (c) (Supp. V 1999); and the Soldiers and Sailors Relief Act. 50 U.S.C. App. (1990 & Supp. (1993).

Investigations Division: Investigators for this Division utilize federal DEA, FDA and civil rights laws as well as full faith and credit statutes, federal laws pertaining to interstate crimes such as wire or mail fraud, laws regarding use of deadly force by federal officers, certain federal firearms statutes in particular those dealing with prohibited possession, identity theft laws, federal domestic violence laws, and to a degree the anti-terrorism statutes and Patriot Act provisions.

Litigation Division: Americans with Disabilities Act; Fair Labor Standards Act; the Federal Civil Rights Act; and ERISA.

Financial Crimes and Civil Rights Division/Health Care Crimes Unit: The Medicare and Medicaid Anti-Fraud and Abuse Amendments of 1977, authorized the establishment and funding for State Medicaid Fraud Control Units ("MFCU"), to investigate and prosecute Medicaid provider fraud and patient abuse and neglect in Medicaid funded facilities. *See* 42 U.S.C. Section 1396b(q). *See also*, P. L. 95-142 and P. L. 96-499. In order for States to receive federal funding for their Medicaid Programs it must either certify that they have a MFCU or meet the specific federal requirements that allow a State not to have a Unit. Currently 48 States have a MFCU and the Maine Healthcare Crimes Unit ("HCU") is the designated MFCU for the State of Maine. The MFCU's are operated under a federal grant with a 75 percent rate of federal funding and oversight of the MFCU's rests with the Office of Inspector General, for the Department of

Health and Human Services. Accordingly, the HCU activities and functions are governed by strict federal regulatory and statutory requirements. *See* Title 42 C.F.R. Chapter V, Part 1007 State Medicaid Fraud Control Unit.

Consumer Protection Division: Federal Fair Credit Reporting (in terms of accessing credit information); ECPA - Electronic Communications Privacy Act (in terms of getting information from ISP's and the like); The Sherman Act, 15 USC § 1 *et seq*; Federal Trade Commission Act, 15 USC § 45(a)(1); Telemarketing and Consumer Fraud and Abuse Act, 15 USC §§ 6101 – 6106; and the Telephone Consumer Protection Act, 47 USC §227.

Community and Institutional Services: HIPAA; Federal Medicaid statutes and regulations; TANF; Food Stamps; and the Immigration and Naturalization Act.