



YEAR IN REVIEW

2020

Maryland Office of the Attorney General Year in Review 2020

2020 was another productive year for the Maryland Office of the Attorney General, despite the tremendous challenges presented by the emergence of the worst global pandemic in 100 years. Much of our work this year focused on helping Marylanders confront and endure the devastating effects of widespread novel coronavirus (COVID) viral infection. COVID-19 has caused unimaginable loss of life across the country, lasting health consequences for those who survive it, economic and social upheaval, and severe food and housing insecurity.

While combatting the effects of this pandemic, our office remained vigilant in protecting Marylanders from fraud and abuse, and we also fought for justice and civil rights. As always, our attorneys represented a broad range of clients with professionalism and skill, working diligently on behalf of all Marylanders.

I am pleased to provide this summary of initiatives, litigation and other accomplishments that represent our most notable achievements of the past calendar year.

I remain honored to serve as Maryland's Attorney General and am working tirelessly to uphold the fine traditions of this office.

Sincerely,



Brian E. Frosh
Maryland Attorney General

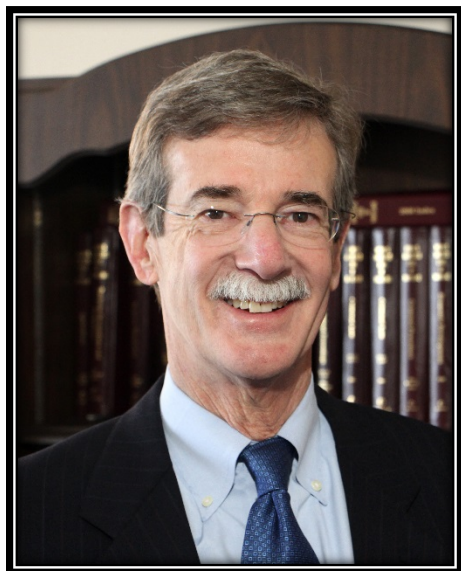


Table of Contents

Major Initiatives.....	1
The COVID-19 Global Pandemic.....	1
COVID-Related Scams and Fraud.....	1
Combatting COVID-Related Price Gouging.....	1
Worker Protections During COVID.....	1
Protecting CARES Funding for K-12 Students.....	3
Attorney General’s COVID-19 Access to Justice Task Force.....	3
Combatting Federal Efforts to Cut Food Assistance.....	4
Maryland and Partner States Sue EPA Over Bay Restoration Goals.....	5
Decennial Census 2020.....	5
Protecting the Gainful Employment Rule.....	6
Fighting the Opioid Epidemic.....	6
Medicaid Fraud Control Unit.....	6
Health Occupations Prosecution and Litigation.....	8
Agency Support.....	8
OAG Professional Development.....	8
Fighting for Victims of Sexual Assault.....	9
Legislative Victories.....	10
Fee-based Driver’s License Suspensions.....	10
Policy and Enforcement Priorities.....	10
Public Safety.....	10
3-D Printed Guns.....	10
Indicting Gang Members.....	11
Standing Up for Consumers.....	11
Opposing Social Media Monopoly.....	11
Cash-N-Go Order.....	12
Honda Defective Airbag Settlement.....	12
Santander Consumer USA Settlement.....	13
Wells Fargo Settlement.....	13

Clark Turner Homes	14
U.S. Postal Service Disruptions	14
Nationstar Mortgage Settlement.....	15
Precious Metals Investor Scheme.....	15
Fighting for Equal Access to Healthcare	15
Protecting Reproductive Rights	15
Opposing Discrimination in Healthcare	16
Standing Up for Civil Rights.....	17
Ensuring a Free and Fair Election in Maryland	17
Maryland Lynching Truth and Reconciliation Commission.....	17
Combating Workplace Discrimination	18
Implicit Bias Training.....	18
Environmental Enforcement.....	18
Liquefied Natural Gas Transport.....	18
Chemical Disaster Rule.....	19
Improper Lead Paint Inspections	19
Opposing Efforts to Weaken the Clean Water Act	19
National Clean Car Standards	20
Luke Paper Mill	20
Opposing Weakened Mercury and Air Toxics Standards.....	21
Arctic National Wildlife Refuge	21
Opposing Rollback of Methane Regulations.....	21
Opposing Off-Shore Seismic Testing.....	22
Toxic Pesticide Exposure for Farmworkers.....	22
Prosecutions by Environmental Crimes Unit	23
Labor Rights	23
Judicial Appointments.....	24
Commitment to our Community	24

Major Initiatives

The COVID-19 Global Pandemic

COVID-Related Scams and Fraud

In late February, the country began to experience what would become the greatest public health crisis in modern times when the novel COVID-19 coronavirus began to infect people on American soil. The virus spread rapidly, shutting down large swaths of the country and altering societal norms. By early March, the OAG prioritized combatting the impact of what would become a worldwide pandemic. One of the first evident effects of the viral spread was the emergence of scams related to COVID. The OAG took notice and began to warn Marylanders of these new scams in early March, and continued to do so as new scams surfaced.

Combatting COVID-Related Price Gouging

Maryland's anti-price gouging law went into effect on March 23 following emergency legislation passed by the General Assembly and an Executive Order signed by the Governor. Complaints about excessive prices for basic supplies emerged early this year, coinciding with reports of "hoarding" these supplies. In response, Maryland's leadership acted quickly to outlaw price-gouging. In Maryland, retailers – including online retailers – who engage in price-gouging are in violation of the Consumer Protection Act and may face civil penalties of

up to \$10,000 per violation and possible criminal prosecution. The state's law, which is enforced by the OAG, prohibits raising the price of many consumer goods and services that increase the seller's profit by more than 10% while the COVID-19 State of Emergency declared by the Governor is in place. The Consumer Protection Division handles price-gouging complaints. Over 600 complaints were received as of July and the Office continued to receive complaints through the end of the year.

In late March, the OAG joined a coalition of attorneys general urging major online retailers Amazon, Facebook, eBay, Walmart, and Craigslist to more rigorously monitor price-gouging practices by online sellers using their services, and reminding these retailers that Maryland's price-gouging law applies to them if they sell goods and services to consumers in Maryland.

In addition to retail price-gouging, the OAG stepped in to stop medical facilities from illegally collecting or billing for patient copays, co-insurance, or deductibles for costs related to COVID testing. The Maryland legislature and U.S. Congress enacted emergency legislation to remove financial barriers for people who need to be tested. The Health Education and Advocacy Unit received and mediated complaints about illegal billing.

Worker Protections During COVID

As the pandemic surged and industries tried to keep up with worker illnesses, absences, and losses, worker health and safety was often trivialized to maintain production. Throughout the year, the OAG called on businesses to prioritize health and safety, protect frontline workers from COVID, and offer paid sick leave, and on

the federal government to increase production of personal protective equipment (PPE) and COVID testing.

In March, the OAG urged the Trump administration to fully use the Defense Production Act (DPA) to prioritize the production of masks, respirators, and other critical items needed by health care workers, first responders, and law enforcement across the country to combat COVID. A coalition including Attorney General Frosh asked the administration to dramatically increase (1) health care capacity; (2) the supply of personal protective equipment for health care providers, law enforcement, and other first responders; and (3) COVID testing capacity. Even after the call to invoke the DPA, the administration has used it sparingly during the pandemic, despite persistent supply shortages and inadequate testing throughout the country.

The Trump administration did invoke the DPA on April 28, via Executive Order, to keep meat and poultry processing plants open despite widespread outbreaks of COVID in these facilities. In May, Attorney General Frosh led a coalition of 20 attorneys general in calling for President Trump to take immediate action to ensure the health and safety of these employees, who were deemed essential workers during the pandemic. Many plants reported hundreds of workers testing positive for COVID, devastating their surrounding communities, yet continued to operate without instituting adequate health and safety measures.

In the early stages of the pandemic, the OAG called on major retailers, which continued to operate and provide goods and services to Americans, to also provide paid leave and pro-

TECTIVE measures for their workers. In particular, the OAG joined a coalition urging Amazon and Whole Foods to provide paid sick and family leave to their employees during the COVID pandemic, as is required for certain employers under the Families First Coronavirus Response Act (Families First Act), which was enacted by Congress on March 19. As the pandemic continued through the summer, the OAG urged Walmart, Amazon, and Whole Foods to strengthen measures to protect the health and safety of their workers. Along with coalitions of other attorneys general, Attorney General Frosh expressed concern over allegations of inadequate safety measures for employees and customers, insufficient sick leave policies, retaliation against workers who call attention to unsafe workplace conditions, failure to inform customers and employees of potential exposure to COVID, and pressure put on employees to return to work while exhibiting symptoms of COVID.

In May, the OAG joined a coalition in filing an amicus brief in support of paid sick leave for airline flight crew workers to help stop the spread of COVID. According to the brief, Washington State's paid sick leave law prohibits a practice used in the airline industry by which flight attendants and pilots who miss work, even due to illness, receive "points" that can lead to discipline or termination. In their brief, the attorneys general wrote that Washington's sick leave law does not substantially burden the free flow of goods and services or contribute significantly to flight delays, as Airlines for America argues in its lawsuit.

Protecting CARES Funding for K-12 Students

In July, the OAG joined a coalition of nine attorneys general and several local jurisdictions in filing for a preliminary injunction to block U.S. Education Department Secretary Betsy DeVos's unlawful attempt to siphon pandemic relief funds away from K-12 public schools.

The Education Department promulgated regulations that unlawfully reinterpreted provisions in the Coronavirus Aid, Relief, and Economic Security (CARES) Act that required funding to be allocated to help schools prevent, prepare for, and respond to COVID-19. In Maryland alone, \$15 million could have been diverted away from taxpayer-funded public schools in the poorest school districts to private institutions—in violation of CARES Act requirements established by Congress, the Administrative Procedure Act, and the U.S. Constitution.

In August, the District Court granted the plaintiff's preliminary injunction. The court held that Secretary DeVos likely undermined Congressional intent by unlawfully reinterpreting the CARES Act, and had threatened efforts to ensure that school districts have the flexibility they need to tackle the challenges of COVID-19.

Attorney General's COVID-19 Access to Justice Task Force

The Attorney General's COVID-19 Access to Justice Task Force was launched in June with the goal of ensuring that when Marylanders encounter the civil legal system, justice is accessible, fair and equitable. Equitable access to the

civil justice system will protect public health, spur economic recovery and growth, and reduce further harms to the most vulnerable.

For many Marylanders, particularly those in low income and communities of color, the COVID pandemic exposed and exacerbated challenges in obtaining access to justice on a scale and magnitude not encountered before. The economic upheaval caused by business closures and illness created significant hardships that only the civil justice system could resolve, like missed rent payments leading to eviction notices; disputes over medical or consumer debt; or people wrongfully denied public benefits necessary to keep families afloat. Even after the pandemic ends, many people will be left to navigate on their own the complicated civil justice landscape.

The Task Force brought together high-level and diverse leaders with expertise in a myriad of sectors including health, disaster recovery, business, government, housing, and many others to confront these new challenges and plan for the post-COVID landscape. The Task Force maintained five major focus areas during its tenure: keep Marylanders housed, fed, safe, secure, and connected.

Task Force committees held monthly community forums, in English and Spanish, on various topics such as understanding employment benefits; evictions and housing; consumer debt; eviction prevention; surviving abuse, neglect, and exploitation; and life and health planning.

Additionally, the Task Force asked the state judiciary to respond to these challenges by extending its moratoria on eviction actions, and debt collection cases, until January 31, 2021,

and asked the Governor to extend his Executive Order preventing COVID-related evictions, debt collections, and residential utility shut-offs. Following these requests, the Task Force asked the Governor to apportion \$145.6 million of Maryland's \$2.4 billion in CARES Act funding to protect Marylanders who have lost their jobs due to the pandemic and will be facing debt collectors, evictions, foreclosures, and possible homelessness.

In October, the Attorney General announced that \$8.7 million in funds recovered by the office, together with an additional \$3 million in general state funds, would be directed to the Maryland Legal Services Corporation to provide legal services to families facing eviction and other housing security issues.

The Task Force's final report with their recommendations will be released in January 2021.

Combatting Federal Efforts to Cut Food Assistance

As a member of a coalition of 15 attorneys general and New York City, the OAG filed a lawsuit to stop the Trump administration from eliminating food assistance for nearly 700,000 Americans. The lawsuit challenges a United States Department of Agriculture (USDA) rule that would limit states' ability to extend benefits from the Supplemental Nutrition Assistance Program (SNAP), commonly known as "food stamps," beyond a three-month period for certain adults.

The coalition asserted that the rule directly undermines Congress' intent for SNAP, and that the USDA violated the federal rulemaking process. Further, they argued that the rule would

impose significant regulatory burdens on the states and harm states' residents and economies. The lawsuit, filed in January in the United States District Court for the District of Columbia, asked the court to declare the rule unlawful and issue an injunction to prevent it from taking effect.

In March, the district court issued an order enjoining the waiver portion of the rule, which would have resulted in approximately 20,000 Marylanders, including 15,000 in Baltimore City alone, losing their SNAP benefits. In October, the district court granted the plaintiff's summary judgment motion, invalidating the entire rule.

In April, the OAG also opposed a USDA proposed rule that would eliminate a long-standing policy known as "broad-based categorical eligibility" (BBCE). This policy allows states to make low-income families automatically eligible for SNAP benefits if they have already qualified to receive certain other types of public assistance. The coalition opposing the rule asserted that if implemented, it will take food assistance away from 3.1 million people during the COVID pandemic and impose major administrative burdens on states that are fighting the pandemic.

The OAG subsequently joined a coalition urging Congress to uphold provisions in the House-passed HEROES Act that would prohibit the use of appropriation funds for three USDA administrative rules that the coalition asserts would cut food assistance under SNAP by making it harder to qualify for SNAP food assistance benefits, reduce state flexibility to continue benefits beyond the three-month limit, and reduce benefit amounts for certain households.

Maryland and Partner States Sue EPA Over Bay Restoration Goals

Attorney General Frosh, with the attorneys general of Delaware, Virginia, and the District of Columbia, filed a lawsuit against the Environmental Protection Agency (EPA) over its failure to require Pennsylvania and New York to develop and implement plans to achieve 2025 Chesapeake Bay restoration goals. The attorneys general alleged that EPA has abandoned its responsibility to ensure that certain states uphold their obligations under the Chesapeake Bay Watershed Agreement to reduce pollution levels to restore local waters and the Bay. The plaintiffs argued that under the agreement, the EPA is responsible for ensuring these six partner states adhere to the Agreement.

Decennial Census 2020

This year, the OAG was an active participant in the Decennial Census 2020, encouraging all Maryland residents to respond to the questionnaire and get counted. Because the Census helps determine funding for critical services in communities, determines congressional representation, and is used to draw the boundary lines for congressional, state legislative, and local political districts, the OAG joined a collaborative federal-state campaign urging Marylanders to participate in the Census, provided information about avoiding scams, and how to verify the identity of legitimate Census workers.

In addition to the public participation campaign, the OAG opposed efforts by the Trump

administration to exclude undocumented immigrants from the Census. This action violates the U.S. Constitution, which unambiguously demands a count of the “whole number of persons” residing in the country, including our immigrant populations.

In 2018, U.S. Secretary of Commerce Wilbur Ross directed the Census Bureau to use the 2020 Decennial Census to demand information on the citizenship status of every resident in the country. After a legal battle that made its way through multiple federal courts last year, the U.S. Supreme Court ruled in favor of the plaintiffs, including Maryland, and prohibited the Trump administration from adding a citizenship question to the census.

In July, the OAG joined a lawsuit opposing the exclusion of undocumented immigrants from the Census. In September, a three-judge panel granted summary judgment for the plaintiffs, holding that the Presidential Memorandum violates the statutory scheme by excluding undocumented immigrants from the “whole number of persons in each State,” and by requiring the Secretary of Commerce to report a set of numbers different from the number ascertained by the decennial census. The defendants appealed to the U.S. Supreme Court, which declined to rule on the case.

In September, the OAG joined an amicus brief that opposed the Trump administration’s attempt to reduce – by an entire month, from October 31 to September 30 – the time in which self-response questionnaires would be accepted and door-to-door follow-ups by census enumerators would take place, while at the same time the Census Bureau itself said that more time was necessary to achieve accurate counts. A Census undercount would severely

impact Maryland and other immigrant-rich states, depriving these states of political power in Congress for a decade, harm their efforts to redistrict state legislative seats, and affect hundreds of billions of dollars of federal funding.

Protecting the Gainful Employment Rule

In June the OAG joined 18 other attorneys general in filing a lawsuit to stop U.S. Education Secretary Betsy DeVos from eliminating critical protections for students considering enrolling in for-profit colleges and vocational schools.

For years, for-profit and vocational colleges engaged in fraudulent and abusive practices—including deceptive marketing—to convince students to enroll in useless academic and training programs. Those practices left students across the country with piles of debt and limited or no job prospects in their field to pay off that debt. In 2014, the Education Department issued a rule holding for-profit institutions accountable for the future success of their students and requiring programs to warn students about the dangers of enrolling (the Gainful Employment Rule).

The Trump administration's Education Department promulgated the Repeal Rule, repealing the Gainful Employment Rule, once again paving the way for for-profit colleges to take advantage of students looking to find educational programs to help advance their careers.

The attorneys general's lawsuit, filed in the United States District Court for the District of Columbia, asks the court to vacate the Repeal Rule.

Fighting the Opioid Epidemic

Attorney General Frosh continues to fight against the opioid epidemic with every tool available to the office. This includes criminal prosecutions, investigation of opioid manufacturers, and working with client agencies to tear down barriers to effective treatment.

Charges Against Purdue Pharma/Sackler Family and Insys Therapeutics

In May 2019, the OAG filed charges against the owners and former directors of Purdue Pharma for allegedly engaging in a pattern of deceptive conduct that encouraged the inappropriate use of opioids for patients who suffer from common chronic pain conditions, helping fuel the nation's opioid crisis.

The OAG alleged that Richard Sackler, former Purdue Pharma president and board member, along with members of his family, repeatedly engaged unlawfully in unfair and deceptive practices in the marketing of opioid products by promoting and selling the opioids to treat conditions for which they were unnecessary and neither safe nor effective.

Purdue Pharma filed for bankruptcy immediately prior to the scheduled trial date, resulting in a stay of the OAG's case.

Throughout 2020, OAG attorneys, along with those from 25 other states, conducted extensive discovery to investigate the disposition of over \$13 billion dollars removed from the pharmaceutical company, as well as other assets, and to further investigate the Sacklers'

role in and liability for the national opioid crisis. The attorneys also participated actively in the mediation between creditors, Purdue, and the Sackler family as part of the bankruptcy process, in an effort to maximize any monetary recovery that will benefit Maryland consumers and consumers across the United States.

Purdue Pharma also faced charges by the federal government for its conduct related to the nation's opioid crisis. The pharmaceutical company pled guilty to three felony offenses in November 2020.

In September 2018, the OAG charged Insys Therapeutics, Inc (Insys) with multiple violations of the Consumer Protection Act. Insys manufactured an extremely potent opioid, Subsys, approved by the FDA only for treating “breakthrough pain in adult cancer patients.” According to the charges, Insys and local health care providers circumvented the limited approval and targeted “off-label” patients without cancer— patients who never should have received the drug.

The OAG also alleged that Insys provided tens of thousands of dollars to prescribers as inducements to prescribe Subsys to their patients and created a sophisticated system where employees misrepresented diagnoses and illnesses to obtain payments from the insurance companies for inappropriate prescriptions.

Like Purdue, Insys had also filed for bankruptcy on the eve of trial in the Office's administrative action against it, resulting in a stay during the bankruptcy. In 2020, the OAG led other states to a financial resolution of Insys's bankruptcy, obtaining, based on evidence ac-

quired during the Office's pre-litigation investigation of Insys and other entities, a nationwide permanent injunction against unlawful practices in the sale and marketing of two fentanyl spray products indicated for cancer pain that had been widely misused in Maryland and elsewhere, contributing ultimately to the deaths of patients in Maryland and elsewhere.

The OAG also helped negotiate and implement a resolution of the Insys bankruptcy estate that provides relief to states and those who were directly victimized by Insys's misconduct. Attorneys of the OAG currently serve on the boards of both of the two trusts created out of the 2020 Insys bankruptcy settlement. The trust is designed to pursue Insys's expended resources and other claims so as to provide financial remuneration to the public and other creditors and a Victim's Restitution Trust.

Medicaid Fraud Control Unit

The OAG's Medicaid Fraud Control Unit assisted in obtaining an indictment and guilty plea of Asa Ene Ita, 59, of Baltimore, to one count of neglect of a vulnerable adult in the first degree and one count of neglect of a vulnerable adult in the second degree. The charges resulted from Ita's failure to provide necessary supervision and essential medical treatment to two vulnerable adults in her care.

Ita is not a licensed health care provider but was operating at least two unlicensed assisted living facilities in Baltimore City. In March 2019, a resident of Ita's unlicensed assisted living facility on N. Luzerne Avenue left the facility and was found deceased two days later. Ita failed to contact the police or the victim's family until more than 12 hours after the victim

disappeared. In addition, police found Ita in possession of over 100 mostly full prescription bottles of medication for individuals in her care, indicating that Ita was not administering essential medical treatment.

Health Occupations Prosecution and Litigation

The Health Occupations Prosecution and Litigation Unit (HOPL) prosecutors are investigating and prosecuting on an ongoing basis health occupation licensees—including physicians, physician assistants, dentists, pharmacists, podiatrists, and nurses—who prescribe or divert opioids for illegitimate reasons. These prosecutions have included pain management clinics in which prescribers' licenses have been revoked or suspended. HOPL prosecutors also work with the boards to support the rehabilitation of licensees who themselves abuse opioid medications, and they are involved in the efforts of the OAG's Task Force on Crimes of Exploitation to prosecute providers exploiting patients through inappropriate prescribing.

Agency Support

Many Assistant Attorneys General at the Maryland Department of Health (MDH) provide advice and support to the MDH units working to address the opioid crisis. They provide legal advice regarding the legal sufficiency of proposed legislation, the sharing of patient data regarding opioid use, treatment, overdoses, and other aspects of the pandemic. They advise the Board of Pharmacy, the Office of Controlled Substance Administration, and the Behavioral Health Administration regarding licensing and regulatory issues related to opioids and substance use disorder treatment, and represent

those units in actions enforcing those regulations. Assistant Attorneys General at MDH also advise Medicaid about coverage of addiction treatment services and the investigation and defense of Medicaid payment suspensions for fraud related to opioid use and prescribing. They also provide advice and support to many other MDH units including the Prescription Drug Monitoring Program, the Opioid Operations Command Center, health occupational licensing boards, and the 23 county health departments.

The OAG's advice on opioid-related issues involves all or almost all of our client agencies. For example, the Educational Affairs Division provides legal advice on widespread activity on each of the University System of Maryland's campuses, which includes: 1) information and outreach; 2) intervention and support for students' immediate, short-term needs; and 3) screenings and referrals for long-term addiction assistance. OAG attorneys also advise the Maryland State Department of Education on a variety of public awareness, education, intervention, and prevention programs. Our office also advises the Department of Human Services and local agencies on a variety of responsibilities related to opioids' effects on the populations they serve.

OAG Professional Development

In support of all of these efforts, we have created an Opioid Work Group to provide training for our lawyers on opioid-related issues and to provide a forum for our lawyers to share information about the issues they are confronting. Many of our attorneys also have participated in multi-day opioid training seminars

sponsored by the National Association of Attorneys General.

Fighting for Victims of Sexual Assault

In 2017, the General Assembly passed legislation creating the Maryland Sexual Assault Evidence Kit Policy and Funding Committee (SAEK Committee or Committee). The Committee was established to create uniform statewide policies regarding the collection, testing, and retention of sexual assault evidence kits (SAEKs) and increase access to justice for sexual assault victims. Chaired by Attorney General Frosh, the Committee consists of a board cross-section of stakeholders including law enforcement, medical professionals, crime victim rights attorneys, victim advocates, prosecutors, agency officials, and legislators.

Since its inception, the SAEK Committee has led the effort to produce statewide SAEK reform in Maryland. The Committee's advocacy has helped the State to: establish a 20-year SAEK retention requirement; create uniform statewide testing criteria; develop a process to review law enforcement decisions not to test a kit; provide victims with HIV prophylaxis free of charge; secure a \$2.6 million Sexual Assault Kit Initiative (SAKI) grant; and promote transparency by establishing annual reporting by law enforcement.

In 2020, the Committee successfully advocated in support of legislation that protects the privacy of victims and allows medical personnel to collect and be reimbursed for vital evidence that could impact the outcome of sexual assault cases. The Committee also played a crucial role in advancing legislation that protects a victim's

right to decide to limit or stop a sexual assault investigation or prosecution.

Additionally, the Committee continued to fulfill its obligations under the SAKI grant. The Committee was awarded the federal SAKI grant to conduct an inventory of the untested kits in the state; test a portion of the state's untested kits; establish a statewide tracking system; and provide victim services. In 2020, the Committee conducted the statewide inventory, began submitting kits for testing, finalized the victim notification protocol, and engaged the Department of Information Technology's assistance to identify a statewide tracking system.

Lastly, the SAEK Committee worked to advance its statutory mandates and initiatives. The Committee published guidance documents to assist law enforcement, assisted the Office of the Attorney General in promulgating regulations governing SAEKs, and aided the Governor's Office of Crime Prevention, Youth and Victim Services in implementing the HIV nPEP Pilot Program—a three-year pilot program established by the General Assembly to monitor and provide HIV prevention medication to sexual assault victims free of charge.

In 2021, the Committee will continue its efforts to advance the SAKI grant, keep law enforcement and sexual assault practitioners informed regarding SAEK policy changes and procedures, establish best practices to address drug-facilitated sexual assault, and promote compliance with recent SAEK reforms.

Legislative Victories

Fee-based Driver's License Suspensions

In March, the Maryland General Assembly passed legislation sponsored by the OAG that prohibits driver's license suspensions for failure to pay Motor Vehicle Administration (MVA) fines and fees (HB280/SB234). The new law, which went into effect on October 1, 2020, repeals MVA's authority to suspend an individual's driver's license merely because they cannot afford to pay a fine or fee; eliminates the requirement that individuals on an installment plan pay at least 10% of the debt per month; reduces from \$300 to \$150 the amount of debt necessary to qualify for a payment plan; eliminates the MVA's ability to suspend a judgment debtor's driver's license at the request of a judgment creditor; and applies retroactively to current license suspensions for failures to pay.

According to MVA data, more than 29,000 Maryland residents had their driver's licenses suspended for failure to pay fines between 2015 and 2019. These suspensions limited their ability to get to work, to doctor's appointments, or pick children up from school or day care. Working with advocates and members of the General Assembly, the OAG was able to restore the right to work for many Marylanders and end a policy that disproportionately impacted people of color and of lower income. This builds on the Attorney General's prior efforts to combat state policies that perpetuate cycles of poverty, including the incarceration of those who cannot afford cash bail.

Policy and Enforcement Priorities

Public Safety

There are few priorities greater than the safety of Maryland residents. The OAG has continued to focus its resources strategically to build safer streets and communities.

3-D Printed Guns

The OAG filed a multistate lawsuit related to 3D printed guns on January 23, 2020, challenging U.S. Departments of Commerce and State rules that would remove software and technology "for the production of a firearm, or firearm frame or receiver" (3D gun files) from the U.S. Munitions List. 3D gun files have been listed on the Munitions List and subject to export control as required by the Arms Export Control Act and the International Traffic in Arms Regulations. The challenged rules would result in 3D gun files being universally available, which would enable anyone with access to a commercially available 3D printer to automatically manufacture a working firearm out of plastic. 3D-printed, unregistered, and untraceable firearms that can also be very difficult to detect, even with a metal detector. Untraceable firearms are sometimes called "ghost guns."

On March 6, 2020, the district court granted the states' motion for a preliminary injunction in part, keeping the 3D gun files on the Munitions List. That ruling is currently on appeal in the Ninth Circuit Court of Appeals.

Indicting Gang Members

An investigation led by the Maryland Office of the Attorney General and the Anne Arundel County Police Department led to the indictment in September of 15 members of a gang on multiple charges including participation in a gang, possession with intent to distribute heroin/fentanyl, cocaine, and MDMA, distribution of controlled dangerous substances, and CDS possession and conspiracy in Anne Arundel County, Baltimore County and Baltimore City. The leaders of the gang also engaged in sex trafficking of numerous women.

Upon the arrests of the indicted members of the gang, detectives located and seized 2 assault rifles and 7 handguns, 8 vehicles utilized by members of the organization to traffic illegal drugs and women, as well as 502 grams of crack cocaine, 119 grams of powder cocaine, over 3000 grams of marijuana, over 200 grams of heroin/fentanyl, 38 grams of MDMA, 1,316 grams of methamphetamine, and 13 strips of suboxone in addition to \$27,000 in cash.

In October, 19 members of another criminal enterprise were indicted for multiple charges, including participation in a criminal gang and conspiracy to distribute narcotics, as well as multiple drug kingpin, possession of a large volume of narcotics, and firearms-related counts.

The investigation was led by the OAG, the Maryland State Police, the Drug Enforcement Administration, and the Baltimore City Sheriff's Office, a collaboration of federal, state, and local law enforcement under the Organized Crime and Drug Enforcement Task Force Strike Force initiative. The investigation

revealed that the members of the criminal enterprise sold fentanyl and heroin primarily throughout Baltimore City. Law enforcement recovered nearly 9 kilograms of fentanyl and other narcotics and multiple firearms through the use of undercover buys and search warrants. Almost all of the seized drugs were determined to be fentanyl, or a mixture containing fentanyl. Fentanyl is 50 to 100 times more potent than heroin or morphine.

Standing Up for Consumers

Protecting Marylanders from fraud and deceptive business practices is an essential function of the OAG. Every day Marylanders face challenges and have questions about transactions that are part of daily life. They may sign up for phone service that doesn't work the way it was promised or have trouble getting a warranty repair or a medical bill paid by their insurance companies.

The OAG is prepared to help. In FY 2020, the Consumer Protection Division (CPD), which includes the Health Education and Advocacy Unit, assisted over 10,000 consumers who filed complaints, reclaiming more than \$7 million for them.

In addition to individual claims, the office undertakes major investigations and participates in litigation with successful outcomes for Marylanders. Here are some of the major cases from 2020.

Opposing Social Media Monopoly

Maryland, as part of a bipartisan coalition of 37 other attorneys general, sued Google, LLC in December for anticompetitive conduct in violation of Section 2 of the Sherman Act. The

states allege that Google illegally maintains its monopoly power over general search engines and related advertising markets through a series of anticompetitive exclusionary contracts and conduct, which deprives consumers of competition that could lead to greater choice, innovation, and better privacy protections. They further allege that Google has exploited its market position to accumulate and leverage data to the detriment of consumers.

The attorneys general asked the court to halt Google's illegal conduct and restore a competitive marketplace. The states also seek to unwind any advantages that Google gained as a result of its anticompetitive conduct, including divestiture of assets as appropriate. Finally, the court was asked to provide any additional relief it determines appropriate, as well as reasonable fees and costs to the states.

Also in December, the OAG as part of a bipartisan coalition of 48 attorney generals, filed a lawsuit against Facebook Inc., alleging the company illegally stifles competition to protect its monopoly power. The lawsuit alleges that over the last decade, the social networking giant illegally acquired potential competitors in a predatory manner and cut services to smaller apps, depriving users of the benefits of competition and reducing privacy protections and services.

The lawsuit also alleges that Facebook monetizes its business by using the data it collects from users to deliver highly targeted advertising. To maintain its market dominance in social networking, Facebook employs a variety of methods to impede competing services. The two most utilized strategies have been to acquire smaller rivals and potential rivals before they could threaten Facebook's dominance,

and to suffocate third-party developers that Facebook invited to utilize its platform.

The Facebook lawsuit was also filed in the U.S. District Court for the District of Columbia.

Cash-N-Go Order

The OAG's Consumer Protection Division issued a Final Order against Cash-N-Go, Inc., Brent M. Jackson, and related businesses owned and operated by Jackson under the "Cash-N-Go" name for making unlicensed and usurious consumer loans. Although Cash-N-Go claimed that they were entering into pawn transactions with consumers, the Division found that Cash-N-Go was instead making illegal consumer loans with interest rates of 360%.

The Order directs that all of Cash-N-Go's loans to Maryland consumers are void and unenforceable. Cash-N-Go is prohibited from collecting any money related to these loans, and any security interest or any liens that it took on consumers' vehicles are now void and unenforceable. Cash-N-Go is also prohibited from repossessing consumers' motor vehicles, and the company must return any repossessed motor vehicles still in its possession to the vehicle's owner. The Final Order further directs Cash-N-Go to permanently cease engaging in unlicensed lending activities in Maryland, and it requires Cash-N-Go to pay over \$2.2 million in restitution to Maryland consumers and a \$1,200,750 penalty to the State of Maryland.

Honda Defective Airbag Settlement

The OAG, along with dozens of other states, reached a multimillion-dollar settlement with American Honda Motor Co., Inc. and Honda

of America Mfg., Inc. over allegations Honda concealed safety issues related to defects in the frontal airbag systems installed in certain Honda and Acura vehicles sold in the United States. The systems were designed and manufactured by Takata Corporation, a long-time Honda supplier, and were first installed in Honda vehicles in the 2001 model year.

The investigation examined Honda's alleged failure to inform regulators and consumers that the frontal airbags posed a significant risk of rupture, which could cause metal fragments to fly into the passenger compartments of many Honda and Acura vehicles. The ruptures have resulted in at least 14 deaths and over 200 injuries in the United States alone.

The states alleged that Honda's actions and failures to act, as well as its misrepresentations about the safety of its vehicles, were unfair and deceptive, and that Honda's conduct violated state consumer protection laws, including the Maryland Consumer Protection Act.

Under the terms of the settlement, Honda agreed to strong injunctive relief and to pay the participating attorneys general over \$84 million.

Santander Consumer USA Settlement

The OAG reached a settlement with Santander Consumer USA Inc. (Santander) that includes more than \$500 million in relief for consumers. The settlement resolves allegations that Santander violated consumer protection laws by exposing subprime consumers to unnecessarily high levels of risk by placing them into auto loans that Santander had determined had a high probability of default.

The settlement stems from a multistate investigation of Santander's subprime lending practices led by a six-state executive committee comprising Maryland, California, Illinois, New Jersey, Oregon and Washington, and included attorneys general from a total of 34 states.

Under the settlement, Santander is required to provide relief to consumers and, moving forward, is required to factor a consumer's ability to pay the loan into its underwriting. Santander will pay \$65 million for restitution for certain subprime consumers in the participating 34 states who defaulted on loans between January 1, 2010, and December 31, 2019.

Wells Fargo Settlement

The OAG's Securities Division entered into a \$20 million settlement with Wells Fargo & Company. The Consent Order resolves financial crisis-era claims that Wells Fargo misled investors in its issuance of residential mortgage-backed securities (RMBS). The \$20 million settlement is the largest reached by a state for Wells Fargo's financial-crisis era RMBS issuance.

Between January 1, 2005 and January 1, 2009, Wells Fargo issued 119 RMBS, the majority containing prime mortgages, with some consisting of Alt-A and subprime mortgage loans. As an issuer, Wells Fargo was required to disclose complete and accurate information about the loans backing its securities. But through two channels, Wells Fargo received information that its disclosures were inaccurate with respect to certain loans. First, Wells Fargo learned that many borrowers' stated income exceeded the income these borrowers provided to the IRS, and second the company received information that many of its deals contained

loans that did not meet its mortgage origination standards.

Clark Turner Homes

The OAG's Consumer Protection Division issued a Final Order in June finding that Clark P. Turner and Clark Turner Homes, LLC, of Harford County, violated Maryland's Consumer Protection Act, New Home Deposits Act, and Custom Home Protection Act. The Order requires Turner and Clark Turner Homes to pay more than \$559,000 in restitution to consumers, \$75,000 in civil penalties, and more than \$72,000 in costs. In addition, the Order imposed cease and desist provisions to prevent future violations by Turner and Clark Turner Homes.

The Division found that Turner and Clark Turner Homes accepted over \$1.2 million from or on behalf of at least 15 consumers, but either failed to begin construction on their homes or failed to complete construction of their homes. The Division also determined that Turner and Clark Turner Homes violated the laws protecting new home purchasers in Maryland by, among other things, failing to protect consumer deposits, breaching the trust created for the benefit of the buyer, misappropriating the money paid by consumers to Clark Turner Homes, and failing to include required disclosures in contracts with consumers.

Over \$370,000.00 from the Home Builder Guaranty Fund was awarded to 19 injured consumers for their losses resulting from Clark Turner Homes' failure to return deposits when construction never began, failure to complete consumers' homes, or defective workmanship.

U.S. Postal Service Disruptions

In August Maryland joined a multistate coalition in filing a federal lawsuit challenging drastic operational changes at the U.S. Postal Service (USPS) that threatened critical mail delivery and could have undermined the national election in November. USPS cuts included eliminating staff overtime, altering operations at state distribution centers, and removing critical mail sorting equipment.

USPS's service changes threatened timely mail deliveries for a range of important services, including prescriptions, utility bills, government benefits, and even groceries.

The attorneys general asserted that the USPS acted outside of its authority to implement changes to the postal system and did not follow the proper procedures under federal law. The law requires that changes at the U.S. Postal Service that cause a nationwide impact in mail service must be submitted to the Postal Regulatory Commission, which the federal government failed to do. The states' lawsuit sought to block the unlawful service reductions and operational changes at the USPS.

In September, the OAG with a coalition of other states filed a motion for a preliminary injunction to immediately halt the USPS's operational changes that led to declining postal performance. On September 17 the district court judge entered a nationwide preliminary injunction ordering USPS to: (1) immediately stop the policy changes implemented in July 2020, including the "leave mail behind" policy, where postal trucks are required to leave at specified times, regardless if there is mail still to be loaded, (2) continue its longstanding practice of treating all election mail as First Class mail,

regardless of the paid postage, (3) not implement or enforce any “change in the nature of postal services which will generally affect service on a nationwide or substantially nationwide basis,” absent a duly issued advisory opinion of the Postal Regulatory Commission, (4) replace equipment necessary to process election mail in accordance with First Class delivery standards.

Nationstar Mortgage Settlement

Along with 50 other attorneys general and other federal and state agencies, the OAG announced an \$86.3 million settlement with Nationstar Mortgage, the country’s fourth-largest mortgage servicer. The settlement resolves allegations that Nationstar violated consumer protection laws during its servicing of mortgage loans. Thousands of borrowers had problems when their loans were transferred to Nationstar, leading to foreclosure in some circumstances.

The settlement, filed in the U.S. District Court for the District of Columbia, provides approximately \$79.2 million in relief affecting 55,814 loans nationally. In Maryland, the settlement affects 1,442 loans for a total of over \$2 million. The settlement also requires Nationstar to follow a detailed set of rules or “servicing standards” in how it handles certain mortgage loans for three years.

Precious Metals Investor Scheme

The OAG’s Securities Division collaborated with the Commodities Futures Trading Commission (CFTC) and 29 other states in filing a complaint in the U.S. District Court for the Northern District of Texas alleging related companies Metals.com and Barrick Capital Inc.

solicited \$185 million from retirement-age investors, including at least \$3 million from Marylanders, by touting precious metals at grossly inflated prices that were not disclosed.

The defendants were accused of using cold calling, television, radio, and social media advertisements designed to “instill fear in elderly and retirement-aged investors and build trust with investors based on representations of political or religious affinity.” The defendants also allegedly misrepresented their sales representatives’ identities, experience and expertise, and their affiliation with conservative media personalities.

The complaint requested that the Court order the defendants to cease sales activity, return money to investors, and stop defrauding investors and violating federal and state laws going forward. The Court granted the complaint’s emergency request that a receiver be appointed to take over the companies to marshal funds for the benefit of investors across the country.

Fighting for Equal Access to Healthcare

Protecting Reproductive Rights

In December 2019, the U.S. Department of Health and Human Services (HHS) issued a final rule requiring qualified health plans participating in the state exchanges to separately bill for the portion of health insurance premiums attributable to abortion coverage. The rule also requires consumers to make a separate payment of at least one dollar for these services or risk losing all of their healthcare coverage. This

requirement threatens women's access to abortion and puts millions at risk of losing critical health insurance coverage.

With a coalition of seven states, the OAG filed a lawsuit in January arguing that the new rule is incompatible with the Affordable Care Act's (ACA) requirement of equitable access to healthcare. All of Maryland's qualified health plans cover abortion services, and HHS itself has conceded that requiring separate bills and separate payments will inevitably lead to confusion. This puts nearly 160,000 enrollees in Maryland at risk of losing coverage if they fail to make both premium payments on time.

The coalition argued in the lawsuit that the rule is unlawful because it imposes onerous and unnecessary regulatory barriers aimed at restricting women's constitutionally protected right to access abortion care; seeks to frustrate state sovereignty by coercing states to change their policies relating to the protection of abortion care; violates Section 1554 of the ACA, which prohibits the promulgation of any regulation that creates unreasonable barriers to the ability of individuals to obtain appropriate medical care; and exceeds HHS's statutory authority under Section 1303 of the ACA.

In July, the District Court granted the states' motion for summary judgment and set the rule aside. The court found that the rule was arbitrary and capricious because the Trump administration did not offer a reasoned explanation for deviating from its prior rule and industry practice. The administration has appealed the ruling.

Opposing Discrimination in Healthcare

In a lawsuit filed in July against the U.S. Department of Health and Human Services (HHS), HHS Secretary Alex Azar, and the head of HHS's Office of Civil Rights, Roger Severino, a coalition of attorneys general, including the OAG, argued that a new Trump administration rule emboldens providers and insurers to discriminate against LGBTQ+ individuals, those with limited English proficiency, and women, among others, by stripping express protections for these groups in the Patient Protection and Affordable Care Act (ACA). The ACA prohibits discrimination based on race, color, national origin, sex, disability, or age by health programs or facilities that receive federal funds.

In the lawsuit, filed in the U.S. District Court for the Southern District of New York the coalition argues that HHS has unlawfully ignored the harms that the new rule will impose on vulnerable populations. The coalition additionally contends that HHS has failed to justify why it abandoned its prior policy, which, among other things, explicitly prohibited discrimination in health care and required health entities to provide meaningful language assistance services to individuals with limited English proficiency, including notifying them of their rights to translation and interpretation services. The lawsuit finally alleges that the Trump Administration was motivated by animus toward the transgender community in issuing this rule.

Standing Up for Civil Rights

Ensuring a Free and Fair Election in Maryland

As it became clear in summer of 2020 that the COVID pandemic could impact Marylanders ability to vote in person during the November 3 Presidential Election, the OAG strongly urged the Governor to authorize a vote-by-mail election. When it became clear that the Governor would not authorize vote-by-mail, despite successful vote-by-mail primary and special elections held earlier in the year, the OAG continued to communicate with the public regarding safe and legal ways to vote that would not require them to appear in person, possibly risking exposure to the COVID virus.

Starting more than a month before the Presidential Election, the OAG kept the public apprised through social media of important dates and deadlines; how to register to vote online as well as at the polls; early voting opportunities; various options for voting, including vote-by-mail and using ballot dropboxes placed throughout the state; how to track a ballot on the Board of Elections website; and how to spot, report, and avoid illegal voter intimidation.

In mid-October, the OAG issued guidance to remind Maryland voters of their protections against voter intimidation and clarifying the role of poll watchers in Maryland. The OAG also launched hotline and exclusive email for reporting instances of voter intimidation or harassment. The Voters' Rights Protection Act of 2015 gives the Attorney General authority

to prosecute violations of Maryland's voter intimidation law.

Several days before the November 3 election, the OAG presented a series of FAQs and answers on Twitter intended to help Marylanders understand the voting process and their voting rights.

Maryland Lynching Truth and Reconciliation Commission

The OAG with the Maryland Lynching Truth and Reconciliation Commission obtained a \$300,000 Department of Justice grant to research and address the legacy of unsolved lynchings that occurred in Maryland. The grant will be used to support the Commission's project, *Justice in the Aftermath: Documenting the Truth of Racial Terror Lynching in Maryland to Support Restorative Justice Among Affected Communities*. The OAG applied for the grant through DOJ's Emmett Till Cold Case Investigations Program.

The Commission is charged with holding public hearings where a lynching of an African American by a white mob has been documented, receive recommendations from the public, and make recommendations for addressing the legacy of lynching.

Throughout the 19th and 20th centuries, 43 racially motivated lynchings were committed in Maryland. In each of these cases, no person has ever been tried, convicted, or otherwise brought to justice for their participation in these crimes. The OAG will work in partnership with the Commission and its member organizations to fund the investigation of these unsolved racially-motivated lynchings.

Combating Workplace Discrimination

OAG joined a multistate lawsuit challenging the U.S. Equal Employment Opportunity Commission's (EEOC) arbitrary and unlawful rule revoking full access to federal employment data used by state and local fair employment practice agencies (FEPAs) to monitor and combat discrimination in the workplace. The agencies rely on employment data to identify priorities for investigation and enforcement of civil rights laws protecting workers, which includes addressing persistent gender and racial wage gaps in Maryland and across the country.

Under Title VII of the Civil Rights Act of 1964, the EEOC is required to provide FEPAs – upon request and without cost – employment data obtained from any employer within the FEPA's jurisdiction, to support efforts to effectively fight employment discrimination. The EEOC abandoned its long-established practice of sharing all "Employer Information Report EEO-1" (EEO-1) data within a FEPA's jurisdiction and refused to provide information until a specific employer is already under investigation. EEO-1 contains statistical data regarding the composition of an employer's workforce by sex, race, and ethnicity. Full access to jurisdiction-wide data allows FEPAs to identify trends and enforcement priorities to more effectively protect civil rights.

The lawsuit alleges that EEOC failed to engage in the formal rulemaking process as required by the Administrative Procedure Act and, among other things, falsely claimed that the new rule was "current" practice in March of 2020.

Implicit Bias Training

The OAG participated in a two-part joint "Identifying Unconscious Bias" training with the Maryland States Attorneys Association, which was mandatory for staff members of the Criminal and Criminal Appeal Divisions

The training is aimed at helping individuals identify their own unconscious biases, learn how the biases affect their decision-making, and take steps to reduce the biases.

The third installment of this training is scheduled for spring 2021. The OAG is also working with the Maryland Commission on Civil Rights to conduct systemic racism training for principal counsels in early 2021.

Environmental Enforcement

Liquefied Natural Gas Transport

Maryland led a coalition of 16 attorneys general in urging the Trump administration to withdraw a proposal that would allow for the bulk transport of refrigerated liquid methane, more commonly known as liquefied natural gas (LNG), along existing rail corridors without any added safety measures. The proposal lacked basic safety precautions to mitigate the risk of catastrophic accidents, and failed to adequately evaluate the environmental and climate impacts of expanding domestic and global access to natural gas, a potent source of greenhouse gases—as federal agencies are required to do under the National Environmental Policy Act.

The Pipeline and Hazardous Materials Safety Administration (PHMSA) published a final LNG by Rail Rule in the Federal Register in July. While the final rule adopted several monitoring and tank car requirements, which were not included in the 2019 proposal, PHMSA failed to include commonsense safety measures like mandatory speed restrictions and crew safety distances. Additionally, the final rule relied on a cursory assessment of its environmental impacts and did not examine either the upstream or downstream effects of allowing LNG to be transported in rail tank cars.

The OAG led the same coalition of states that commented on the proposed rule in filing a petition for review of the Final Rule in the D.C. Circuit Court in August.

Chemical Disaster Rule

Maryland, along with 15 states and the City of Philadelphia, filed a lawsuit against the Environmental Protection Agency (EPA) challenging a rollback of Obama-era amendments to its “Risk Management Program” (RMP) regulations, referred to as the Chemical Disaster Rule. This rule made critical improvements to the RMP to better prevent explosions, fires, poisonous gas releases, and other accidents at facilities that store and use toxic chemicals.

Concurrent with the lawsuit, this coalition also filed a petition for administrative reconsideration of the final rule. The D.C. Circuit agreed to hold the lawsuit in abeyance until the EPA ruled on the petition for administrative reconsideration, which was denied in September 2020. The OAG has since filed a separate petition for review of the denial of its request for administrative reconsideration, and the two cases have been consolidated.

Improper Lead Paint Inspections

The Maryland Department of the Environment and the OAG filed a lawsuit alleging that a Baltimore County lead inspection company and two of its inspectors violated state laws that protect children from lead paint poisoning after homes were certified as lead-free despite testing that showed they were not.

The suit alleged more than 150 violations by inspection contractor Home Free Lead Inspections, LLC, and its owner and one of its inspectors. Following a citizen complaint in December 2017, MDE opened an investigation into lead-free inspection certificates issued by Home Free. MDE’s investigation found that in several cases Home Free issued lead-free certificates despite inspections in which the inspector had found lead-based paint at the properties, according to the suit. The suit also identifies instances in which the company issued lead-free certificates based on inadequate inspections that failed to test all surfaces or follow testing methodologies as required by Maryland regulations.

Opposing Efforts to Weaken the Clean Water Act

In May, the OAG joined a coalition of 19 attorneys general in filing a lawsuit challenging the Trump administration’s final rule narrowing the definition of the “waters of the United States” under the Clean Water Act. The new rule removes federal protections for all ephemeral streams, many wetlands, and other waters that were previously covered under the Act. In the lawsuit, the coalition argued that EPA’s rule directly conflicts with the text of the Clean

Water Act, Supreme Court precedent, and the EPA’s own scientific findings.

The 2020 rule narrowed the definition of “waters of the United States” to eliminate federal protections for many of Maryland’s waterways, including waters that the state relies on for drinking water, wildlife habitat, agriculture, and recreation.

The court denied the coalition’s request for a preliminary injunction. The coalition has filed a motion for summary judgment.

In a separate case, the OAG joined a coalition challenging the EPA’s final rule unlawfully curtailing state authority under Section 401 of the Clean Water Act. The rule will impair states’ ability to fully and efficiently review project proposals for water quality impacts and make it more difficult for states to fulfill their fundamental obligation to protect their waters and wetlands. In this lawsuit, filed in July, the coalition argued that the final rule violates the Administrative Procedure Act and Clean Water Act.

National Clean Car Standards

In May, the OAG joined a multistate coalition in filing a lawsuit challenging the Trump administration’s final rule rolling back the national Clean Car Standards. The previous standards required appropriate and feasible improvements in fuel economy and reductions in greenhouse gas emissions from passenger cars and light trucks, saving consumers money, reducing harmful emissions, and helping protect public health since they were introduced in 2010. The Safer Affordable Fuel-Efficient Vehicles (SAFE) rule stops this progress in its tracks, hurting the economy and public health.

In the lawsuit, the coalition argues that the final rule unlawfully violates the Clean Air Act, the Energy Policy and Conservation Act, and the Administrative Procedure Act. The rule requires automakers to make only minimal improvements to fuel economy—on the order of 1.5 percent annually instead of the previously anticipated annual increase of approximately 5 percent. The rule also guts the requirements to reduce vehicles’ greenhouse gas emissions, allowing hundreds of millions of metric tons of avoidable carbon emissions into our atmosphere over the next decade.

Also in May, the OAG filed a motion to intervene in a lawsuit to defend the nation’s Clean Car Standards against a challenge by the Competitive Enterprise Institute (CEI). CEI had filed a lawsuit in April challenging the SAFE rule, claiming that even the minimally higher fuel economy standards required by the rule distort the market, increase vehicle costs, and lead to more fatalities. In light of federal efforts to roll back the Clean Car Standards, the coalition seeks to intervene in order to defend the EPA and NHTSA’s authority to set the rigorous standards required by the Clean Air Act and Energy Policy and Conservation Act.

Luke Paper Mill

The OAG and the Maryland Department of the Environment (MDE) filed a lawsuit against the owners of Luke Paper Mill for seepages of caustic and corrosive “pulping liquor,” coal ash, or other undiscovered sources into the North Branch Potomac River that threaten public health and the environment.

The plaintiffs sought orders requiring the mill owners, Verso Luke LLC and its parent com-

pany, Verso Corporation, to stop the discharges and remediate any harm caused by them. The complaint also sought orders requiring Verso to post signs warning of health risks and to pay civil penalties.

The complaint was filed in the U.S. District Court for Maryland in conjunction with a motion to intervene in a lawsuit filed in March in that court by Potomac Riverkeepers Inc. on similar issues.

Opposing Weakened Mercury and Air Toxics Standards

Maryland joined a coalition of 25 states, cities, and counties in suing the EPA over its rule reversing the agency’s determination—first made nearly 20 years ago—that it is “appropriate and necessary” under the Clean Air Act to regulate mercury and other toxic air pollution from coal- and oil-fired power plants. The new rule undermines the 2012 Mercury and Air Toxics Standards (MATS), a landmark rule that has substantially reduced emissions of mercury and other hazardous pollutants that harm human health and the environment, and that pose especially significant health risks to children and pregnant women.

The EPA’s final rule seeks to undermine MATS although power plants have been complying with the standards since 2015 and already have installed the pollution-control technologies. The lawsuit, filed in the U.S. Court of Appeals for the District of Columbia Circuit, challenges EPA’s reversal of its finding that the MATS regulation is “appropriate and necessary.”

Arctic National Wildlife Refuge

The OAG joined a coalition of 15 states in September in filing a federal lawsuit to challenge a decision by the Bureau of Land Management (BLM) to proceed with an oil and gas leasing program in the Coastal Plain region of the Arctic National Wildlife Refuge from oil and gas development.

The Coastal Plain is a 1.6 million-acre national treasure, unparalleled in its biological significance for hundreds of species, including caribou, threatened polar bears, and millions of birds that migrate to and from six continents and through the lower 48 states.

The lawsuit, filed in U.S. District Court for the District of Alaska, asserted that the Trump administration’s drilling plan violates multiple laws, including the Administrative Procedure Act, National Environmental Policy Act, the National Wildlife Refuge System Administration Act, the Alaska National Interest Lands Conservation Act, and the Tax Cuts and Jobs Act of 2017. The plaintiffs further alleged that the administration conducted a flawed environmental review that failed to take a hard look at the drilling plan’s impacts on migratory birds, greenhouse gas emissions, and climate change. The lawsuit seeks to block any exploration activities and to prevent the government from issuing oil and gas development leases in the Coastal Plain.

Opposing Rollback of Methane Regulations

The OAG joined a lawsuit in September challenging the EPA’s final rule gutting standards that limit emissions of methane, volatile or-

ganic compounds, and other hazardous pollutants from new, reconstructed, and modified facilities in the oil and natural gas industry.

On August 13, 2020, the EPA announced a set of rules gutting the 2016 standards. The rules include policy amendments rescinding requirements to regulate methane and removing the transmission and storage category entirely from regulation, as well as technical amendments rolling back leak detection and monitoring requirements. Together, these changes are expected to increase emissions of methane, volatile organic compounds, and other hazardous air pollutants by 850,000, 140,000, and 5,000 tons respectively by 2030.

In the lawsuit, the coalition argues that the EPA's rollback of the standards violates the Clean Air Act because it arbitrarily eliminates pollution controls from the transmission and storage segment of the oil and natural gas sector and entirely abandons the regulation of methane without any justification.

Opposing Off-Shore Seismic Testing

In November 2018, despite widespread criticism from the scientific community and the public, the National Marine Fisheries Service (NMFS) granted incidental harassment authorizations, or IHAs, to five companies seeking to use airguns to conduct seismic testing in the Atlantic Ocean, a precursor to oil and gas exploration. Shortly after, the OAG led a multi-state coalition intervening in a lawsuit to stop the proposed use of airguns. The coalition charged that NMFS's approval violated the Marine Mammal Protection Act, Endangered Species Act, National Environmental Policy Act, and Administrative Procedure Act, and asked the court to enjoin the authorizations.

The seismic testing surveys would have exposed whales, dolphins, and porpoises to repeated sound blasts louder than 160 decibels, threatening the health and life of hundreds of thousands of highly sensitive marine mammals, including multiple endangered or threatened species.

In order for the testing to commence, the five companies also needed permits from the Bureau of Ocean Energy Management (BOEM). The permits were never granted and the U.S. Department of Justice was unable to ascertain when, if ever, they would be. Therefore, because the IHAs were set to expire on November 30, 2020, the U.S. District Court issued an order in October indicating that no seismic testing could be conducted prior to that date and the lawsuit was moot.

The OAG will oppose any renewed efforts to conduct seismic testing in the waters off of Maryland's coast.

Toxic Pesticide Exposure for Farmworkers

A coalition of five states including Maryland filed suit against the EPA for illegally weakening protections for farmworkers, their families, and others from toxic pesticides. The coalition's lawsuit, filed in December, argues that EPA violated federal law when it adopted a regulation that allows pesticide spraying to continue even if farmworkers or other persons are within the area immediately surrounding the spraying equipment, if that area is outside the farm's boundaries.

In 2015 the EPA updated and strengthened its Agricultural Worker Protection Standard regulations, including establishment of the Application Exclusion Zone (AEZ). The AEZ is an up to 100-foot circular area around pesticide application equipment that, because of the inherent dangers of pesticides, must be free of all persons other than appropriately trained and equipped handlers during application. However, in October, the EPA adopted a rule that weakened the protections afforded to farmworkers, their families, and others from pesticide exposure by substantially limiting the AEZ, allowing handlers to continue applying pesticides even when farmworkers or bystanders are present within AEZ—so long as these persons are located outside the farm’s boundaries.

The coalition of states allege that the EPA violated federal law in adopting the regulation, and asked the court to vacate the rule and bar the agency from implementing it.

Prosecutions by Environmental Crimes Unit

OAG’s Environmental Crimes Unit obtained a guilty plea from John Oliver Moon, of Elkton, to six counts related to tampering with wastewater treatment sampling methods and falsifying information at a wastewater treatment plant located at 91 Johnstown Road in Elkton. The falsified records masked the actual, excessive amount of *E.Coli* discharging from the plant into Dogwood Run.

Moon was a licensed operator and responsible for general administration of the plant. As part of his duties, he was responsible for conducting daily monitoring and collection of the

monthly sample to be submitted to the Maryland Department of the Environment (MDE). From 2015 through 2019, the submissions to MDE showed continued violations for excessive levels of Nitrogen and repeatedly documented nonfunctioning equipment. However, Moon’s submission routinely resulted in virtually no detectable levels of *E.Coli*, which was overwhelmingly inconsistent with the levels regularly reported prior to when Moon took over operation of the plant.

Moon ultimately admitted that he was not taking the samples and readings as required, and further stated that he would intentionally increase chlorine levels, acknowledging that he did so to avoid problematic results.

Moon was sentenced to a total of two years’ incarceration, all suspended; three years’ probation, and fines totaling \$60,000, suspending all but \$10,000, to be paid to the Maryland Clean Water Fund.

Labor Rights

The OAG joined a coalition in filing a lawsuit to stop the Trump administration from eliminating key labor protections for workers. The lawsuit challenges a U.S. Department of Labor (DOL) rule that seeks to unlawfully narrow the joint employment standard under the Fair Labor Standards Act (FLSA), which establishes a baseline of critical workplace protections, such as minimum wage and overtime.

In the suit, the coalition argued that DOL’s new rule provides an incentive for businesses to offload employment responsibilities to smaller companies, which, under the new rule, will shield them from federal liability for wage

and hour obligations under the FLSA. The attorneys general argue implementing the new rule will result in lower wages and increased wage theft for workers, especially for workers in low-wage jobs and make it more difficult to collect unpaid back wages for workers.

In September, the district court granted the plaintiff's motion for summary judgment, holding that the rule is contrary to law and arbitrary and capricious, and vacated the new standard for joint employer liability.

Judicial Appointments



Several current or former OAG attorneys received the high honor of appointment to Maryland's judiciary in 2020: Myshala Middleton

Commitment to our Community

Thurgood Marshall Program

In keeping with its commitment to provide superior legal representation, the OAG created the Thurgood Marshall Clerkship Program. Each year, the Thurgood Marshall Clerkship Program provides first and second year law

students from historically under-represented populations the opportunity to serve an 8-week clerkship over the summer.

The program is a collaborative effort of the OAG, several local law firms, and area law schools designed to attract diverse law students who demonstrate exceptional leadership potential to the field of public service. The goal is to encourage these students to consider public sector service during their legal careers by providing them with an excellent summer clerkship that enhances their future employment opportunities.

Pro Bono Work

The quality and commitment of lawyers and staff in the OAG is impressive. With skills honed by years of education and practice, attorneys in the office undertake detailed research, write strong and compelling briefs and opinions, and find solutions to complex problems. But with the privilege of professionalism comes responsibility. A responsibility to give back to the community. A responsibility to make justice—and the legal system—accessible to all. That is why the OAG has a robust and growing pro bono program.

Individuals in need of legal help are matched with lawyers who can assist them with a variety of tasks. Our lawyers help children, the elderly, and many others in need. We are committed to making sure we give back to the community, both through our public service mission and in other ways.

There are a variety of ways in which OAG attorneys may perform pro bono services. The cases in which attorneys have volunteered include drafting simple wills, simple deeds, powers of attorney, advanced medical directives,

and corporate charters and by-laws; staffing expungement, powers of attorney, and bankruptcy bypass clinics; and representing individuals with filing Chapter 7 bankruptcies, name changes, gender marker changes, adult guardianships, divorces not involving custody, asylum, and other cases. Our attorneys have also written or edited numerous articles for the People's Law Library.

Community Service Initiative

The Baltimore Community Service Initiative was established in the aftermath of the Freddie Gray unrest with the focus of providing community support and assistance on behalf of the OAG to the greater Baltimore community. Since its inception, the initiative has partnered with key community organizations to provide notable contributions on behalf of the OAG.

These outstanding volunteers who tirelessly donate their time and resources include attorneys and support staff in OAG offices statewide.

The OAG continued its work this year to service Marylanders whose lives were impacted by the COVID pandemic.

A virtual charity campaign was held to help raise \$500.00 for the Maryland Food Bank and \$500.00 for Catholic Charities of Baltimore. Catholic Charities has 80 programs at 200 locations throughout Maryland, and serves children and families, immigrants, individuals with intellectual disabilities, people living in poverty, and seniors. The campaign exceeded its fundraising goal due to generous monetary donations.

A fundraising campaign was also held in October to support increased awareness of breast

cancer and to help provide breast health education to those learning about their risks, early detection services to those in need, and a helping hand to those diagnosed with breast cancer and their loved ones as they navigate the complex cancer care system.



Maryland Attorney General
Brian E. Frosh