

## **ARTICLES FOR 9-1-16 ROUNDUP**

### **20th Annual Attorney General Robert Abrams Public Service Lecture by former Oklahoma Attorney General Michael C. Turpen**

Monday, September 19, 2016 | 6:00 PM - 8:00 PM

Vanderbilt Hall, Greenberg Lounge  
40 Washington Square South New York, NY

Each year a prominent public figure who has performed exemplary public service addresses the students, faculty, alumni and friends of the New York University School of Law. This series provides an opportunity to focus on the significance of having all or a portion of one's career dedicated to public service and how that public service can positively impact our society's dynamically changing legal, governmental and social policy.

This year's guest speaker is former Oklahoma Attorney General Michael C. Turpen.

He served as Muskogee County District Attorney from 1977 to 1982 and as Attorney General for the state of Oklahoma from 1984 to 1987. Since 1987, Mr. Turpen has been a partner in one of Oklahoma's largest law firms, Riggs, Abney, Neal, Turpen, Orbison & Lewis, PC.

Since leaving public office, Mr. Turpen has continued to maintain a high profile as a local television personality, public speaker, newspaper columnist, and author. He has a weekly local TV show, *Flashpoint with Turpen & Humphreys*, and has appeared on Bill Maher's *Politically Incorrect*. He is well known for his ability to distill the complexities of human experience into memorable aphorisms, fondly called "Turpenisms." In 2014, he bundled many of these into a book entitled *Turpen Time: The Wit and Wisdom of Mike Turpen—“50 Shades of Life.”*

The Honorable Robert Abrams '63 has led a career in public life marked by achievement, independence, and integrity, and was in the vanguard of a movement of reform Democrats who entered politics in the 1960s. He was elected to the first of three terms in the New York State Assembly at the age of 27, followed by three terms as Bronx Borough President and four terms as Attorney General of New York State.

During his tenure as Attorney General, Mr. Abrams was widely credited with professionalizing the office of Attorney General, assembling an outstanding staff that enabled him to launch pioneering efforts in the areas of civil rights, consumer rights, environmental protection, and criminal prosecutions. More than 250 of his legislative proposals were passed and signed into law. Mr. Abrams was a national leader among attorneys general, serving as President of the National Association of Attorneys General.

### **ATTORNEY GENERAL LAXALT LAUNCHES “AG FOR A DAY” TOUR**

Carson City, NV – Today, Nevada Attorney General Adam Paul Laxalt announced his “AG for a Day” northern Nevada tour beginning on September 6 in Fallon, Nevada. The tour will bring the Office of the Attorney General to Nevadans all across the State. Although the office represents the interests of all Nevadans each and every day, the “AG for a Day” tour provides an additional opportunity for AG Laxalt and his staff to hear the concerns of residents in each county and to be directly responsive to them. The idea for bringing the office to different locations originated in

November of 1968 when Nevada Governor Paul Laxalt created his “Capital for a Day” tour. With members of his cabinet, Governor Laxalt traveled the State to identify and address issues of concern.

In keeping with this tradition, AG Laxalt will be accompanied by members of his staff representing major divisions within the Office of the Nevada Attorney General on his “AG for a Day” tour. Collectively, they will present on topics affecting local residents such as open government, trends in consumer fraud, domestic violence, guardianships and elder abuse, taxation and local government finance, and military legal services. Following the presentations, AG Laxalt and his staff will listen to the concerns of residents and be there to answer any questions.

“I strongly believe that the closer the government is to the people, the more effectively we can meet their needs,” said Laxalt. “That is why this ‘AG for a Day’ tour is dedicated to bringing the Office of the Attorney General directly to the people of Nevada.”

Beginning in Fallon, the Office will start with a northern Nevada tour that will include Eureka, Ely, Wells, Elko, Battle Mountain, Winnemucca, Lovelock, Minden and Yerington, respectively.

## **New Attorney General Lindemuth speaks on tribal land trust status**

By Lori Townsend, Alaska Public Media

Alaska’s new Attorney General Jahna Lindemuth is no stranger to litigation. Lindemuth has been practicing law in the state for nearly 20 years and has argued cases before the Alaska Supreme Court and the 9th Circuit Court of Appeals. Lindemuth also represented clients pro bono, including one of the men known as the Fairbanks Four, helping to secure the release of the men after 18 years in prison.

She said in private practice she worked with a dozen clients at one time, now she’s managing a staff of 450, overseeing a big range of diverse legal issues.

Lindemuth said the state’s recent decision to drop the litigation against tribes being able to request the Interior Department to hold certain lands in trust status, effectively putting it under protection by the federal government, should not be cause for concern by Alaskans worried about what trust status could mean.

**LINDEMUTH:** The federal government, the state, and then the ANCSA corporations, between those three groups, own more than 99% of the lands in Alaska. And so the less than 1% is in private hand or in tribal land. So like, there’s just very little land right now that could even be at play for lands into trust. And so, people need to keep that into perspective, right? And so, these issues... I really look forward to working through these issues but we shouldn’t decide what it’s going to look like until we’ve actually gotten there.

**TOWNSEND:** Well kind of continuing on that theme, the applications for tribes in Alaska applying to have land placed into trust will be made public at some point. The state could challenge them on an individual basis. Has there been any conversation about what would rise to the level of concern where the state may say, “Uh... not so sure we like this one?”

**LINDEMUTH:** So, you know I’ve been tasked by the governor and lieutenant governor to go out and engage with the different stakeholders. That includes the federal government, Bureau of Indian Affairs and it includes the tribes, and it includes ANCSA corporations. It includes industry. It

includes the outdoor council and those who are concerned with game management issues. You know, it's everyone. What the end result maybe could be, potentially you know additional federal regulation that addresses the unique aspects of Alaska. Or it could be that the state decides standards by which we will judge different applications that come uh, for trust applic – trust as. So that would give us, you know if these standards are met then we can approve it. And if these concerns are raised, then we will enter an objection.

TOWNSEND: The state has had an evolving relationship with tribal courts. How is the relationship between those tribal courts and the state law department, how has that – I mean you've only been there for weeks now – but what would you say the sort of trajectory of that relationship has been?

LINDEMUTH: There has been, even before I started, a lot of collaboration and work on different agreements that would empower the tribal courts. There's several diversion agreements both in draft form with Tlingit Haida and with Tanana Chiefs, TCC. And those arrived on my desk with just a few more minor edits needed to get those finalized. And so we're within probably a month or two of getting those agreements signed with both TCC and Tlingit Haida. There's also the Kenaitze wellness court initiative and that's also on my desk and we should be able to finalize that here soon. And so those efforts were already begun and already well underway before I started, and I get to arrive and sign the paperwork and you know claim this a victory.

TOWNSEND: Our state budget cuts, how challenging will it be for you as the new leader of the state law department to manage all that's coming at you and in light of the fact that we've got less dough in the bank?

LINDEMUTH: You know, Lori, it's extremely challenging that, you know, the state is facing a bunch of decisions ahead and you know it's easy to say that folks that they want to cut government, but they have to realize that means cutting government services. Our budget, overall in the last three years, the overall budget has shrunk 15%. And then the unrestricted general fund budget, which is the actual budget that I have control over, has shrunk almost 27%. Those are the funds that we use for child protection and to prosecute crimes. The department, before I even gotten there, has really had to rearrange things and to make sure that the most important issues are dealt with. But in the last three years, the crime rate especially with the drug epidemic, has gone up. And so the demand on those attorneys, has actually increased tremendously. For example, for child protection cases, the number of cases has gone up 50% in two years. So, we're actually, it's not a matter of fewer lawyers dealing with the same workload. It's fewer lawyers dealing with a larger caseload.

## **A. G. Jackley and the National Association of Attorneys General to Host Opioid Abuse Training in Sioux Falls**

PIERRE, S.D. - Attorney General Marty Jackley will host an Opioid Abuse Consumer Protection Training in Sioux Falls on Monday August 29, 2016, at the South Dakota Medical School.

"Opioid drug abuse has become a growing epidemic across the nation and it is affecting our state with a direct impact to our communities, healthcare professionals, and our court system," said Jackley. "This training is designed to provide South Dakota with additional tools to help us combat opioid abuse."

In 2015, South Dakota suffered 49 accidental overdose deaths. Drug addiction reaches and affects a broad spectrum of individuals, including ordinary citizens with legitimate pain reduction needs.

As this problem continues to grow, it is necessary to train and educate our attorneys, healthcare professionals, policy makers, law enforcement, service providers, and others to the impact of opioid abuse on society.

Training segments will focus on tracking and monitoring of prescription drugs, harm reduction strategies, law enforcement efforts relating to illicit availability of opioids and overdose investigations, and medication assisted treatment options. Additionally, segments may discuss environmental and other issues which may arise with the disposal of drugs and the risks of unintended consequences of remedial or prohibitive actions. Attendees will also discuss community solution and policy efforts, establishing partnerships within communities, and the development of evidence-based programs and materials to create or expand initiatives to deal with opioid abuse.

Media is invited and requested to check-in at registration desk upon arrival.

## **AG: Three-pronged approach can fix meth problem**

By Evan Hendershot

South Dakota has a meth problem, but it can be solved.

That's according to South Dakota Attorney General Marty Jackley, who is well aware of what some have called a methamphetamine epidemic on both tribal and non-tribal lands in South Dakota, and he has a plan to overcome the state's meth addiction.

Part 1: Meth: A constant battle, 'a huge problem'

Jackley recently told The Daily Republic that putting an end to the meth crisis will require a three-pronged approach.

"I think we can beat this, but I think it has a component of education, treatment through the drug court system, but then enforcement and accountability for the drug dealers and manufacturers," Jackley said.

Jackley's first step to overcoming South Dakota's addiction to meth is to raise awareness about the issue. And that's where the "No Meth Ever" campaign comes in.

"No Meth Ever isn't just the attorney general, it's a partnership that includes the U.S. Attorney as part of bringing in our reservations, because this is a statewide problem," Jackley said. "It involves education, it involves community organizational groups, the health care industry, so this is a long-term campaign that is very important to me and I think it's very important to South Dakota."

The anti-meth campaign asks college students to submit public service announcements, viral video scripts and storyboards to encourage young South Dakotans to stay away from the drug.

Jackley said the campaign has "hit the ground running," and the state's colleges and tech schools have embraced "No Meth Ever."

Jackley has also earmarked \$35,000 from the state's Drug Control Fund to use to improve meth prevention efforts.

"So I'm taking the drug dealer's and the meth manufacturer's money and using it for awareness, not tax dollars," Jackley said.

But Jackley said it will take more than a statewide education campaign to keep meth out of the hands of South Dakotans.

Part 2: METH: Impacting families, 'it's a devil.'

Jackley is also strong believer in drug courts, which were first established in South Dakota in 2007. Rather than punishing someone convicted of a drug-related offense, drug courts allow addicts access to rehabilitation services and consistent drug screening to assist in the transition to a drug-free lifestyle.

Jackley called drug courts the treatment component of his three-step approach, and he praised South Dakota Chief Justice David Gilbertson for promoting the program.

"I think when it's a personal user situation and there's an opportunity to save this individual — especially if they're a single mother or a circumstance like that — we need to do a better job, and drug courts do just that," Jackley said.

But, Jackley said, improved awareness and treatment won't wipe out the state's pervasive meth use without the help of one last critical piece of his plan: enforcement.

"I've been a strong advocate that we need to, as a state, figure out who's got an addiction problem we can help, but we also need to figure out who the manufacturers are and drug dealers and hold them accountable," Jackley said. "If you're dealing drugs, especially dealing drugs to children, you don't belong in drug court, you belong in the state penitentiary."

Since taking office, Jackley has continued fighting against the state's rampant meth use. In 2014, he supported a bill, which eventually became law, for South Dakota to become the 30th state to implement the National Precursor Log Exchange, which tracks the sale of pseudoephedrine, an ingredient used to manufacture meth.

And with the passage of the bill, Jackley said, there have only been four meth labs found in the state from January to June in 2016. In comparison, Jackley told The Daily Republic earlier this month that there were 127 meth labs found from 2012 to 2015.

"I think we've beat the meth manufacturing, but we have a distribution problem," Jackley said.

Now, Jackley said, he's working with Montana's attorney general to find ways to limit the distribution of the drug. And he has some concerns that eradicating the meth problem could push some users to heroin, another hard drug making its way into South Dakota.

"So they are a different drug, but often times with addiction, you see somebody that's an addict needing something," he said.

Additional help in Charles Mix County

As Jackley makes headway from Pierre to rid South Dakota of meth, another law enforcement official in Charles Mix County is doing what he can to keep his county meth-free.

When asked if he currently has enough full-time deputies to find meth users and distributors in his county, Sheriff Randy Thaler said he doesn't. But that's about to change.

Thaler recently sought funding for a sixth full-time deputy, and the Charles Mix County Commissioners granted his request. With an added deputy, Thaler said his office will be able to take more of a proactive approach to the fight against meth.

"It'll free up one of my deputies that does most of my investigations and assists the drug investigations," Thaler said. "So it will free him up some more and give him more time to do that, plus it will give an additional deputy on the streets at night."

The extra deputy on patrol will improve the office's interdiction efforts and allow more opportunities for traffic stops.

While traffic stops don't always result in arrests for possession of narcotics, Thaler said deputies occasionally make arrests for the ingestion of controlled substances. And those arrests can provide valuable information in drug investigations.

"In the long run, the investigation could possibly continue after that from information from a violator," Thaler said. "It's useful, because you always obtain information that could be used subsequently to take the investigation further where possibly a source of the product could be revealed."

Despite the addition of the new deputy, who the Sheriff's Office can hire in 2017, Thaler isn't as optimistic as Jackley that the problem can be solved.

Due to the existence of Yankton Sioux Tribal land in Charles Mix County, Thaler said it can be difficult to assist the tribal police when requested.

"It's going to be tough to eliminate in my county when you've got cross-jurisdictional areas unless all entities take an active approach to it on tribal ground and off tribal ground," Thaler said. "Federal, state and local, we have to all take an active approach into it."

### Part 3: Charles Mix schools fight to keep students meth-free

Thaler said the cross-jurisdictional challenges could be improved, but he has yet to convince the Yankton Sioux Tribe Council to approve a mutual aid agreement that would allow his deputies to help in tribal police and tribal police to assist in matters in Charles Mix County.

"The ball's kind of in their court whether they're going to approve it or not approve it," Thaler said about the agreement he's promoted for six years.

### Lawmakers take action

Not to be left out, state legislators are also working to find solutions to the meth problem.

State Sen. Jim White, of Huron, is leading a Substance Abuse Prevention study alongside 10 other legislators to help determine the best methods of preventing the use of meth and prescription drugs in South Dakota.

"We're all about prevention, not necessarily treatment or law enforcement," White said. "So we've kind of turned our attention mainly now to what can we do on the reservation since the governor's initiative covered a major portion of the general segment of South Dakota."

White was referencing the Meth Changes Everything campaign, which operates under the South Dakota Department of Social Services. According to Tia Kafka, communications director for the department, the campaign is geared toward educating students across the state about the dangers of meth use and the "devastating effects" of the drug.

This fall, Kafka said, drug prevention providers will be contact schools and communities to participate in the campaign, which is available for both tribal and non-tribal communities.

In an effort not to overlap the campaign, White said his committee will focus on reservation-specific solutions. One proposal the committee heard would provide an animated video about substance abuse to be played in public places and health clinics on tribal ground.

White said he's now tasked his fellow committee members to generate ideas, which will be discussed at a final meeting in late September or early October.

As far as possible legislation to address meth prevention, White said it's still possible. "Well, again, ours is prevention, so the funding necessary to do that would probably require legislation," White said. "There's got to be revenue to do it."

With these state and local efforts in the works, Jackley, Thaler and White all hoped to finally put an end to a drug Jackley described as something that can increase "a likelihood you're eventually going to do something violent to somebody you love and that loves you."

## **OCT. 14 CONFERENCE TO ADDRESS OPIOID ABUSE IN NEBRASKA**

According to the U.S. Department of Health & Human Services, the nation is in an unprecedented opioid epidemic.

In 2014, more people died from drug overdoses than in any other year with the majority of those overdose deaths involving an opioid. Since 1999, the rate of overdose deaths involving opioids (prescription opioid pain relievers and heroin) nearly quadrupled, and the Center for Disease Control and Prevention estimates that more than 165,000 people have died from prescription opioid overdoses.

In recognition of this growing concern, the Nebraska Attorney General, the University of Nebraska Medical Center, the U.S. Attorney, and the Nebraska Department of Health and Human Services, are sponsoring a daylong conference to find a collaborative, multidisciplinary approach to prevent and treat opioid abuse in Nebraska.

"Heroin and prescription drug abuse have devastating effects on the public health and safety of communities across America," said Nebraska Attorney General Doug Peterson. "Nebraska has an opportunity to join forces and construct preventative measures against the scourge occurring in so many other states."

"UNMC is proud to be part of this important conversation," said UNMC Chancellor Jeffrey P. Gold, M.D. "This is a public health issue best addressed through statewide partnerships and honest

dialogue in how we treat and prevent prescription and illicit opioid abuse. Boosting awareness of opioid use and abuse is one of the first steps.”

“Opioid and heroin use has become an epidemic across the nation,” said U.S. Attorney Deborah Gilg. “Heroin, fentanyl, and opioid overdoses and deaths have become an all too common occurrence. We must address this problem through all approaches of enforcement, prevention, and treatment.”

The Oct. 14 summit, titled “Charting the Road to Recovery: Nebraska’s Response to Opioid Abuse,” will focus on prevention, treatment, and law enforcement through direct collaboration with the public health, medical, and law enforcement communities in Nebraska.

The keynote speakers at the Summit will be: Brad Schimel, Wisconsin Attorney General, John H. Armstrong, M.D., former State of Florida Surgeon General and Secretary of Health, Jeff Stamm, Midwest High Intensity Drug Trafficking Director, and Scott Collier, DEA Diversion Program Manager.

“The consequences of opioid abuse can be devastating to individuals, families and communities,” said Courtney Phillips, chief executive officer of DHHS. “DHHS is a committed partner in the areas of prevention, treatment and law enforcement, and we will continue working with our partners to reduce the number of Nebraskans who are addicted to opioids.”

The Summit, which runs from 7:30 a.m. to 4:30 p.m. in the Michael F. Sorrell Center for Health Science Education on the UNMC campus in Omaha, is intended for medical professionals, law enforcement professionals, state officials, professionals working in the community, and social service agents. There is no fee to attend, but pre-registration is required. Register by the Oct. 7 deadline at [www.unmc.edu/cce/opioid](http://www.unmc.edu/cce/opioid).

Continuing education credit is available. Visit the website ([www.unmc.edu/cce/opioid](http://www.unmc.edu/cce/opioid)) for details, including the conference agenda.

## **Miller Applauds Proposed Federal Distance Education Rules**

Miller commends the U.S. Department of Education for seeking to preserve states’ authority to protect distance education students through state consumer protection laws

DES MOINES – Attorney General Tom Miller today commended the U.S. Department of Education for seeking to maintain states’ authority to enforce state consumer protection laws in online education cases.

In a joint letter to U.S. Secretary of Education John King, Miller, and Iowa College Aid Executive Director Karen Misjak, strongly support the department’s proposed regulations that uphold a state’s authority to enforce the laws when that state is part of a multistate agreement that regulates distance education programs.

The department’s proposed regulations, issued in July, seek to improve oversight and protect distance education students by clarifying the state authorization requirements for postsecondary distance education. The proposed rules preserve state oversight authority, in areas that include advertising, disclosures and refunds.

Iowa is a member of the State Authorization Reciprocity Agreement (SARA), a voluntary agreement among member states and U.S. territories that establishes comparable national standards for interstate offering of postsecondary distance-education courses and programs.

“We strongly support the Department’s proposed rule language that does not permit a state authorization reciprocity agreement (SARA) to prohibit a participating state from enforcing its own consumer protection laws,” Miller and Misjak wrote. “We believe the Department’s proposed rule is an excellent step toward stronger protections for students and applaud its efforts.”

While their letter commends the Department of Education for its proposed language, Miller and Misjak urge the department to clarify it even further to “not impose restrictions or conditions on a student’s access to a State agency in a student’s state of residence, for the purpose of filing a formal complaint against a distance education provider.”

Currently, SARA prohibits states from accepting or acting on complaints from students until after they’ve exhausted a grievance process with their school and the state in which the school, not the student, is located.

“Too often, such students have difficulty obtaining consistent, authoritative, timely, or focused responses to their concerns from institutional staff, Miller and Misjak wrote. “In such instances, students need the ability to escalate their concerns to their home State,” they added. “We believe that students attending programs offered by out-of-state distance education providers are best served by the State in which the student resides.”

The department expects to publish its final regulations before the end of the year.

## **ATTORNEY GENERAL AND HUMAN SERVICES DIRECTOR COMMENT REGARDING SETTLEMENT OF FOSTER CARE PAYMENTS LAWSUITS HONOLULU**

Attorney General Doug Chin and Human Services Director Rachael Wong announced today the resolution of multiple class action lawsuits regarding state foster care payments.

In December 2013, a group of licensed foster parents – also known as resource families – filed a federal lawsuit asserting that the amount the State pays to resource families to cover the costs of caring for foster children was inadequate. A related lawsuit was later filed in state court. Prior to 2014 the basic board rate paid to resource families had not been raised since 1990, but was raised in 2014 following a 2013 DHS review process. Subject to federal and state court approval and approval of funding by the state legislature, the parties agreed on new board rates starting in the 2017-2018 fiscal year and also agreed on a methodology DHS would use to review those rates in the future.

Attorney General Chin said, “The settlement between DHS and the Plaintiffs ends years of litigation in both state and federal court and demonstrates that parties can work together on investing in the health and well-being of children and families.”

Director Wong said, “Our children and families are core to the state’s ‘Ohana Nui (extended family) strategy. This agreement confirms our shared priority to invest in keiki and their families—biological, foster, hanai, or other—and provide them with resources and support to grow in healthy environments and homes. As Governor Ige often says, ‘This is all about changing the trajectory of future generations’ lives.’”

Under the settlement, the new monthly board rates provided to resource families in the next fiscal year would be: ages 0-5: \$649; ages 6-11: \$742; and ages 12+: \$776. Additionally, the annual clothing allowance starting next fiscal year would be: ages 0-5: \$810; ages 6-11: \$822; and ages 12+: \$1026. Members of the state lawsuit settlement class would receive an amount equal to \$35 per month, for the time period July 1, 2013 to June 30, 2014, prorated to actual days of care provided for each child in their care.

The board rate covers some of the additional costs that the foster child brings to a resource family's home during placement, including the cost of food, additional utilities, wear and tear on household items, school supplies, personal incidentals, and local travel. In addition to the basic board rate, many other payments and benefits support foster children and resource families, including: an annual clothing allowance; free medical insurance; free school meals; baby formula and food subsidies through WIC; certain mileage reimbursements; free bus passes where needed; child care subsidies; free access to the DOE's afterschool A+ program; free access to the City and County of Honolulu's Summer Fun program; activity fees; free resource caregiver trainings, support groups, and a help line; liability insurance; respite care funds; and private donations for enhancements such as camps.