

ARTICLES FOR 8-24-17 ROUNDUP

AG DEREK SCHMIDT LAUNCHES NATIONAL EFFORT TO COMBAT ELDER ABUSE

TOPEKA – (August 17, 2017) - The National Association of Attorneys General will focus on strengthening efforts nationwide to combat elder abuse, Kansas Attorney General and NAAG President Derek Schmidt announced today.

Schmidt, who was elected in June to a one-year term as NAAG president, said during his presidency he will focus on working with attorneys general around the country to help all states gather expertise and build capacity to fight elder abuse, neglect and exploitation. The members of the association are the 56 state, territorial and District of Columbia attorneys general.

“Elder abuse has been called the silent epidemic of our time,” Schmidt said. “It is a crime that too often operates in the shadows. But the numbers are staggering, and as the population age 65 and older continues to grow, it is clear that we all need to do more to combat this serious problem.”

Between 1900 and 2010, the number of Americans age 65 and older grew from fewer than 5 million to more than 40 million, according to the U.S. Census Bureau. Over the same time, the portion of the population in that age bracket rose from about 3 per cent to more than 12 percent. By one estimate, only one in every 24 cases of elder abuse is detected or reported. Despite that underreporting, statistically one in every 10 Americans age 65 or older who lives at home will become a victim of abuse.

Schmidt’s presidential initiative will be titled “Protecting America’s Seniors: Attorneys General United Against Elder Abuse.” It will culminate in a national summit on the subject that Schmidt will host in Manhattan, Kansas, on April 17-18, 2018.

To assist in guiding the year-long effort, Schmidt has appointed a bipartisan working group of four other state attorneys general: Mark Brnovich (R-Arizona), Chris Carr (R-Georgia), Peter Kilmartin (D-Rhode Island), and Ellen Rosenblum (D-Oregon). Each has led innovative efforts to combat elder abuse in his or her respective state.

“There is no partisan divide on the commitment of state attorneys general to protecting seniors and combating elder abuse in all its forms,” Schmidt said. “I’m grateful for the commitment of my colleagues as we focus on this effort. Every state is different in its approach. My hope is that when this year is ended, we have identified some of the best ideas from around the country and made them readily available to adapt for other states.”

In Kansas, Schmidt last year reorganized the Kansas attorney general’s office to establish a new Fraud and Abuse Litigation Division that focuses, in part, on elder abuse. That division houses the statutory Abuse, Neglect and Exploitation Unit established by the legislature and also the prosecution of financial crimes involving insurance or securities. By law, the Fraud and Abuse Litigation Division also coordinates closely with the consumer-protection and Medicaid fraud and abuse enforcement work in the attorney general’s office.

SEX TRAFFICKING OPERATION RESULTS IN ARRESTS

PIERRE, S.D. - Attorney General Marty Jackley, United States Attorney Randolph J. Seiler, Rapid City Police Chief Karl Jegeris, and Pennington County Sheriff Kevin Thom announce that the Division of Criminal Investigation, the South Dakota Internet Crimes Against Children (ICAC) Task Force, and Homeland Security Investigations have conducted investigations into sex trafficking during the Motorcycle Rally.

“It is important that we protect our children with law enforcement operations that focus on removing sexual predators from our streets. Our operations continue to protect children and send a message that South Dakota is off-limits to anyone seeking to harm our children,” said Jackley.

“Despite the intense publicity and focus on human trafficking these past few years, these undercover operations serve as a somber reminder that some people will throw caution to the wind and succumb to their perverted instincts,” said U.S. Attorney Randy Seiler. “I’m proud of the joint collaboration displayed by law enforcement and our united efforts to bring sex traffickers to justice.”

The investigation resulted in the following felony arrests and indictments for sex crimes:

Eric Carl Afrank, 22, Rapid City, SD, Enticement of a Minor Using the Internet (18 USC 2422(b))

Joshua Aschwege, 33, Black Hawk, SD, Attempted Commercial Sex Trafficking of a Minor - 18 USC 1591(a) and 1594 (a) and Enticement of a Minor using the Internet USC 2422(b)

Donald Scott Baker, 45, Independence, MO, Attempted Commercial Sex Trafficking of a Minor - 18 USC 1591(a) and 1594 (a) and Enticement of a Minor using the Internet USC 2422(b)

Kevin J. Carney, 30, Portland CT, Enticement of a Minor Using the Internet (18 USC 2422(b))

Jimmy Rudy Custodio, 39, Edina MN, Attempted Commercial Sex Trafficking of a Minor - 18 USC 1591(a) and 1594 (a) and Enticement of a Minor Using the Internet (18 USC 2422(b))

Erik Glenn Dahlquist, 29, Rapid City, SD, Attempted Commercial Sex Trafficking of a Minor - 18 USC 1591(a) and 1594 (a) and Enticement of a Minor Using the Internet (18 USC 2422(b))

Abdurrahman Keskin, 26, Silvan, Turkey, Enticement of a Minor Using the Internet (18 USC 2422(b))

Carlocito Slim, 31, Lake Jackson, TX, Attempted Commercial Sex Trafficking of a Minor - 18 USC 1591(a) and 1594 (a) and Enticement of a Minor Using the Internet (18 USC 2422(b))

Daniel David Wasner, 31, St. Cloud, MN, Enticement of a Minor Using the Internet (18 USC 2422(b))

The mandatory minimum penalty upon conviction for Attempted Enticement of a Minor Using the Internet is 10 years in prison, up to life imprisonment. For Commercial Sex Trafficking of a Minor under 14, the charge carries a mandatory minimum term of 15 years in federal prison and up to life imprisonment. If the minor is over 14 years of age, it is 10 years mandatory minimum.

All these individuals are presumed innocent until such time as proven guilty.

The cases are being federally prosecuted by Assistant U.S. Attorney Sarah Collins.

ATTORNEY GENERAL BECERRA RELEASES 2016 CALIFORNIA CRIME REPORTS

SACRAMENTO – California Attorney General Xavier Becerra today announced the release of four annual crime reports, which provide law enforcement agencies and the public with statewide data on crime statistics.

The reports released are:

Crime in California

Homicide in California

Juvenile Justice in California

URSUS: Use of Force Incident Reporting

“In California, we strive to improve public trust between law enforcement agencies and the communities they are sworn to protect by opening lines of communication,” said Attorney General Becerra. “A necessary part of the discussion is knowing the facts and having the data to inform the creation of effective plans to advance sound criminal justice policies. At the California DOJ, we know access to information is important to building trust and promoting transparency. That is why the four reports published today, along with the data sets on OpenJustice, are critical elements in strengthening the bond between Californians and their law enforcement agencies.”

The annual criminal justice reports and supporting data published by the California Department of Justice provide key findings, data visualizations, and downloadable digital datasets. These reports are updated annually on the Attorney General’s OpenJustice website. Attorney General Becerra encourages researchers, academics and interested parties to further analyze the data. The information from each report can be accessed via the Attorney General’s OpenJustice website.

Crime in California 2016 presents statewide statistics for reported crimes, arrests, dispositions of adult felony arrests, adults placed on probation, full-time criminal justice personnel, citizens’ complaints against peace officers, domestic violence related calls for assistance, and law enforcement officers killed or assaulted.

The violent crime rates per 100,000 population increased 4.1 percent from 2015 to 2016, but the property crime rate decreased 2.9 percent.

From 2011 to 2016, the robbery and burglary rates decreased 3.8 percent and 22.0 percent respectively.

The 2016 total arrest rate, including adults and juveniles, per 100,000 population at risk is 4 percent lower than the 2015 total arrest rate. Population at risk is defined as a portion of the total population who, because of like characteristics to the specific study group, are considered "at risk".

In 2016, the total adult arrest rate decreased 3.1 percent and the total juvenile arrest rate decreased 15.2 percent per 100,000 population at risk.

From 2015 to 2016, the total felony arrest rate decreased 2.6 percent and the total misdemeanor arrest rate decreased 4.4 percent per 100,000 population at risk.

Homicide in California 2016 includes demographic data about homicide victims, persons arrested for homicide, persons sentenced to death, peace officers feloniously killed in the line of duty, and justifiable homicides.

The homicide annual rate slightly increased in 2016 (from 4.8 to 4.9 per 100,000 population); a total of 1,930 homicides in 2016 compared to 1,861 in 2015.

Over the past decade the homicide rate ranged from a high of 6.2 homicides per 100,000 population in 2007 to a low of 4.4 in 2014.

In 2016, 83.1 percent of homicide victims were male and 16.9 percent were female.

Nearly half (48.9 percent) of the female victims were killed in their residence.

The largest proportion of victims has consistently been Hispanic.

Firearms have consistently been the most common weapon used in homicides. In 2016, of the homicides where the weapon was identified, 71.9 percent involved a firearm.

There were 142 justifiable homicides reported in 2016; 102 committed by a peace officer and 40 committed by a private citizen. This represents a decrease from the 163 justifiable homicides reported in 2015.

Juvenile Justice in California 2016 provides insight into the juvenile justice process by reporting the number of arrests, referrals to probation departments, petitions filed, and dispositions for juveniles tried in juvenile and adult courts.

There were 62,743 juvenile arrests reported by law enforcement agencies in 2016, down nearly 13 percent from 2015.

In 2016, there were 77,509 juvenile cases handled through the probation department, of which 40,569 were referred to and decided by the juvenile court.

Of individuals handled formally by the juvenile court, 62.8 percent were made wards of the court. There were 376 juveniles whose cases were decided in adult court in 2016. Of these, 77.1 percent were convicted.

URSUS: Use of Force Incident Reporting 2016 presents a summary of use of force and discharge of firearm incidents that were reported to the California Department of Justice. Use of force and discharge of firearm incidents are defined in Government Code section 12525.2.

In 2016, there were 782 incidents that involved use of force resulting in serious bodily injury or death, or the discharge of a firearm.

Of the 782 reported use of force incidents, 328 involved the discharge of a firearm.

In 2016, there were 832 civilians and 1,729 officers involved in the incidents reported.

By driving research, reporting, and conversation, OpenJustice can help Californians better understand how the criminal justice system shapes various aspects of their lives, from safety, housing, education, health, and family, to economic opportunity. The launch in September 2015 of the Attorney General's OpenJustice website established California as a leader among US states in criminal justice transparency. Additionally, the OpenJustice Data Act of 2016 (Assembly Bill 2524), effective January 1, 2017, designated the Attorney General's OpenJustice website as the public repository of all crime data contained in the four annual publications, thereby making OpenJustice a key government resource for Californians wishing to learn about their criminal justice system.

A complete copy of the reports can be found online: <https://openjustice.doj.ca.gov/resources/publications>.

ATTORNEY GENERAL STEVE MARSHALL TO CO-CHAIR NEWLY-CREATED ALABAMA OPIOID OVERDOSE AND ADDICTION COUNCIL

(MONTGOMERY) – Attorney General Steve Marshall has been appointed by Governor Kay Ivey to co-chair the newly-created Alabama Opioid Overdose and Addiction Council. The Council, which was established by Executive Order on August 8, will examine the state's opioid crisis and identify ways to reduce its harmful impact on Alabamians.

“I am honored to have been selected by Governor Ivey to help lead this new council studying the ongoing opioid crisis gripping our state,” said Attorney General Marshall. “Opioid abuse, in the form of prescription opioids and heroin, has reached epidemic levels across the country, and Alabama has more opioid prescriptions per capita than any other state. Opioid addiction, including the use of deadly drugs like fentanyl, is killing Alabamians, destroying families and placing others, including law enforcement, at risk. This crisis can no longer be ignored.

“I am committed to working with fellow members of the Council to develop a comprehensive strategy to save lives by reducing and combating opioid addiction and promoting safer methods of pain management. Our work will not be easy, but it must be undertaken with urgency. I look forward to joining in this effort to remove the destructive scourge of opioid addiction from our state.”

AG SCHIMEL APPOINTING METHAMPHETAMINE PROSECUTOR IN RESPONSE TO DRASTIC INCREASE IN WISCONSIN DRUG CASES

MADISON, Wis. – Today, Attorney General Brad Schimel announced he will be appointing an assistant attorney general to assist local district attorneys and law enforcement in the prosecution of methamphetamine-related cases. In February 2017, Attorney General Schimel briefed the Wisconsin State Legislature on the growing threat of methamphetamine and included findings from a January 2017 joint Wisconsin Department of Justice and Federal Bureau of Investigation study. The report details methamphetamine use increased 250 to 300 percent from 2011 to 2015.

“I have hosted listening sessions over the last 12 months with local law enforcement and community leaders in many of Wisconsin’s 72 counties, and there is no doubt meth use is one of the counties’ biggest threats, particularly in the northwestern part of the state,” said Attorney General Schimel. “The vast majority of methamphetamine is not being produced in “one pot” labs in people’s homes, garages, and sheds, but in Mexico, which makes our efforts to put drug traffickers behind bars more important. I’m confident the methamphetamine prosecutor, working alongside our DCI agents and local law enforcement, will have an immediate, positive impact on meth trafficking prosecutions and help reduce some of the burden our resource-strapped counties have been experiencing.”

Recently, the Wisconsin State Crime Laboratory Bureau (WSCLB) has experienced a 13.5% increase in methamphetamine submissions, from 1,012 in 2015 to 1,149 in 2016. There is also anecdotal evidence that some opiate addicts are switching from the use of prescription drugs and heroin, to methamphetamine.

“Northwestern Wisconsin is ‘ground zero’ for methamphetamine use,” said Eau Claire County Sheriff Ron Cramer. “I appreciate Attorney General Schimel’s leadership and willingness to assist local law enforcement with this urgent and dangerous threat that is ruining countless lives in our communities.”

Attorney General Schimel announced that the new assistant attorney general will be located in Eau Claire and work in the Division of Criminal Investigation (DCI)’s Eau Claire field office. Basing them out of this office will allow them to respond quickly and effectively to cases throughout the northwest part of the state involving methamphetamine trafficking and to work proactively with both DCI criminal agents and outside law enforcement agencies. The new methamphetamine assistant attorney general will represent the state in criminal cases; advise local prosecutors on matters relating to methamphetamine trafficking; and assist in the development of legislation concerning the growing threat that methamphetamine poses to local communities.

More than two years ago, the Attorney General saw the oncoming threat of methamphetamine use in Wisconsin and has since taken the following steps to combat drug abuse.

Attorney General Schimel hired an analyst at the Wisconsin Statewide Information Center (WSIC) and purchased equipment for investigating meth labs; and is providing training and financial support for the efforts of local law enforcement agencies and multi-jurisdictional drug task forces.

Funding for these initiatives comes from a \$1.5 million Methamphetamine Initiative Grant from the United States Department of Justice

Attorney General Schimel hired four additional criminal investigation agents who are focused on drug interdiction and drug trafficking, the result of 2017 Wisconsin Act 35.

Attorney General Schimel, who was an integral part of the Waukesha County drug treatment court when he was the Waukesha County District Attorney, has advocated for increasing spending on treatment alternative and diversion courts (TAD). Last month, Governor Walker signed 2017 Wisconsin Act 32 into law, which allocates an additional \$2,000,000 to the Wisconsin Department of Justice for drug treatment court grants in Wisconsin counties.

Last month, Attorney General Schimel successfully sought a stay from the Supreme Court of the United States in Anderson, et al. v. Loertscher, a challenge to the state's Unborn Child Protection Act. The Unborn Child Protection Act or 1997 Wisconsin Act 292 gives state actors the legal authority to assist substance-addicted, pregnant women with their addiction, thus protecting both the mothers and their unborn children.

In March, Attorney General Schimel and agents from the Wisconsin Division of Criminal Investigation partnered with the Marshfield Clinic on the Northwoods Coalition Methamphetamine Summit in Trego, Wisconsin, to provide training to more than 300 professionals representing a multi-disciplinary team of public safety, public health, drug treatment, and prevention.

Cynthia Giese, a Special Agent in Charge (SAC) with the Wisconsin Department of Justice's Division of Criminal Investigation (DCI) leads Wisconsin's and the nation's Drug Endangered Children (DEC) program. DEC programs are composed of multi-disciplinary professionals including law enforcement, child protective services, medical providers, prosecutors, school personnel, and corrections officers. All of the professionals play a part in the rescue and support of drug endangered children. The children are provided with services that assist in providing the drug endangered child with a safe environment in which to live and grow up. Each program has a formal Memorandum of Understanding between involved agencies and a protocol that sets out guidelines of what each professional will do when a drug endangered child is identified.

ANTHEM, INC. REACHES GOAL TWO YEARS EARLY FOR HEALTH PLANS TO REDUCE OPIOIDS FILLED AT PHARMACY BY 30 PERCENT

INDIANAPOLIS--(BUSINESS WIRE)--Anthem, Inc. is committed to supporting policy changes that help reduce, prevent and deter opioid use disorder, as well as those that help consumers better access treatment. As part of that commitment, its affiliated health plans just reached the company's collective goal of reducing prescribed opioids filled at pharmacies by 30 percent during the past five years.

The health plans were some of the first to limit coverage for short-acting opioid coverage to seven days for all individual, employer-sponsored and Medicaid members beginning new opioid

prescriptions. The policy does not apply to those who have cancer or sickle cell anemia or those who are receiving palliative care.

The goal was originally expected to be achieved by 2019. The primary reason for the quantity limits was to prevent accidental addiction and opioid use disorder, and to ensure clinically appropriate use consistent with Centers for Disease Control guidelines.

Anthem also evaluated reductions based on the past year when its health plans accelerated health policies in various states and plans. In the past year alone, plans demonstrated large decreases in opioid use. For example, Medicaid plans showed a 29 percent reduction in Virginia, 22 percent reduction in Maryland, and a 9 percent reduction in Georgia while employer-sponsored and individual plans decreased opioids by 23 percent in Nevada, 17 percent in Connecticut, and 17 percent in Wisconsin.

“Anthem believes all insurers have a responsibility to do what we can to address this health epidemic, and we are committed to making a significant difference to our health plan members,” said Dr. Sherry Dubester, Anthem vice president of behavioral health, who leads the companywide effort to impact the opioid epidemic. “We believe these changes in pharmacy policy, complemented by a broad set of strategies addressing the opioid epidemic, will help prevent, reduce and more effectively treat opioid use disorder among our members.”

The opioid crisis was declared a national emergency by President Trump earlier this month. Drug overdose is the leading cause of accidental death in the U.S. exceeding car crashes and guns.¹ From 2014 to 2015, drug overdose deaths increased by 5,349, or 11.4 percent, signifying a continuing trend observed since 1999, according to the Centers for Disease Control and Prevention. “We’re hoping our policies can help prevent consumers from developing opioid use disorder by carefully limiting coverage on quantities for short-acting opioids and requiring prior authorization from their prescriber to ensure a clinical need for long-acting opioids,” said Colleen Haines, Anthem vice president of clinical and specialty pharmacy. “We continue to explore additional ways to help ensure clinically appropriate use of opioids, and help prevent inadvertent addiction and opioid use disorder.”

Anthem affiliated health plans took the following steps designed to help ensure clinically appropriate use of opioids and to proactively prevent the development of opioid use disorder:

For short-acting opioids, initial prescriptions are limited to seven days. Members can only receive a maximum 14 days’ supply for short-acting opioids in a 30-day period without additional authorization, consistent with CDC guidelines. The Anthem quantity limit changes began rolling out in October 2016, for individual short-acting opioids, with the limit on the most popular drug, hydrocodone-acetaminophen, taking effect in July.

For all long-acting opioids, prior authorization was put into place in September 2016, for initiation of therapy. Quantity limits for long-acting opioids have existed for many years, with exceptions for those who have terminal or chronic illness.

Pharmacy Home programs exist for individual, employer-sponsored, Medicare and Medicaid members that can assign members to one pharmacy and/or one provider for their opioid prescriptions. The program allows doctors to better monitor access of opioids and helps ensure members are receiving counseling and mental health support.

Providers who receive member electronic dashboards are notified when a member is at greater risk for developing opioid use disorder – such as prescriptions from several providers or pharmacies, or when the member has prescriptions for opioids, muscle relaxants and benzodiazepines at the same time.

Providers are alerted of additional controlled substance use concerns and associated emergency room or urgent care use through a letter, including when the member has prescriptions for both Suboxone and opioids or is on persistent high doses of opioids.

To set its 2019 pharmacy goal, Anthem considered the number of opioids prescribed, as well as their dosing, to research morphine equivalents dispensed from 2012, the peak year for opioid prescription fills. Since then, Anthem's policies have contributed to a reduction of 31 percent and Anthem has updated its goal to achieve a 35 percent reduction by 2019.

The pharmacy policy changes are part of Anthem's holistic approach to prevention, treatment and deterrence to reduce the impact of this epidemic. To help ensure members have access to comprehensive evidence-based care, Anthem also is committed to helping its affiliated health plans double the number of members who receive behavioral health services as part of medication-assisted therapy for opioid addiction by 2019.

ATTORNEY GENERAL RELEASES CONSUMER PROTECTION DIVISION'S FY 2017 REPORT

The annual report includes details of nearly \$50 million paid by Volkswagen to Idaho customers, including \$12 million in restitution payments

(Boise) – Attorney General Lawrence Wasden has released his latest Consumer Protection Division (CPD) report. The annual summary represents a detailed look at the division's work between July 2016 and June 2017. Most notably, the report includes the latest figures on Volkswagen's payouts to Idaho customers after the company settled allegations that it violated consumer protection laws by misrepresenting the emissions outputs of certain vehicle models. To date, Volkswagen has paid \$49,148,753 to nearly 2500 Idaho customers, which includes reimbursement for vehicles as well as restitution. Restitution payments total \$12 million.

The division also recorded more than 13,600 contacts with consumers, recovered a record amount of consumer restitution, participated in a multistate settlement with Moody's that resulted in a nearly \$7.5 million payment to the State of Idaho, and conducted a thorough review of a proposed \$109 million sale of St. Joseph Regional Medical Center in Lewiston.

“The work of the Attorney General's Consumer Protection Division takes on many forms and is essential to protecting Idaho consumers and maintaining fairness in the marketplace,” Wasden

says. "It's important that Idahoans know we're here for them as a consumer resource and that unscrupulous characters know we're here in case they cross a line."

During Fiscal Year 2017, CPD recovered a record \$15 million in restitution and other consumer recoveries, which represents \$18.31 for each tax dollar appropriated for consumer operations during the fiscal year. The results were boosted by the Volkswagen payouts. Without those payments included, CPD still recovered more than \$3 million. That represents an increase over FY 2016 totals.

In Fiscal Year 2017, Idaho received nearly \$23 million in payments tied to the 1998 Master Settlement Agreement. The agreement resolved national tobacco litigation between states and tobacco companies. CPD attorneys continue to defend those annual payments from tobacco industry attack, Wasden says. Since 1998, tobacco companies have paid Idaho more than \$450 million.

The report also shows that CPD attorneys and staff mediated 614 complaints, recorded 13,650 contacts with consumers and recovered and deposited more than \$12.25 million in civil penalties, fees and costs into the consumer protection account.

Complaints about motor vehicles again led the list of top 10 complaints. Other high-ranking categories include landlord-tenant disputes, construction and contractor complaints and healthcare-related matters. CPD logged a total of 792 complaints.

In other report highlights, the division:

entered into an agreement with Western Union to require the company's implementation of a consumer fraud-prevention program;

reached an \$18.5 million settlement with Target and 45 other states over the company's 2013 data breach;

recovered \$430,000 from Johnson and Johnson for misrepresenting the quality of certain consumer drugs; and

completed its oversight of St. Luke's Health System's divestiture of Saltzer Medical Group.

ATTORNEY GENERAL BECERRA CRACKS DOWN ON APPAREL COMPANY BASED IN CHINA FOR USING PIRATED SOFTWARE

\$3.2 million judgment sends message to businesses looking to cheat in California

SACRAMENTO – California Attorney General Xavier Becerra today announced a default judgement against Ningbo Beyond, an apparel manufacturing company based in China that operates in California. In operating its business, Ningbo Beyond did not pay licensing fees for software, including products manufactured by Adobe, Microsoft, Symantec and others. By not paying software licensing fees, Ningbo Beyond gained a significant cost advantage in the low-margin business of apparel manufacturing, shipment and sales. The judgment awards the State of California \$3.2 million in civil penalties and marks the second time the California Attorney General's Office has secured a legally enforceable judgement against an international company for violations under California's Unfair Competition Law.

“All businesses in California must compete on a level playing field,” said Attorney General Becerra. “Ningbo Beyond tried to cheat the system by using pirated software to undercut its competition and boost its profits. This judgment should send a strong message to all companies doing business in California: play by the rules. As the state’s chief law enforcement officer, I’m committed to ensuring a thriving, competitive and fair marketplace.”

The judgment also prohibits Ningbo Beyond from engaging directly or indirectly in the unlicensed use of software used in or associated with the design, manufacture, order, sale, shipment or transportation of apparel products that are shipped to persons or companies in California. And third-parties who do business with Ningbo Beyond in California are prohibited from selling, distributing, or receiving Ningbo Beyond’s apparel products and goods in California until Ningbo Beyond submits to the jurisdiction of California’s courts and certifies it is not using unlicensed software.

A copy of the default judgement and memorandum opinion is attached to the online version of this release at <http://oag.ca.gov/news>.

AG COFFMAN OFFERS TO WORK WITH SECRETARY OF STATE TO EVALUATE OPPORTUNITIES TO STRENGTHEN COLORADO’S ELECTION LAWS

DENVER— Attorney General Cynthia H. Coffman today announced that her office will not prosecute the faithless elector that attempted to disrupt Colorado’s 2016 presidential election process, and will instead focus on improving state statutes to thwart any future efforts to undermine the voters’ intent.

“My office has thoroughly investigated the circumstances surrounding this case,” said Attorney General Coffman. “While the faithless elector intentionally sought to disrupt the election process and override the will of Colorado’s voters, he ultimately was unsuccessful. Thanks to the preparation and swift action of Colorado Secretary of State Wayne Williams, and attorneys from my office, Colorado’s voters were protected and their votes counted.

The decision not to prosecute wasn’t reached lightly, and I in no way condone the elector’s reckless conduct. However, I am exercising my prosecutorial discretion so the individual cannot use our court system as a taxpayer-funded platform to capture more headlines and further flout the law.

I have offered to work with Secretary Williams to evaluate options for strengthening Colorado’s election laws and procedures. Some of the potential solutions may include providing for the automatic disqualification of an elector and the immediate substitution of an alternate elector by operation of law, and voting for alternate electors at the same time as electors. I thank the Secretary for his leadership, passion and commitment to protecting our election process.”

ATTORNEY GENERAL’S OFFICE SEEKS US SUPREME COURT REVIEW IN CULVERTS CASE

Washington committed to protecting salmon, seeking to resolve challenges with lower court ruling

OLYMPIA — The Attorney General’s Office today filed a petition asking the U.S. Supreme Court to review a decision by the Ninth Circuit Court of Appeals in the “culverts case,” officially referred to as United States of America et al. v. State of Washington. Today was the deadline for filing the petition for Supreme Court review.

The petition asks the high court to review the case and resolve some of the especially challenging effects of the lower court ruling, which reach beyond culverts.

The cert petition does not prevent the state legislature from appropriating money to replace old culverts, and it does not halt or delay state agencies’ efforts to replace old culverts to improve fish passage.

“Filing this appeal does not in any way limit the State’s ability to replace culverts,” Attorney General Bob Ferguson said, “and the State should increase the pace of culvert replacement. But I do not get to decide how much the State spends on fixing culverts or set priorities for state agencies that regulate or build culverts. I will support any proposal from the legislature, the Governor or other public officials who control land use and spending decisions that would accelerate the pace of culvert replacements. The State should not need a court order to restore salmon habitat.”

The cert petition also does not prevent the Attorney General’s Office from engaging Washington tribes in ongoing discussions to potentially resolve challenges with the Ninth Circuit ruling outside of court. The Attorney General’s Office retained Special Assistant Attorney General Rob Costello, who served as tribal liaison for three state Attorneys General, to manage and coordinate the state’s efforts to reach such a resolution. The Attorney General’s Office respects tribal sovereignty and treaty rights, and is committed to working with tribes and other stakeholders to preserve and restore Washington’s salmon runs.

“Tribal treaty rights are vitally important,” Ferguson said. “I appreciate and share the goal of restoring salmon habitat, but the State has strong legal arguments that the Ninth Circuit decision is overbroad. We are working with tribes to resolve this matter, but we needed to file this appeal today to preserve our ability to challenge aspects of the Ninth Circuit’s opinion.”

The impacts of the Ninth Circuit decision extend beyond culverts. As nine dissenting judges of the Ninth Circuit pointed out, “Legal commentators have noted that plaintiffs could use the panel’s decision to demand the removal of dams and attack a host of other practices” that affect fish habitat, from farming to logging to construction.

The Attorney General’s Office is asking for Supreme Court review for the following reasons:

The Ninth Circuit’s decision forces the state to expend resources on projects that will not benefit salmon. The decision requires the state to replace culverts even when other barriers, such as dams or federal culverts, block salmon from ever reaching the state’s culvert. Money squandered on such projects could and should instead be used for more effective salmon restoration efforts.

The lower court decision forces state taxpayers to pay for problems largely created by the federal government. For decades, the federal government specified the design for the state's highway culverts. The state then invented and began using a new design that is better for salmon. Then, the federal government sued Washington over the old culverts designed to federal standards. The petition asks that the federal government be blocked from bringing its claim, or at least be required to contribute to the cost of fixing the federally designed culverts.

The Ninth Circuit adopted a sweeping treaty interpretation that contradicts the U.S. Supreme Court's previous interpretation of the state's obligation under the treaty. The Ninth Circuit held that the treaty language guaranteed "that the number of fish would always be sufficient to provide a 'moderate living' to the Tribes." While Washington is committed to protecting salmon — spending hundreds of millions toward this goal in recent years — many factors beyond the state's control affect whether there are enough salmon "to provide a 'moderate living' to the Tribes," including global climate change and ocean acidification. Therefore, the state may be unable to comply with the court's order if factors outside the state's control negatively affect the salmon population, regardless of how many culverts it restores.

The culverts case involves the meaning of 1850's treaties between the federal government and western Washington Indian tribes that promised the tribes "[t]he right of taking fish, at all usual and accustomed grounds and stations . . . in common with all citizens." The case began in 2001 when the federal government and 21 tribes sued the state, claiming that culverts under state roads violate this treaty provision if they restrict salmon passage and reduce the number of salmon available for the tribes.

In 2013, the District Court for the Western District of Washington ruled for the federal government and the tribes, ordering Washington to replace by 2030 hundreds of culverts under state highways, at a cost of billions of dollars. The state appealed. In 2016, the Ninth Circuit upheld the district court's order.

The Supreme Court should decide whether to take the case in the fall of 2017. If the court decides to hear the case, it will be argued in the spring of 2018. A decision would come before adjournment in June 2018.

AG HEALEY OPPOSES NEW FEDERAL OFFSHORE LEASE PLAN THAT COULD OPEN UP MASSACHUSETTS COAST TO OIL OR GAS DRILLING

Comments Warn that New Lease Plan Risks Oils Spills That Could Devastate the Massachusetts Fishing Industry and Ravage Coastal Communities

BOSTON— Attorney General Maura Healey has filed public comments with the federal Bureau of Ocean Energy Management (BOEM) opposing the agency's effort to create a new five-year national offshore oil and gas leasing program that could open up all currently restricted offshore areas to drilling, including Atlantic waters off the Massachusetts coast.

In her comments links to PDF file, AG Healey argues that opening up the Atlantic Ocean to oil and gas leasing would severely threaten the Massachusetts economy and the state's coastal

environment. AG Healey warns that an oil spill could devastate Massachusetts' commercial fishing industry – the third largest in the country – and the state's robust recreation and tourism industries.

"By opening up our coastal areas to drilling, the Trump Administration is prioritizing Big Oil over the interest of Massachusetts' commercial fishing industry, our economy, and our environment," said AG Healey. "We will continue to fight back against these reckless moves by the administration that threaten our state's prosperity and our precious natural resources."

Citing the catastrophic impacts of Bouchard oil spill in Buzzards Bay in 2003, the Massachusetts Lobstermen's Association is also opposing BOEM's preparation of the new five-year leasing plan.

"The Massachusetts Lobstermen's Association is extremely grateful for Attorney General Maura Healey's commitment and fortitude for the historic commercial fishing industry here in the Commonwealth," said Beth Casoni, executive director of the Massachusetts Lobstermen's Association. "There are a multitude of negative impacts to the ocean and the resources the commercial fishing industry depends upon to bring clean and sustainable seafood to Americans."

"The Northeast Seafood Coalition appreciates Attorney General Maura Healey's diligence in providing strong comments opposing the BOEM agency's effort to create new oil and gas leasing programs in our Atlantic offshore waters," said Vito Giacalone, policy advisor and member of the Board of Directors of the Northeast Seafood Coalition. "Our New England waters produce an astounding bounty of fresh seafood. Here in Massachusetts we continue to have the capacity to harvest, process and distribute these amazing protein food sources. To threaten these vital resources with the unnecessary risks associated with offshore mineral extraction would be an ill-advised trade-off. We are heartened by the AG's efforts to deliver that message."

Following the issuance of President Trump's Offshore Energy Strategy Executive Order in April, BOEM issued a request for information and comments on its intent to develop a new five-year plan for oil and gas lease sales in the Atlantic Outer Continental Shelf. The current five-year-plan, which was finalized on Jan. 17, 2017, by the Obama Administration, excludes leasing for gas and oil exploration and drilling in the Atlantic and Pacific Outer Continental Shelf.

The Massachusetts commercial fishing industry generated \$7.3 billion in seafood sales in 2015. The state's maritime economy employed 90,500 workers, paid \$3.9 billion in wages, generated more than \$9.8 billion in sales, and contributed \$6.4 billion to the gross state product. More than 41,000 businesses and 500,000 commercial fishing families along the Atlantic coast oppose offshore oil and gas drilling because of the harm it poses to the coastal ecosystem.

In her comments, AG Healey also contends that the massive and long-lasting economic harm to Gulf coast state economies caused by the Deepwater Horizon oil spill in 2010 reveals the potential disastrous scale of lost jobs, wages, and tax revenue that could result from the effects of an oil spill on commercial fishing in Massachusetts.

An oil spill along the state's 1,519 miles of tidal coastline - marked by destination beaches in areas like Cape Cod, Cape Ann and Plum Island - could destroy Massachusetts' tourism and recreation industry. Opening up the currently restricted offshore areas in the Atlantic to drilling will also

harm the state's coastal environment and protected endangered species, including the Northern Right Whale, which feeds in the waters off of the Cape and Nantucket, according to the comment letter. There are only about 500 critically endangered Northern Right Whales remaining worldwide.

AG Healey also notes in her letter that expanded offshore oil and gas drilling is not needed to meet the country's future energy needs and doing so would increase harmful greenhouse gas emissions.

As part of her office's longstanding efforts to protect the coastal ecosystem, AG Healey joined seven other attorneys general last month in submitting comments links to PDF file opposing the National Marine Fisheries Service's proposal to conduct seismic testing for oil and gas drilling in the Atlantic.

By sending her comments this week, AG Healey is urging BOEM to discontinue its effort to create a new five-year plan and maintain the current restrictions on leasing in all offshore areas of the Atlantic Ocean.