

ARTICLES FOR 10-6-16 ROUNDUP

Attorney General Jackley Joins Legal Challenge to Protect Children from Sex Trafficking

PIERRE, S.D. – Attorney General Marty Jackley announced today that South Dakota has joined 20 other State Attorneys General in an amicus or “friend of the court” brief, challenging a decision granting Backpage.com broad protection from civil liability even when it took active steps to promote sex trafficking of children. Data reveals that these children exploited through sex trafficking are typically given a quota by their trafficker of 10-15 buyers a night, and sold up to 45 times a day during high demand sports events and conventions.

“The internet continues to be the primary method of advertising for sex trafficking and South Dakota is not immune from these types of ads. It is an uphill battle when sources like Backpage.com actively promote and refuse to cooperate in the prevention of child sex trafficking. Companies selling ads for profit should not have immunity for their role in harming children,” said Jackley.

The brief was filed in the United States Supreme Court in the case of Jane Doe 1, Jane Doe 2 & Jane Doe 3 v. Backpage.com. The brief argues that the Communications Decency Act does not protect a website operator from liability when it creates content that actively promotes sex trafficking of children by encouraging use of language that will attract customers seeking children for sex. The brief argues that Backpage.com uses language to encourage payment methods that make financial transactions with the traffickers’ untraceable, strips metadata to impair law enforcement’s ability to locate victims, and deletes “string ads” posted by law enforcement.

In 2011, Attorney General Jackley co-authored with Democratic Attorneys General Bob Ferguson of Washington and Chris Koster of Missouri, a letter to Backpage.com signed by 45 Attorneys General. The letter outlined a series of requests and specifically asked them to describe how they intend to stop the exploitation of minors. The goal for the Attorneys General with this letter was to find cooperation from Backpage.com to protect children from being sold with the removal of the adult services advertisement. Backpage.com has not cooperated with the Attorneys General.

The South Dakota Attorney General’s Internet Crimes Against Children (ICAC) Unit and their law enforcement partners from across the state continue to battle sex trafficking with law enforcement operations targeting sex traffickers. Since 2013, 9 operations have been implemented statewide resulting in 39 arrests of those individuals soliciting minors for sex.

FERGUSON ASKS HIGH COURT TO HEAR CASE AGAINST SITE ACCUSED OF FACILITATING CHILD SEX TRAFFICKING

21 states call for Backpage.com to be held liable for its conduct

OLYMPIA — Washington Attorney General Bob Ferguson, joined by 20 states, is asking the U.S. Supreme Court to hear the appeal of a case against Backpage.com, which is accused of facilitating child sex trafficking.

Three “Jane Doe” plaintiffs — underage girls who were allegedly marketed for sex through Backpage.com — attempted to sue the website and its operators, only to be turned away by the trial court and the U.S. Court of Appeals for the First Circuit in Boston.

Their lawsuit alleges that Backpage’s conduct violates both federal and Massachusetts laws prohibiting companies from benefiting financially from ventures promoting or facilitating child sex trafficking.

In dismissing the suit, the courts cited a provision of the federal Communications Decency Act (CDA) that provides protection to websites that passively post third-party content without altering it. Using the same provision of the CDA among other arguments, Backpage challenged a Washington state law in 2012 that added new penalties for posting sex ads featuring minors.

Congress passed the Communications Decency Act in 1996 in response to fears about Internet Service Providers becoming liable for defamatory statements made by their online users.

“Backpage.com actively promotes child sex trafficking and must be held accountable,” Ferguson said. “I won’t stand by and let this site profit from promoting this type of sordid and illegal activity.”

In his brief to the Supreme Court, Ferguson argues that Backpage doesn’t simply post material created by others — it participates in developing the ads and creating business practices that conceal traffickers. Therefore it should not be afforded protection under the CDA.

Backpage, Ferguson asserts, encourages the use of language that will attract customers looking to prey on children, encourages payment methods that make transactions untraceable, strips metadata to impair law enforcement’s ability to find victims and even deletes “sting ads” posted by law enforcement.

In addition, rulings from other courts, including the Washington State Supreme Court and the appeals courts for the Seventh, Ninth and Tenth circuits, conflict with the First Circuit’s broad application of Communications Decency Act immunity, Ferguson said.

The filing continues the leadership role of the Washington Attorney General’s Office in combatting human trafficking, including former AG Rob McKenna, both statewide and nationally through the National Association of Attorneys General.

The states that have joined Washington on the brief are Colorado, Hawaii, Indiana, Kansas, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Montana, Nebraska, New Hampshire, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Utah and Vermont.

Deputy Solicitor General Anne Egeler is handling this case on behalf of the Attorney General's Office.

ACTIVEOutdoors/Idaho Fish and Game Data Breach

ACTIVEOutdoors, a Texas company, recently sent important notice letters to persons who purchased Idaho hunting or fishing licenses before 2007. The letters, dated September 19th, concern a data breach that occurred at ACTIVEOutdoors—a vendor of the Idaho Department of Fish and Game.

A copy of the letter from ACTIVEOutdoors and information about the data breach is available on the [Department's website](#).

AllClear ID is offering free credit monitoring and identity repair services to affected residents. Details regarding the offer, including instructions for signing up, are outlined in the letter you received.

The Attorney General provides helpful information about how to protect yourself from identity theft and what to do if you become a victim. The Idaho Coalition Against Identity Theft, a group of government agencies and businesses, also provides valuable information for identity theft victims.

If you have further questions about the data breach, the Department of Fish and Game has provided more information, also at its website, listed above.

Judge Grants AZAG Motion to Consolidate 1,106 Lawsuits Targeting AZ Businesses

PHOENIX - A judge today granted the Arizona Attorney General's Office's Motion to Consolidate 1,106 open lawsuits filed by a serial litigator targeting Arizona businesses. Today the judge also stayed the 1,106 cases pending further order of the court and barred the Plaintiff, Advocates for Individuals with Disabilities, from filing any new complaints asserting similar claims.

The Attorney General's Office believes Advocates for Individuals with Disabilities is a serial litigator engaged in trolling litigation tactics aimed at producing profitable out-of-court settlements. The State intervened in the litigation as a matter of general public importance given the high volume of lawsuits being filed against businesses in Arizona.

The State intends to file a motion seeking dismissal of all consolidated cases on the basis of threshold questions of law and fact common to all consolidated cases, including, but not limited to, Plaintiffs' lack of standing. The State also intends to seek sanctions against Advocates for Individuals with Disabilities and their attorneys.

Attorney General Balderas Sends Investigatory Letter to EpiPen Manufacturer

Albuquerque, NM - Today, the Office of New Mexico Attorney General Hector Balderas sent an investigatory letter requesting information to the manufacturer of EpiPen, the brand name of an

auto-injector used so that synthetic adrenaline can be administered safely and quickly to treat anaphylaxis caused by a severe allergic reaction. In the past months, the price of EpiPens has risen dramatically, raising alarm that some New Mexico families may not be able to afford this life-saving medication. In 2007, EpiPens' retail costs were somewhere around \$60. Today they sell for more than \$600.

The letter from the New Mexico Office of the Attorney General seeks information regarding the number of EpiPens sold in New Mexico and how many schools are participating in the "EpiPens4Schools" program, among other information. "Protecting New Mexico children and families is my top priority," said Attorney General Hector Balderas. "I have initiated this investigation to make sure that we are holding out of state corporations and giant drug companies accountable to New Mexico laws, and that we are doing everything in our power to make sure New Mexico children and families can afford their life-saving medications."

The letter cites the Attorney General's authority to investigate, though admits that the letter does not, yet, constitute a formal investigation. The letter asks for a response by September 30, 2016. Once a response has been received, Attorney General Balderas and his staff will review the information and determine whether a further investigation is warranted.

Attorney General Kamala D. Harris Launches New All-Digital Tool to Collect Data on Law Enforcement and Civilian Uses of Force

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SAN FRANCISCO -- Following last year's launch of an unprecedented criminal justice open data initiative, OpenJustice, and the passage of Assembly Bill 71, Attorney General Kamala D. Harris today launched a web-based tool that allows California law enforcement agencies to digitally report law enforcement or civilian uses of force. As part of the Attorney General's commitment to promoting government adoption of technology, this tool was built as an open-source project and the software code will be made available free of charge to other law enforcement agencies around the country. A public demo of the tool is available at ursusdemo.doj.ca.gov.

Previously, law enforcement officers in California reported on any death in custody on paper forms. No state in the country, including California, collected data on any non-lethal use of force. Assembly Bill 71, authored by Freddie Rodriguez (D-Pomona), and supported by Attorney General Harris, created a new requirement for California law enforcement agencies to annually report to the California Department of Justice data on any incidents that occurred in the previous year involving use of force by a civilian or peace officer against the other that involves a firearm or results in serious bodily injury or death.

The online platform, nicknamed URSUS after the bear on the California flag, can be accessed by any law enforcement agency in the state to report use of force data in an all-digital format, rather than by using a lengthy paper form. Today's launch is a beta release to the field in advance of the January 1, 2017 reporting deadline for data from 2016 so that law enforcement agencies may use the tool during the fall and provide feedback to our office, which may be incorporated to enhance the tool's functionality.

“As a country, we must engage in an honest, transparent, and data-driven conversation about police use of force,” said Attorney General Harris. “I am proud that California continues to lead the nation in the adoption of technology and data to improve our criminal justice system and keep our streets safe.”

One of the objectives of the OpenJustice initiative is to modernize data infrastructure, and this reporting tool will dramatically improve the speed and quality of data submitted, allowing data from the most complex incidents to be entered by law enforcement in under five minutes. The application includes dynamic screening questions and intelligent error-checking to help agencies input more accurate data. In addition, the platform’s advanced security features and role-based review workflows improve data reliability and integrity. This tool also minimizes costs for law enforcement, as its web-based interface and cloud storage reduce the need for local investment in custom data collection systems.

“The California Police Chiefs Association was an early supporter of AB 71, relating to use of force data, and has been collaborating with the Department of Justice ever since the bill was signed by the Governor last year,” said CA Police Chiefs Association President Chief Ken Corney. “We believe it is a sound practice to gather and report use of force data and make this information available to the public.”

“I commend Attorney General Harris on her development and launch of URSUS,” said California Highway Patrol Commissioner Joe Farrow. “URSUS will assist law enforcement in gathering critical data involving use of force by a peace officer, or by a civilian against a peace officer, that results in serious injury or death or involves the use of a firearm in order to meet the requirements of Assembly Bill 71. I am confident the introduction of URSUS and the collection of this data and information will improve the relationship between law enforcement and the communities that we serve.”

“We are proud to participate in this very important program. This technology is crucial to providing accurate public data on incidents involving the use of force,” said Walnut Creek Police Chief Thomas Chaplin. “We wholeheartedly support this approach to create additional transparency and ease of accessibility for use of force data.”

In addition to facilitating statewide collection, this tool also provides a suite of analytical tools for local agencies to better monitor incidents in their own jurisdictions, including features such as a dashboard, interactive charts, and pivot tables. Smaller agencies that may not currently have their own tracking systems will particularly benefit from these tools.

The reporting tool was built through a first-of-its-kind collaboration between the California Department of Justice and Bayes Impact, a technology-for-good non-profit organization. In her continuing efforts to bring civic technology to government, Attorney General Harris established this unique partnership combining the California Department of Justice’s knowledge and expertise in law enforcement with Bayes Impact’s expertise in agile software development. The application was developed in just over six months, in ongoing collaboration with 12 pilot law enforcement agencies.

As part of the Attorney General's commitment to ensuring that government technology serves the public, this tool was built as an open-source project and the software code will be made available free of charge to other states and agencies. Its open-source nature will also reduce ongoing maintenance costs as compared to a proprietary solution.

Yesterday, Governor Jerry Brown signed into law the OpenJustice Data Act of 2016 (Assembly Bill 2524), which the California Legislature unanimously passed last month. This law, sponsored by Attorney General Harris and authored by Assemblymember Jacqui Irwin (D-Thousand Oaks), will convert Crime in California and other annual reports published by the California Department of Justice into digital datasets, which will be published on the Attorney General's OpenJustice Web portal. The data from AB 71 will be posted on OpenJustice in early 2017.

Attorney General Harris first launched the OpenJustice initiative in 2015 as a mechanism for improving trust between communities and law enforcement, enhancing government accountability, and informing public policy with data.

Earlier this year, the Attorney General announced the release of OpenJustice 1.1, which enriched the web portal's initial data sets with city and county level data exploration tools and contextual information including population and demographic information, unemployment rates, poverty rates, and educational attainment levels. In addition to providing greater transparency, this information enables policymakers to craft more informed, data-driven public policy.

Attorney General Harris has also taken several steps to strengthen the relationship of trust between law enforcement and California communities. She directed a 90-day Review of her Division of Law Enforcement's policies on use of force and implicit bias, convened the state's law enforcement leaders to share best practices through her 21st Century Policing Working Group, created the first POST-certified course on Procedural Justice and Implicit Bias in the U.S., and developed a pilot for body-worn cameras for DOJ Special Agents.

Governor, AG Announce \$12 Million Settlement For Natural Resource Damage From 2011 Yellowstone River Oil Spill

Governor Steve Bullock, Attorney General Tim Fox, the U.S. Department of Justice, and the U.S. Department of the Interior today announced a proposed settlement with ExxonMobil Pipeline Company to resolve claims stemming from the Yellowstone River July 1, 2011 oil spill. ExxonMobil Pipeline Company has agreed to pay \$12 million in natural resource damages to the federal government and the State of Montana as Trustees for the natural resources devastated by the spill. A proposed consent decree was filed in federal court today. The State and federal government have also issued a draft restoration plan that will take action to address the natural resource damage.

"Montanans deserve and expect ExxonMobil Pipeline Company to be held accountable for the damages they caused to Montana's Yellowstone River, our communities, and our economy," said Governor Bullock. "This proposed settlement goes a long way in protecting Montana's

Yellowstone River, one of the last, great, free-flowing rivers in the United States that plays a vital role in our strong \$6 billion outdoor economy.“

Attorney General Tim Fox added, “This proposed settlement was reached through the efforts of the Montana Department of Justice’s Natural Resource Damage Program and the U.S. Departments of Justice and the Interior. Under a joint State-Federal restoration plan, also issued today for public comment, these funds will be used to restore and improve the environmental and recreational resources of this great river.”

“This settlement is an important part of the work being done to ensure that the 2.7 million miles of oil, gas, and liquid chemical pipeline in this country remain safe, and that when incidents occur, the operators assume responsibility for cleanup,” said U.S. Attorney Mike Cotter. “This settlement was the product of significant collaborative work by federal and state negotiators over a number of years, and sends a strong message to operators in this field that they must assume the costs and risks, as well as reaping the benefits, of extracting natural resources.”

“This proposed settlement will restore this great natural resource for the people and the environment of Montana and its benefits will flow for generations to come,” said Assistant Attorney General John C. Cruden for the Justice Department’s Environment and Natural Resources Division. “This agreement will require Exxon Mobil Pipeline Company to make this river – upon which both people and wildlife depend for enjoyment and sustenance – whole again.”

The State and federal government are seeking public comment on both the proposed consent decree and the draft restoration plan.

On July 1, 2011, a 12-inch diameter pipeline (Silvertip Pipeline) owned by ExxonMobil Pipeline Company ruptured near Laurel, Montana, resulting in the discharge of crude oil into the Yellowstone River and floodplain. The discharge is estimated to have been approximately 63,000 gallons (about 1,500 barrels) of oil. The discharge occurred during a high-flow event, affecting approximately 85 river miles and associated floodplain. Oil from the spill, along with the cleanup activities, harmed natural resources including fish and other aquatic life, birds (including migratory birds), wildlife, large woody debris piles, aquatic habitat, terrestrial habitat, recreational use, and the services provided by these natural resources. These public natural resources are under Trusteeship of the State of Montana and the U.S. Department of the Interior under the Oil Pollution Act and other laws.

The Trustees evaluated a range of restoration alternatives that would provide resource services to compensate the public for losses pending natural recovery of resources injured by the oil spill. The Trustees have identified preferred restoration alternatives designed to address the resource injuries. The Trustees plan to work with project partners such as local, state, and federal agencies and nonprofit organizations and landowners to implement the projects.

The draft restoration plan is available online at <https://dojmt.gov/lands/yellowstone-river-oil-spill-July-2011/> and by request at the address below. The public comment period on the draft restoration plan will close at 5:00 PM on Monday, October 31, 2016. Written comments on the draft

restoration plan should be sent via e-mail to: NRD^P@mt.gov with “Yellowstone restoration plan comment” in the subject line.

Or by U.S. mail to:

Natural Resource Damage Program
PO Box 201425
Helena, MT 59620-1425

The Trustees will host a public meeting to summarize key components of the restoration plan and receive oral comment. The public meeting will be held on Wednesday, October 12, at the Montana Fish, Wildlife and Parks conference room at 2300 Lake Elmo Drive in Billings, from 6:00 PM to 8:00 PM. The Trustees will review and consider comments received during the public comment period when preparing the final restoration plan.

Today’s proposed settlement, lodged with the U.S. District Court for the District of Montana, is subject to a 30-day public comment period following notification in the Federal Register and final approval by the court. To view the consent decree or to submit a comment, visit the department’s website: www.justice.gov/enrd/Consent_Decrees.html

Attorney General Rosenblum Appoints Oregon’s First Elder Abuse Prosecutor

Attorney General Ellen Rosenblum today announced the appointment of Malheur County District Attorney Dan Norris as Oregon’s first statewide Elder Abuse Prosecutor. Mr. Norris has 28 years of experience prosecuting complex criminal cases in Oregon, including 16 years as the Malheur County District Attorney. In the new position, Mr. Norris will lead the Oregon Department of Justice’s elder abuse unit, which includes two full-time investigators, to tackle the epidemic of elder abuse in Oregon.

Attorney General Rosenblum will officially swear-in Mr. Norris on October 6, 2016 at the Oregon Department of Justice’s Portland office.

“Dan’s range of experience dealing with vulnerable victims is extensive. He recognizes the diverse needs of our state, but he also intuitively understands some of the root causes of why Oregon has a skyrocketing rate of elder abuse,” said Attorney General Rosenblum. “I’m proud of the Oregon legislature and Oregon’s advocacy community for coming together to fight for Oregon’s seniors.”

In March, 2016 the Oregon legislature funded the new elder abuse unit, which will work with Oregon’s 36 district attorneys, and other prosecutors, law enforcement and community partners throughout the state. In addition to the investigation and prosecution, the unit will develop training materials and best-practice policies to improve the identification, investigation and prosecution of elder abuse.

“The Oregon District Attorneys Association thanks Dan Norris for serving as Malheur County District Attorney for over a decade. As Oregon’s new Elder Abuse Resource prosecutor he brings expertise and experience to protecting vulnerable victims throughout Oregon. Oregon’s District Attorneys look forward to working with him in this new role at the Department of Justice,” said

Daina Vitolins, President of the Oregon District Attorneys Association and Crook County District Attorney.

“Frauds and scams perpetrated upon older Oregonians affects us all, especially our families and our economy. We are delighted that Oregon now has a statewide expert to help support the prosecution of bad people who are out to harms us. While the prosecution of elder abuse is essential, we also need to educate ourselves and our communities about how to protect our neighbors and families from scams targeted toward older adults,” said Jerry Cohen, State Director for AARP Oregon.

This position expands the Oregon DOJ’s statewide resource prosecutor to three: Elder Abuse, Domestic Violence and DUII.

Background on Dan Norris:

Mr. Norris graduated with honors from California State University at Bakersfield in 1982, and graduated first in his class from the University of Idaho College of Law. After law school, he clerked for the Honorable David K. Winder in the Federal District Court in Utah. He started as a Deputy District Attorney in Malheur County in 1989, and then was appointed District Attorney of Malheur County in 2000. He has also served on the Oregon District Attorney’s Association Executive Committee and the Governor’s Council on Domestic Violence.

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ATTORNEY GENERAL LAXALT ISSUES STATEMENT ON NEVADA’S EDUCATION SAVINGS ACCOUNT SUPREME COURT RULING

Carson City, NV – Today, Nevada Attorney General Adam Paul Laxalt issued the following statement after the Nevada Supreme Court’s ruling on the Education Savings Account program: “Today’s rulings on Nevada’s Education Savings Account program are a landmark win for the families and children of Nevada. The Supreme Court agreed that the main constitutional hurdles to educational choice cited by opponents are without legal merit. Namely, the Court agreed with our common-sense arguments that ESAs were enacted for an educational purpose, not a religious one, and that the Legislature, in addition to its longstanding support of our public school system, can support educational opportunities outside of that system.”

“After today’s ruling, there is only one step left to take in order to make the vision of educational choice a reality for thousands of Nevada families. The Court ruled against the State on a small funding issue that was not even debated or contentious when this bill was passed. Fortunately, the Supreme Court has made crystal clear that ESAs are constitutional and that the Legislature can fix this funding technicality and allow for the implementation of ESAs statewide. I am proud of my legal team and the Nevada courts for bringing this much-needed clarity to our State in record time, where the ultimate goal is to create a personal approach to education by maximizing each child’s natural learning abilities.”

