

ARTICLES FOR 10-27-16 ROUNDUP

Schuette Statement on Retirement of Chief Deputy Attorney General Carol Isaacs

LANSING – Michigan Attorney General Bill Schuette today announced the retirement of Chief Deputy Attorney General Carol Isaacs, effective December 31, 2016. Isaacs has served as the Chief Deputy Attorney General since Schuette was elected in 2010. Previously, she served as Chief Deputy Attorney General for Attorney General Mike Cox, an advisor and counsel to the Michigan Senate and in the Executive branch as advisor to Governor Engler and Senior Deputy of Legal Affairs and Policy Development for the Michigan Department of Community Health. Isaacs is a graduate of Michigan State University and the Thomas M. Cooley Law School.

“Carol's keen understanding of state government and the intricacies of the Michigan Legislature made her the ideal choice as Chief Deputy Attorney General during my service as Attorney General. Each and every day Carol Isaacs has been "On Duty" for the citizens of Michigan. Carol has been a tireless worker and a consummate professional as Chief Deputy Attorney General. Carol's husband Fred and her children and grandchildren will be the beneficiaries of her new journey. She is a dear friend. Both Cynthia and I will miss her very much. I am certain that everyone in the Department of Attorney General will miss her and her leadership as well.”

Arizona Couple Indicted on State Terrorism Charges

PHOENIX - Arizona Attorney General Mark Brnovich announced a State Grand Jury indicted an Arizona inmate and his wife on state terrorism charges. Thomas Orville Bastian and Michelle Marie Bastian are accused of acting together while plotting to commit an act of terrorism at the Arizona State Prison Complex – Lewis. It is alleged that they conspired to construct and set off an explosive device within the prison facility.

Thomas Bastian is charged with 4 felony counts including Terrorism, Conspiracy to Commit Terrorism, Conspiracy to Commit Terrorism Involving Weapons, and Conspiracy to Promote Prison Contraband.

Michelle Bastian is charged with 5 felony counts including Terrorism, Conspiracy to Commit Terrorism, Conspiracy to Commit Misconduct Involving Weapons, Conspiracy to Promote Prison Contraband, and Promoting Prison Contraband.

The indictment is the result of an investigation by the Phoenix Field Office of the Federal Bureau of Investigation, the Arizona Department of Corrections, and the Arizona Attorney General's Office.

“Homegrown terror attacks are being planned in our communities, our cities, and our state,” said Attorney General Mark Brnovich. “The Arizona Attorney General's Office and the FBI will continue to work together to arrest and prosecute anyone plotting or planning a terrorist attack.”

"Terrorism remains the FBI's top priority and we work closely with our federal, state, and local partners to ensure the safety of our community," said Michael DeLeon, Special Agent in Charge of the FBI Phoenix Field Office. "This investigation demonstrates the inherent danger of terrorist propaganda, and also highlights law enforcement's commitment to combat terrorism. Once again, I would like to commend the efforts of the Joint Terrorism Task Force, the Arizona Attorney General's Office and the Department of Corrections for their integral role in this investigation."

"The Arizona Department of Corrections is proud of our longstanding relationships with local, state, and federal law enforcement agencies," said ADC Director Charles L. Ryan. "Our common goals of public safety are well served and represented by successful collaborative investigations such as this."

All defendants are presumed innocent until convicted in a court of law.

Assistant Arizona Attorneys General Blaine Gadow and Scott Blake are prosecuting this case.

Two More Arrested in Human Trafficking Ring

TALLAHASSEE, Fla.—Attorney General Pam Bondi's Office of Statewide Prosecution today announced two more arrests in connection to an ongoing investigation and prosecution of a human trafficking network operating from South to Central Florida. Joaquin Perez-Urbano, 41, and Paula Rojas-Zarate, 33, both from Fort Myers, face charges for conspiracy to commit human trafficking and human trafficking. The human trafficking ring operated in Collier, Lee, Hendry, Miami-Dade and Polk Counties.

"This organization targeted vulnerable women desperate to find a better life and reunite with loved ones, forcing victims to perform hundreds of sex acts a week," said Attorney General Bondi. "We will not tolerate human trafficking in Florida, and my Office of Statewide Prosecution continues to work tirelessly to prosecute traffickers and protect the victims of this atrocious crime."

"I thank Attorney General Pam Bondi for her strong commitment to combatting human trafficking throughout Florida and helping trafficking victims and I applaud her continuing efforts to bring traffickers to justice," said Collier County Sheriff Kevin Rambosk.

The multiagency investigation began in 2013 after authorities discovered a human trafficking victim during a traffic stop. The investigation revealed multiple victims illegally smuggled into the United States with the promise of legal jobs and reuniting with family. The criminal organization then forced the women to work as commercial sex slaves and perform sex acts on 25 to 45 men a day, six days a week. Victims ranged in age from 25 to 35. The victims earned between \$190,000 and \$320,000 a year for their captors while they received a pittance. The suspects forced the victims to reimburse them for food and rent and subjected the victims to substandard and restricted living conditions.

Authorities believe there are additional victims. Anyone with information is urged to contact the Florida Department of Law Enforcement's Fort Myers Regional Operations Center at (239) 278-7170.

In addition to Attorney General Bondi's Office of Statewide Prosecution, FDLE's Fort Myers Regional Operations Center, Sheriff Kevin Rambosk and the Collier County Sheriff's Office, the State Attorney's Office for the 20th Judicial Circuit, the Southwest Florida Regional Human Trafficking Coalition and Abuse Counseling Treatment, assisted in the investigation. Attorney General Pam Bondi's Office of Statewide Prosecution will prosecute this case.

Alaska Attorney General Joins the Court System and the Kenaitze Tribe in Establishing State-Tribal Wellness Court

(Fairbanks, AK) – October 20, 2016 (Fairbanks, AK) – Attorney General Jahna Lindemuth today signed an agreement with the Alaska Court System and the Kenaitze Tribe to support establishing the Henu' Community Wellness Court. The court will provide a joint state-tribal therapeutic pre-trial diversion program that both tribal and non-tribal members can participate in to address non-violent substance abuse issues that lead to criminal charges.

"The Kenaitze Tribe gets all the credit for this program," said Attorney General Lindemuth. "Working with the courts and other stakeholders, they came up with a robust pre-trial diversion program that gets at the heart of many of the substance abuse issues the Kenai community faces. Our prosecutors will work hand-in-hand with the tribe, the courts and the public defenders to work towards the best outcomes for the offender, the victims, and the safety of the community."

In 2015, the Kenaitze Tribe received a grant from the Department of Justice, Bureau of Justice Assistance to develop a joint jurisdictional court with the Kenai Superior Court for drug and alcohol offenders—a state-tribal wellness court. The Kenaitze Tribe worked with a steering committee made up of representatives from the Tribe, the Alaska Court System, the local district attorney's office, the Public Defender Agency, probation and law enforcement officers, the Office of Children's Services, and others. The steering committee developed a policy and procedures manual outlining how the court would function. In June 2016, the final proposal was presented to the Attorney General's Office, along with all the other stakeholders, to determine if agreement could be reached to establish the Henu' Community Wellness Court.

After taking office in August 2016, Attorney General Lindemuth made the agreement a priority. The signing of the agreement today is the culmination of a lot of hard work by the Kenaitze Tribe and the steering committee.

"I am proud to have been able to be a part of this historic agreement, even if it was only at the end of the process," said Attorney General Lindemuth. "I want to thank everyone who put so much effort into making this a reality, especially Tribal Judge Kim Sweet and Superior Court Judge Anna Moran."

The purpose of the Henu' Community Wellness Court will be to provide a values and culture driven court alternative to state court sentencing for drug and alcohol related crimes. Diversion will be available on a voluntary basis to tribal and non-tribal defendants charged with lower level offenses prior to indictment. The defendant must plead guilty, and the plea agreement will describe the outcomes of both successfully completing the wellness program and failing the program. If a

defendant fails the program, the defendant will be sentenced according to the terms of the plea agreement.

State and tribal judges will sit side-by-side presiding over cases before the Henu' Wellness Court. The offender will be assigned a probation officer/case manager and will be supervised by a multidisciplinary team consisting of the therapeutic court judges, a member of the district attorney's office, the offender's defense counsel, the case manager, the therapeutic court's project coordinator, a treatment provider's representative, and others approved by the judges. This is similar to the other therapeutic courts functioning within the Alaska Court System. This would be the first joint state-tribal therapeutic court in Alaska.

AG, Governor, Crow Nation Sign Settlement Agreement Resolving Coal Severance Tax Litigation

At a joint signing ceremony held this morning at Billings Logan International Airport, Montana Attorney General Tim Fox, Montana Governor Steve Bullock, and Crow Nation Chairman Darrin Old Coyote signed a settlement agreement resolving long-standing litigation concerning the assessment of taxes on coal owned by the Crow Nation.

Settlement of the litigation was negotiated as part of the Crow Tribe – Montana Water Rights Compact that was approved by the Montana Legislature during a special session in 1999. In 2010, Congress approved the Water Compact; in 2012, the Crow Nation, the United States of America, and the State of Montana executed the Water Compact in a signing ceremony in Washington, DC, resolving more than 30 years of litigation and negotiations. The Water Compact allowed the Tribe to focus on key water projects on the Crow Reservation.

The Water Compact also stipulated that as consideration for the Crow Tribe's agreement to protect certain water rights recognized under state law, and to release certain legal claims asserted against the State, the State of Montana would contribute the sum of \$15 million to the Crow Tribe for economic development and water and sewer infrastructure within the Crow Reservation. As part of the settlement of litigation, the State also agreed that any future coal production taxes collected by the State on production of coal owned by the United States in Trust for the Crow Tribe would be paid to the Tribe.

"This is a historic day for the State of Montana and for the Crow Nation. This responsible agreement was the result of years of working government-to-government to do the right thing for all Montanans, and I thank the Crow Tribe for its hard work in securing a stronger future for all its members," Governor Steve Bullock said.

"Coal mining is key to the economic well-being of Montana as well as to the Crow Nation," Attorney General Tim Fox said. "Today's coal severance tax litigation settlement is long overdue and welcome news for the Crow Nation, which has experienced a 47% unemployment rate since coal markets began to shrink due in part to over-reaching regulations on the part of EPA."

"The enforceability of our water settlement, the resolution of the coal severance litigation and the payment of the \$15 million will enable the Crow Nation to provide critical services to our tribal

membership and will allow us to plan for the future of our Nation,” said Crow Nation Chairman Darrin Old Coyote. “I appreciate all of the hard work of the Tribal, State and Federal officials that have gotten us to this day, and we look forward to working cooperatively with the State going forward as we embark on this new era of Crow self-sufficiency and management of our tribal resources.”

In 2014, Attorney General Fox and the Crow Nation worked together to raise concerns about EPA’s proposed carbon regulations, citing that agency’s lack of legal authority and failure to consult with the Tribe. Read the related news release [here](#). Last year, Attorney General Fox joined 23 other state attorneys general in a lawsuit challenging the Obama Administration’s carbon regulations. Read the news release [here](#).

Attorney General Jackley Addresses Research and Development for Medical Marijuana Derivatives with the FDA and DEA

PIERRE, S.D. – Attorney General Marty Jackley continues to work with the FDA and DEA to address research and development for medical marijuana and its derivatives.

“As Attorney General, I am hopeful that research will conclude marijuana derivatives will help treat a child experiencing seizures or the pain of a cancer patient. I am urging the FDA and DEA to consider accelerated research of marijuana for treatment purposes. If marijuana is determined to provide a medical benefit, I believe safeguards for public health and safety can be put in place which include FDA approval, a South Dakota doctor prescribing the drug, and a South Dakota pharmacist dispensing the drug,” said Attorney General Jackley.

On August 19, 2016, Attorney General Jackley provided correspondence to the DEA and FDA urging consideration of an accelerated research and development process for marijuana derivatives. While Attorney General Jackley made clear he was not endorsing a particular area of research or marijuana use, he believes that the public health aspect justifies both the DEA and the FDA revisiting the research restrictions as it relates to marijuana with an eye towards medical research in a controlled environment.

The DEA response on October 13, 2016, outlined several steps that have been taken to address the FDA approval process including with Cannabidiol (CBD). The DEA set forth that “while the DEA shares your desire to facilitate research with CBD, and to carry out any scheduling actions that are supported by the medical and scientific evidence, as you undoubtedly recognize the protection of the public health and safety must remain of paramount consideration.”

Attorney General Jackley agrees and believes three important conditions must be satisfied for public health and safety reasons: 1) FDA approval for marijuana or one or more of the derivatives as a safe and effective drug; 2) A South Dakota doctor to prescribe the drug; and 3) A South Dakota pharmacist to dispense the drug.

In December 2015, the DEA adopted a new policy to waive certain regulatory requirements to those who are conducting research with CBD to include those conducting trials with CBD no

longer have to request approval from the DEA before implementing changes to their research protocols.

In August 2016, the DEA adopted a new policy whereby additional entities may apply to become registered to grow marijuana for the purpose of supplying researchers. In addition, the DEA continues to assess the current regulatory requirements for conducting research with CBD to determine whether it can take further steps to reduce the regulatory burden while continuing to protect the public health and safety.

The DEA recognizes the possibility that drugs containing CBD might be proven to be safe and effective for the treatment of certain conditions and with FDA approval for marketing. The DEA closed the correspondence with their assurance they will strive to make it easier for research while keeping the public safe.

Link to letters below:

<http://stage7.atg.sd.gov/docs/Medical%20Marijuana.DEA.pdf>

Attorney General Kamala D. Harris Releases 2016 Truancy Report, Demonstrating Years of Progress, Persistent Challenges

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SAN FRANCISCO – Attorney General Kamala D. Harris today issued the fourth annual statewide report on elementary school truancy and chronic absenteeism in California, *In School + On Track 2016*. The report, part of the work of the Department’s Bureau of Children’s Justice, finds that an estimated 210,000 K-5 students in California missed 10% of the school year in 2015-2016, making up 7.3% of elementary students in the state. The report also confirms earlier research on the disproportionately high rates of absenteeism among African American, Native American, and Pacific Islander elementary school students, special education students, and foster and homeless youth. The report does highlight that significant progress is being made, with school districts increasingly taking action to ensure children are in school, on time, every day.

Improving school attendance has long been a centerpiece of Attorney General Harris’ public service. As District Attorney of San Francisco, Attorney General Harris first drew the connection between chronic absenteeism, third grade reading levels, dropping out of school, and future involvement in the criminal justice system (as a perpetrator or victim of crime). In the past decade, she has brought this issue to the forefront of state and national conversations about how to keep our communities safe and develop a thriving workforce. Recently, the federal Department of Education launched *Every Student, Every Day: A National Initiative to Address and Eliminate Chronic Absenteeism*, which is modeled on Attorney General Harris’ longstanding work on this effort.

“To be smart on crime and invest wisely in California’s economic future, we must eliminate elementary school truancy,” said Attorney General Harris. “Chronically absent children are far more likely to drop out of school and enter into the criminal justice system. This is a solvable

problem: with better data, monitoring, and communication with parents, we can continue to make significant strides toward ensuring students are in school and on track to meet their full potential.”

Drawing from four years of longitudinal data—a sample of almost half a million kindergarten to 5th grade students from nearly 200 school districts—In School + on Track 2016 includes the most comprehensive analysis to-date on the high rates of absenteeism among California’s elementary school students. The report finds that California continues to face an attendance crisis, with an estimated 210,000 K-5 students missing 10% of the 2015-16 school year, and that this crisis disproportionately affects African American, low-income, special education, and highly mobile students.

School suspensions also severely exacerbate the attendance crisis and have an inordinate impact on boys, low-income students, and students with special needs. In fact, 55% of students in this study who had more than one suspension were also chronically absent. Low-income students accounted for 82% of all suspensions and 30% of all suspensions involved students receiving special education services. Further, boys were suspended at three times the rate of girls, and foster children were suspended at two and a half times the rate of all other students. The report also finds that African American students, while making up just 5% of the elementary school student population, represent 22% of all suspensions.

Early attendance patterns also have a significant impact on academic achievement. The data from this year’s report revealed that three-quarters of students who were chronically absent in kindergarten and first grade did not meet the California state standards in math and English language arts in the third grade.

Despite persistently high rates of absenteeism and suspensions, however, California school districts have taken significant steps to improve elementary school attendance over the past several years:

99% of districts surveyed for this study reported that they have implemented or plan to implement policies and programs to improve elementary school attendance this year.

In the 2012-13 school year, just over half of school districts surveyed said that they tracked student attendance data longitudinally (over time). This year, 85% of districts reported that they track attendance longitudinally, allowing teachers and administrators to understand individual student attendance patterns, craft targeted interventions, and evaluate the success of those interventions. Since the 2013-14 school year, 163 school districts (34% of those surveyed) have changed their discipline policies so students do not miss as much school for suspensions, or have reduced their overall number of suspensions.

In addition, the report highlights the progress being made at the state level in collecting and tracking student attendance. At the end of the 2016-2017 school year, all local education agencies in California will for the first time be required to submit to the California Department of Education data on student absences, excused and unexcused, as well as out-of-school suspensions as required by the federal Every Student Succeeds Act (ESSA). Chronic absence rates will also become part of the state’s new accountability system.

Attorney General Harris' 2013 In School + On Track (<https://oag.ca.gov/truancy/2013>) report contained the first statewide statistics on California's elementary school truancy crisis and directly linked public education and public safety.

The 2014 In School + On Track report (<https://oag.ca.gov/truancy/2014>) released updated data and looked specifically at gaps in state infrastructure for collecting attendance information and disparities in student attendance and discipline by race, income, and other subgroups such as foster youth.

In School + On Track 2015 (<https://oag.ca.gov/truancy/2015>) allowed for an in-depth look at chronic absence rates by gender and at suspension rates across subgroups, revealing that absence rates tend to vary more by race than by gender, boys have significantly higher suspension rates than girls, and African American boys in particular have the highest elementary school suspension rates.

As District Attorney of San Francisco, Attorney General Harris started a citywide elementary school truancy initiative in 2006. In the course of investigating factors contributing to the city's violent crime rate, she found that 94% of San Francisco homicide victims under age 25 were high school dropouts. Then-District Attorney Harris formed a partnership with the school district to inform parents about their legal duty to ensure that their children attended school, provide parents of chronically truant students with wrap-around services and school-based mediation, and prosecute parents in the most severe cases where other interventions did not work.

The initiative also served as a model for SB 1317 (Leno), which defined "chronic truancy" for the first time under state law and established the initiative's model of combining meaningful services with smart sanctions in the California Penal Code. The bill was sponsored by then-District Attorney Harris and enacted into law in 2010.

The report is available in its entirety online at: <https://oag.ca.gov/truancy/2016>

Schuetz Initiates Pension Forfeiture Action Against Ex-Detroit Principals, Superintendent Convicted of Accepting Bribes

LANSING – Michigan Attorney General Bill Schuetz today initiated civil forfeiture actions to confiscate the pensions of the 12 ex-Detroit Public School officials convicted of accepting federal program bribery in a \$2.7-million kickback scheme that resulted in charges against former Detroit Public Schools vendor Norman Shy and 13 district officials.

Schuetz's action seeks the forfeiture of all State of Michigan or Detroit Public Schools contributions from the time the bribery began until the time of their termination or retirement.

“An educator's first responsibility is to the children of the school, and the individuals that accepted bribes violated that trust and responsibility,” said Schuetz. “Actions have consequences, and they should not reap rewards for criminal behavior.”

Defendants Clara Flowers, Beverly Campbell, Stanley Johnson, Nina Graves-Hicks, Gerlma Johnson, James Hearn, Tanya Bowman, Ronald Alexander, Tia Von Moore-Patton, Ronnie Tims, Clara Smith and Willye Pearsall are members or retirees of the Michigan Public School Employee Retirement System (MPERS) whose pensions have received contributions from the State of Michigan or Detroit Public Schools.

Michigan law provides for the forfeiture of public employee retirement benefits paid by the State into the retirement fund if a member or retiree is convicted of or enters a guilty plea to a felony that is related to their service as a public employee. The confiscated funds cannot be used to pay restitution.

Bank of America agrees to pay the District \$13 Million to Settle Lawsuit over Bank's Role in Embezzlement Scheme

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WASHINGTON, D.C. – Attorney General Karl A. Racine today announced that Bank of America has agreed to pay the District \$13 million to settle a lawsuit over the bank's role in a fraudulent tax refund scheme that took place while the institution served as the District's depository bank. The settlement concludes a suit the District first brought in 2008, shortly after officials discovered that a former District government employee stole millions of dollars from the government by creating fraudulent tax refund checks that were presented for payment or deposit into accounts at Bank of America. A Bank of America assistant branch manager ultimately pled guilty to his role in the scheme. The District's lawsuit alleged that inadequate controls by Bank of America contributed to the District's monetary loss.

"We are glad that this closes a chapter in the District's history," Attorney General Racine said. "The District has made a host of changes in process and personnel to protect against the type of fraud leading to today's settlement."

Attorney General Racine thanked several Office of the Attorney General (OAG) staff who worked on the case. "I want to thank our team of attorneys and staff here at OAG for countless hours of hard work on this case," he said. "In particular, my gratitude goes to Deputy Attorney General George Valentine; Section Chief Toni Jackson; Senior Assistant Attorneys General Stacy Anderson and Thomas Koger; Assistant Attorneys General Jane Drummey, William Causey, Amanda Montee, Pegah Eftekhari, and Conrad Risher; Paralegal Specialists Joan Hungerford and Twana Smalls-Hall; Senior Counsel to the Attorney General Stephanie Litos; and Director of Practice Administration and Practice Technology Marta Markowska."

HAWAII SUPREME COURT UPHOLDS FLEXIBLE APPROACH TO STATE AND COUNTY RETIREE HEALTH PLANS HONOLULU –

Today the Hawaii Supreme Court unanimously held that the State may provide constitutionally protected health benefits to state and county retirees in a flexible manner. Under this decision, the

State has the ability to structure retiree health insurance plans in a way that provides strong benefits while simultaneously keeping costs down for the taxpayers and the retirees themselves.

This class action lawsuit, initiated in 2006, contended that state and county retirees were entitled to the same health benefits as active employees receive now. The Hawaii Supreme Court rejected this argument. The Court instead concluded that retirees' health benefits are based on the benefits that were promised when the employees became members of the State's retirement system. Most importantly, the Court also concluded that a "rigid" understanding of retirees' protected health benefits "is inconsistent with and inadequate to provide the flexibility that legislatures need to deal with changing economic and social realities."

"The marketplace for health benefits changes constantly," said Attorney General Doug Chin. "Today's decision allows the State to respond to those changes."

The case is *Dannenberg v. State of Hawaii* and it was argued before the Hawaii Supreme Court in May 2016. Judge Katherine G. Leonard of the Intermediate Court of Appeals served as Acting Chief Justice for the Hawaii Supreme Court in this case. All five of the regular justices of the Hawaii Supreme Court had recused themselves. A substitute 5-judge panel was appointed by Chief Justice Mark E. Recktenwald in their place. Today's decision remands the case to the trial court for the parties to address some material issues of fact.