

ARTICLES FOR 5-11-17 ROUNDUP

AGO SOLICITOR GENERAL & BUREAU CHIEFS ANNOUNCEMENTS

The Attorney General is pleased to announce that Jim Smith has been named full-time Solicitor General for the State of Nebraska. The Solicitor General has the responsibility to oversee and direct civil appeals in the Attorney General's Office. The Solicitor General handles all appellate matters involving the death penalty, as well as federal habeas corpus claims.

"Jim Smith has extensive experience trying cases both at the trial level and appeals in state and federal court. I look forward to Jim bringing his vast years of experience to the position of Solicitor General," said General Peterson.

Additionally, bureau chiefs have been named for the Criminal Bureau, Civil Litigation Bureau and the Consumer Protection Bureau.

Corey O'Brien has been selected as the new Criminal Bureau Chief. A graduate of Creighton University School of Law, Corey has been with the Attorney General's Office since 2003 assisting law enforcement and county attorneys in complex prosecutions, including homicide, sexual assault, robbery, public corruption, narcotics, firearms and child exploitation. Since 2013, Corey has been cross-designated as a Special Assistant United States Attorney in the areas of child exploitation, narcotics and firearms.

The new Civil Litigation Bureau Chief is Mr. Ryan Post. A graduate of the University of Nebraska College of Law, Ryan has served as an Assistant Attorney General in the Civil Litigation Bureau since 2011, having developed significant trial and appellate litigation expertise in both state and federal court.

The new Consumer Protection Bureau Chief is Ms. Meghan Stoppel. A graduate of the University of Colorado School of Law, Meghan brings significant experience in a variety of consumer protection, data privacy and antitrust matters having served eight years as an Assistant Attorney General in the Consumer Protection and Antitrust Division of the Kansas Attorney General's Office.

"We are tasked with challenging and wide-ranging responsibilities on a daily basis as we protect, preserve and promote public safety in Nebraska. Our AGO Bureau Chiefs bring years of experience, dedication and great skill to doing their jobs," stated General Peterson.

ATTORNEY GENERAL FROSH ISSUES IMMIGRATION GUIDANCE MEMORANDUM FOR MARYLAND STATE AND LOCAL GOVERNMENTS

Guidance Provides Legal Conclusions and Principles to Help State and Local Law Enforcement Agencies in their Interactions with Federal Immigration Law and Officials

BALTIMORE, MD (May 4, 2017) — In light of recent federal measures to restrict immigration and intensify the enforcement of federal immigration laws, Maryland Attorney General Brian E. Frosh today issued an Immigration Guidance Memorandum for Maryland State and local governments. The Guidance Memorandum updates an August 2014 “ICE Detainers” advice letter, and serves as guidance describing the current legal landscape governing the participation of law enforcement officials in immigration enforcement, and to help those officials make decisions about how to engage with federal immigration officers.

“In 2014, the Maryland Office of Attorney General concluded that compliance with ICE detainers is voluntary and State and local law enforcement officials are potentially exposed to liability if they hold someone beyond his or her State law release date without a judicial warrant or probable cause,” said Attorney General Frosh. “This Guidance Memorandum supplements the 2014 advice taking into consideration Trump Administration changes in immigration policies and practices. Its purpose is to help local governments understand their obligations and rights and to enable them to protect their residents during a time of legal uncertainty.”

The Guidance Memorandum outlines several legal conclusions and basic principles to help guide State and local law enforcement agencies as they interact with federal immigration law and officials, including:

1. LEAs face potential liability exposure if they seek to enforce federal immigration laws, particularly if they do so outside the context of a federal cooperation agreement under 8 U.S.C. § 1357(g)(1).
2. LEAs must absorb all costs associated with federal cooperation agreements under 8 U.S.C. § 1357(g)(1). The federal government does not provide reimbursement for these agreements, and the agreements may increase the risk of unconstitutional profiling.
3. LEAs face potential liability exposure if they honor ICE or CBP detainer requests unless the request is accompanied by a judicial warrant or supported by information providing probable cause that the subject of the detainer has committed a crime.
4. State and local officers may not be prohibited from sharing information about a detainee’s citizenship or immigration status with federal immigration officials, but they are not required to do so either.
5. As an overriding principle, the government bears the burden of proving that the detention of someone beyond the person’s State-law release date does not violate the Fourth Amendment and its Maryland counterpart.

The Memorandum concludes that following these principles will allow law enforcement agencies to comply with federal law in a manner that also respects the constitutional rights of individuals, protects local agencies and officials from potential legal liability, and allows them to remain faithful to their mission of promoting public safety.

This guide is not meant to assist individuals with immigration issues. The Office of Attorney General does not represent individuals in private legal matters. Maryland citizens in need of individual immigration assistance should contact a reputable source such as the Maryland Immigration Rights Coalition.

AG PAXTON FILES LAWSUIT TO UPHOLD CONSTITUTIONALITY OF TEXAS SANCTUARY CITIES LAW

Attorney General Ken Paxton filed a lawsuit asking the U.S. District Court for the Western District of Texas to uphold the constitutionality of Senate Bill 4. SB 4 bans sanctuary cities in Texas and requires all governments throughout the state to comply with immigration law and detainer requests.

“SB 4 is constitutional, lawful and a vital step in securing our borders,” Attorney General Paxton said. “SB 4 guarantees cooperation among federal, state and local law enforcement to protect Texans. Unfortunately, some municipalities and law enforcement agencies are unwilling to cooperate with the federal government and claim that SB 4 is unconstitutional.”

Attorney General Paxton filed the lawsuit to defend the right and duty of law enforcement agencies throughout Texas to detain individuals pursuant to the U.S. Immigration and Customs Enforcement’s (ICE) federal detainer program. The program enforces immigration law and helps prevent dangerous criminals from being released into Texas communities. “Texas possesses an independent sovereign responsibility to protect the health, welfare, and safety of its residents,” Attorney General Paxton wrote. “Texas, cognizant of this duty, recently enacted SB 4 to set a state-wide policy of cooperation with federal immigration authorities.”

Under the federal Declaratory Judgment Act, Texas may bring a lawsuit to avoid a multiplicity of suits in various forums so that the constitutionality of SB 4 may be resolved throughout Texas in a single court. In the lawsuit, Attorney General Paxton demonstrates that SB 4 is valid under the Fourth and Fourteenth Amendments to the United States Constitution.

“Governments throughout Texas have a clear duty to continue holding undocumented and suspected criminal aliens pursuant to ICE detainers,” Attorney General Paxton said. “This is a public safety issue that requires swift resolution. If a Texas sheriff or other law enforcement authority cannot lawfully honor an ICE detainer, dangerous people will slip through the cracks of the justice system and back into our communities. As a nation of laws, it is imperative that SB 4 is fully honored in Texas.”

FIVE ARRESTED IN JOINT FEDERAL-STATE TAKEDOWN OF MAJOR HUMAN TRAFFICKING OPERATION, AUTHORITIES PLEDGE SUPPORT TO TRAFFICKING VICTIMS

AG’s Office, FBI Worked with Local Authorities to Dismantle Sex Trafficking Operation in Boston, Cambridge, North Reading, and Quincy

BOSTON – A joint investigation and takedown by Attorney General Maura Healey’s Office and the Federal Bureau of Investigation Boston Division has resulted in the arrest of five individuals in connection with a major human trafficking and money laundering operation that extended throughout Greater Boston. Victim specialists in the FBI’s Office for Victim Assistance and AG Healey’s Victim Services Division are working with victim service organizations to ensure victims have the assistance and services they need.

Pingxia Fan, age 40, of Boston, Timothy Hayes, age 50, of Gloucester, Simon Shimao Lin, age 59, of Boston, Biquan Xiao, age 47, of Deerfield, N.H., and Robert Mozer, age 65, of Deerfield, N.H., were all arrested today in connection with trafficking women for sex at brothels in Boston, Cambridge, North Reading and Quincy.

“Today’s arrests follow a tragic pattern we are seeing in our neighborhoods—vulnerable individuals being preyed upon and sexually exploited for profit,” said AG Healey. “We want victims to know that they will not be prosecuted and that our offices will work to make sure they receive the services they need and deserve.”

“Sex trafficking is without a doubt, the most common form of modern-day slavery and it’s big business,” said Harold H. Shaw, Special Agent in Charge of the FBI Boston Division. “As alleged, Fan and her co-conspirators were offering sex for a fee on a large-scale basis in brothels across Massachusetts, exploiting women, many of whom were transported here from out of state. This case demonstrates the problem is right here within our communities, impacting victims, the safety of our neighborhoods, and our quality of life. Together, with our law enforcement partners, the FBI will continue to identify and locate the criminal enterprises that are perpetrating these egregious crimes.”

Fan, Hayes and Lin were each charged with one count of Trafficking of Persons for Sexual Servitude, Deriving Support from Prostitution, Money Laundering, Keeping House of Ill Fame, and Conspiracy. Mozer and Xiao were charged with one count each of Conspiracy to Traffic Persons for Sexual Servitude.

Fan and Lin were arrested this morning in Boston. Hayes was arrested in Gloucester and Mozer and Xiao were arrested in Quincy.

Fan, Lin, Hayes and Mozer were all arraigned today in Woburn District Court where they pleaded not guilty to the charges against them. Bail was set at \$150,000 cash for each Fan, Lin and Hayes. Bail was set at \$50,000 for Mozer. The condition of release for all four defendants are as follows: surrender passport; GPS monitoring; stay away from victims, co-defendants and buyers; and no internet use. These defendants are due back in Woburn District Court on June 2 for probable cause hearings.

Xiao will be arraigned in Quincy District Court tomorrow morning.

Today’s arrests are the result of an extensive investigation conducted by the Federal Bureau of Investigation Boston Division Human Trafficking and Child Exploitation Task Force and Massachusetts State Police assigned to the AG’s Human Trafficking Division.

The investigation revealed that the five defendants ran a sex trafficking and money laundering operation involving multiple brothels—two in Quincy, and individual ones located in Boston, Cambridge and North Reading. The defendants allegedly posted online advertisements offering sexual services and used multiple vehicles to transport sex trafficking victims, money and supplies.

The defendants allegedly arranged for women to meet with men at the brothel locations to provide commercial sexual services in exchange for cash. Authorities allege the majority of the money from these encounters went to the defendants, which they laundered into the business to perpetuate the daily operations of the criminal enterprise.

Authorities today executed search warrants at the five brothel locations at which ten victims were identified. Search warrants were also executed at residences in Boston and Gloucester.

Various units from the Massachusetts State Police provided assistance in this case. The Boston, Cambridge, Gloucester, Newton, North Reading, Quincy and Revere Police Departments also provided assistance.

This investigation remains ongoing. These charges are allegations, and all defendants are presumed innocent until proven guilty.

AG Healey has a dedicated Human Trafficking Division that focuses on policy, prevention and prosecution and includes a team of specialized prosecutors, victim advocates and Massachusetts State Police troopers who handle high impact, multi-jurisdictional human trafficking investigations and prosecutions across the state. Through the Human Trafficking Division, the AG's Office has charged more than 30 individuals in connection with human trafficking since the law was passed.

The FBI Boston Division's Human Trafficking and Child Exploitation Task Force is one of 12 DOJ-funded task forces in the country with the mission to combat sex and labor trafficking. Nationally, the FBI participates in over 100 human trafficking task forces and working groups. The FBI believes in a victim-centered approach to human trafficking investigations, where identifying and stabilizing victims of this heinous crime is equally as important as providing resources to help them.

This case is being prosecuted by Assistant Attorneys General Nancy Rothstein and Jeffrey Bourgeois, both of the AG's Human Trafficking Division, with assistance from Nikki Antonucci and Rebecca Auld of the AG's Victim Services Division and Investigator Jillian Petruzzello of the AG's Financial Investigations Division. It was investigated by Massachusetts State Police assigned to the AG's Human Trafficking Division and the Federal Bureau of Investigation Boston Division Human Trafficking and Child Exploitation Task Force, with assistance from the AG's Digital Evidence Lab. The Massachusetts State Police and the Boston, Cambridge, Gloucester, Newton,

ATTORNEY GENERAL TIM FOX APPLAUDS UPDATE TO SEXUAL ASSAULT LAWS

Montana Attorney General Tim Fox issued the following statement Monday following the Governor signing into law last Thursday Senate Bill 29 (Diane Sands, D-Missoula), a bill revising the definition of consent in Montana for prosecution of sexual assault:

“The 2017 legislative session will go down in history as a turning-point for addressing sexual assault in Montana. The changes to Montana law included in Senate Bill 29 will fundamentally

change how we prosecute sexual assault crimes in Montana, removing many of the barriers preventing prosecutors from convicting perpetrators of rape. All victims of sexual assault deserve justice, and I'm proud to have worked with Senator Sands and her colleagues in the legislature to ensure that, in Montana, 'no' means 'no'."

Attorney General Fox's office worked with the Legislative Law and Justice Interim Committee to draft SB 29 during the interim, prior to the 2017 legislative session.

SB 29 Summary:

Modeled after the U.S. Uniform Code of Military Justice, SB 29 removes the requirement in current law that 'force' must be proven to convict someone of sexual assault. The changes Montana's definition of consent to: "Consent means words or overt actions indicating a freely given agreement to have sexual intercourse or sexual contact."

The bill also clarifies that the way a victim is dressed, or because of a previous relationship, do not in and of themselves mean that consent was given. The bill requires that law enforcement, courts and juries look at all of the surrounding circumstances, including expressions of lack of consent through words or conduct, in deciding whether there was a lack of consent. The bill also creates a new category of aggravated crime that enhances the penalties when a rape is accompanied by force.

LEGISLATION TO HELP FIGHT DEADLY OPIOID EPIDEMIC HEADED TO GOVERNOR

TALLAHASSEE, Fla.—Attorney General Pam Bondi today thanks Florida lawmakers for passing legislation that will bolster continued efforts to combat the national opioid epidemic in Florida. Today, the Senate voted in favor of HB 477. This legislation is a top priority for Attorney General Bondi, and now, it will go before Governor Rick Scott.

"I want to thank sponsors Representative Jim Boyd and Senator Greg Steube, and each member of the House and Senate that supported this important legislation. Fentanyl is a dangerous synthetic opioid that is being mixed with heroin and other drugs—often with deadly consequences," said Attorney General Bondi. "This legislation has been my top priority this session because it gives us the tools we need to combat the trafficking of these deadly substances."

"Since May of 2016, I've worked relentless alongside the Attorney General and state Law Enforcement to aggressively eradicate these purveyors of poison who have preyed upon the weak for too long. As a member of the Florida House and constituent of the epicenter of the opioid crisis, I've seen community devastation first hand. It has been an honor to fight for the people of our state, and this bill sends a clear message that opioid abuse will no longer be tolerated," said Representative Boyd.

"This legislation will serve as a much-needed step forward in tackling the opioid epidemic. I applaud my colleagues in the legislature for recognizing the magnitude of this issue that has devastated far too many families across our state," said Senator Steube.

This legislation adds fentanyl and its derivatives to Florida's drug trafficking statute and gives law enforcement and state prosecutors the tools they need to investigate and prosecute drug traffickers selling the deadly substances. Fentanyl is a synthetic substance 50 times more potent than morphine. It is being mixed with other drugs, sold as heroin or even a pill—often resulting in the death of unsuspecting users.

The legislation also adds U-47700 to the list of Schedule 1 controlled substances. In September last year, Attorney General Bondi signed an emergency rule outlawing the synthetic drug after it was identified in multiple deaths throughout the state. This emergency action temporarily outlawed the dangerous drug and the legislation passed today will ban the deadly substance permanently.

Since taking office, Attorney General Bondi has issued executive orders and worked with state lawmakers to ban more than a hundred chemical compounds used to produce deadly synthetic drugs. Last session, Attorney General Bondi also helped pass legislation to better control synthetic drugs through a drug classification system.

DOSE OF REALITY CAMPAIGN TO PREVENT PRESCRIPTION PAINKILLER ABUSE HONORED WITH PRESTIGIOUS ADVERTISING AWARDS

MADISON, Wis. – Dose of Reality, a public awareness campaign launched by Attorney General Brad Schimel, was honored by the Business Marketing Association (BMA) with two awards: the 2017 Bell Award and “Best of Show.”

“Since Dose of Reality’s launch in September 2015, it has shattered the myths about prescription drug abuse and raised awareness about the dangers of drug overdose,” said Attorney General Schimel. “I am proud that Dose of Reality is being recognized by subject matter experts for the prevention tactics we have used to bring attention to one of our state’s most pressing public safety challenges.”

The Dose of Reality campaign won both the BMA Bell Award, which is the equivalent of first place, and, out of 150 total entries, “Best of Show.” The Bell Awards are given by the BMA’s Milwaukee Chapter, which is the first and oldest BMA chapter in the country. The awards entries are judged by national professionals from media markets outside Wisconsin.

Earlier this year, Dose of Reality was also awarded a Gold ADDY by the American Advertising Federation of Madison for the “One and the Same: Drugged Driving” television commercial produced in conjunction with the Wisconsin Department of Transportation. The commercial compares the dangers of driving under the influence of alcohol to the dangers of driving under the influence of prescription drugs.

The American Advertising Awards are the advertising industry’s largest and most representative competition, and recognizes and rewards creative excellence in the advertising field. There are tens of thousands of submissions to the competition each year through local competitions across the country. Later this year, Dose of Reality will advance to the Regional American Advertising Awards competition in Minnesota.

For more information about Dose of Reality and to learn about the dangers of prescription painkiller abuse, please visit: www.doseofrealitywi.gov.

UTAH ATTORNEY GENERAL'S OFFICE FILES DAGGETT COUNTY JAIL CASE

DAGGETT COUNTY, Utah May 5, 2017 – The Office of the Utah Attorney General (OAG) announced today that it filed charges against the former Daggett County Sheriff, Jerry Jorgensen, and several of his deputies for criminal misconduct involving inmates at the Daggett County Jail. The charges come after an investigation by the Utah Department of Corrections (UDC) Law Enforcement Bureau. The UDC received allegations of criminal activity being perpetrated by deputies at the Daggett County Jail which houses inmates for the Utah State Prison. After completion of its investigation, the UDC requested that the OAG review the findings of the investigation.

“The alleged actions of at least one defendant constitute unbelievably inhumane conduct and a reprehensible miscarriage of justice and the actions of all the defendants are inexcusable,” said Attorney General Sean Reyes.

The OAG Special Prosecutions Section charged former Daggett County Sheriff Deputy Joshua Cox with nine felony and two misdemeanor counts, including for Aggravated Assault, Transporting a Dangerous Weapon into the Secure Area of a Correctional Facility, Theft, and Reckless Endangerment. Former Daggett County Sheriff Deputy Ben Lail was charged with one felony for Aggravated Assault. Misdemeanor charges were also filed against former Daggett County Sheriff Deputies Rodrigo Toledo and Logan Walker for Official Misconduct. Last, former Daggett County Sheriff Jerry Jorgensen was charged with Misdemeanor charges for Misdemeanor, Failure of Sheriff to Safely Keep Inmates, Obstruction of Justice, and Official Misconduct.

The numerous alleged policy and criminal violations uncovered throughout the investigation by UDC led to the removal of all Utah State inmates from the Daggett County Jail. Jerry Jorgensen has resigned as Sheriff and a number of the deputies have been terminated by Daggett County.

AG: UBER ENDS PRACTICE OF SENDING UNSOLICITED TEXT MESSAGES TO WASHINGTONIANS

Ride-sharing service must pay \$40,000, include opt-out instructions

OLYMPIA — Attorney General Bob Ferguson announced today that he reached an agreement with Uber Technologies Inc. prohibiting its practice of sending unsolicited text messages to Washington consumers. Hundreds, perhaps thousands, of Washingtonians received unsolicited texts from Uber.

The agreement, filed in King County Superior Court, also requires that Uber provide opt-out instructions to consumers who do consent to receive texts.

“Receiving text messages you didn’t ask for — and not knowing how to stop them — frustrates consumers,” Ferguson said. “This agreement ensures that consumers control whether they receive messages from Uber.”

Beginning in 2014, the Attorney General’s Office received complaints from Washington consumers who received unsolicited text messages from Uber. Some messages contained information intended for Uber drivers, but were sent to consumers who did not sign up to be drivers. Other texts, originating from drivers themselves, invited recipients to also become Uber drivers.

Customers complained that they did not know how to stop receiving them, and many tried to opt-out, but were unable to. Providing a way to opt out is required by law.

In addition, a glitch with the company’s website portal caused some consumers to receive multiple text messages. One consumer received two or three text messages a week for several weeks, without opt-out instructions. Another consumer said she received 15 to 20 messages.

Failing to provide opt-out instructions on text messages and sending text messages to consumers without prior consent are violations of the Telephone Consumer Protection Act and the Commercial Electronic Mail Act, as well as the state’s Consumer Protection Act.

After the Attorney General’s Office contacted the company about the violations, Uber cooperated with the investigation and began implementing new policies and procedures.

The agreement with the Attorney General’s Office requires Uber to obtain consumer consent prior to sending text messages. The company must include opt-out instructions in its text messages as well as on its website. The agreement also mandates that Uber take reasonable steps to make sure that drivers cannot send a consumer more than one driver referral message.

Uber will pay \$40,000 in costs and fees associated with the Attorney General’s investigation.

Assistant Attorney General Andrea Alegrett led the case.

The Attorney General’s Office offers an informal complaint resolution service to Washington state residents, and to consumers with complaints about businesses located in Washington state. To file a complaint about a business or other consumer issue, go to atg.wa.gov/file-complaint.

AG STEIN PROTECTS CONSUMERS FROM PREDATORY LOANS

RALEIGH – Attorney General Josh Stein announced today that the Department of Justice has resolved a lawsuit against predatory auto title lenders in North Carolina. Liquidation, LLC made illegal loans to more than 700 North Carolinians under many names and charged interest rates of 161 percent to 571 percent, which far exceed legal limits in North Carolina. Loan amounts ranged from \$800 to \$7,000.

“Law-breaking lenders can wreak havoc on a person’s credit and cause financially-strapped people to get even further behind,” said AG Stein. “My office will not allow predatory lenders to take advantage of consumers in this state. Companies that attempt to charge loan shark interest rates will be shut down.”

The defendants solicited the loans online, after which they asked people to send the defendants their vehicle title to secure the loan. If people failed to make a payment, the defendants repossessed the borrower’s vehicle. The defendants were not licensed to make loans in North Carolina and often failed to disclose all of the loan terms until after the borrowers agreed to the loans.

The NC Department of Justice obtained a temporary restraining order and preliminary injunction order against Liquidation, LLC, also known as Auto Loans, LLC, Car Loan, LLC, and Sovereign Lending Solutions, LLC in 2016. After the defendants failed to appear in court, the NCDOJ traced their bank accounts to secure restitution funds and successfully froze \$178,000.

The Court’s final judgment provides that:

- Loans made by the defendants are void and cancelled;
- Defendants are permanently prohibited from engaging in loan business in North Carolina;
- The \$178,000 in frozen funds will be transferred to NCDOJ for consumer restitution and consumer protection purposes;
- Defendants liens are cancelled;
- Consumers who still have their vehicles can receive a new title without the lien;
- And a civil penalty of \$3.5 million will be entered against the default defendants.

Two former employees also entered a consent judgment in which they agreed to permanent injunctions and substantial money judgments unless they collectively pay \$15,000 to NCDOJ for consumer restitution.