

Annual
Report
2009



Office of New Mexico Attorney General
Gary K. King

MESSAGE FROM ATTORNEY GENERAL GARY K. KING



This report to the Legislature is dedicated to my father, former New Mexico Governor Bruce King, who passed away November 13, 2009. He was a driving force in the Legislature during his time as a citizen lawmaker, Speaker of the House and as Governor over three terms. In recognition of his accomplishments as a public servant, and in his memory, I submit this report as a proud son and as New Mexico's Attorney General.

Work hard...and work with the people. ~Bruce King

Despite budgetary constraints, a great deal was accomplished for New Mexico in 2009 by the professionals in the Attorney General's Office. The following report provides highlights of the work accomplished by our 14 divisions that handle: Special Prosecutions; Civil Actions; Internet Technology; Border Violence (foreign prosecutions/international extradition); Violence Against Women; Medicaid Fraud & Elder Abuse; Communications (public information education & outreach); Litigation; Water-Environment-Utilities; Administrative Services; Criminal Appeals; Consumer Protection; Government Accountability; Investigations; and Legislative issues.

Once again I am proud of the quantity and quality of work that the Attorney General's Office staff has produced over the past year. 2010 is expected to be equally productive and challenging. The trial phase of several criminal cases involving former state officials will likely get underway. My office received a federal grant to prosecute domestic violence, sexual assault and stalking cases, therefore, we expect to take full advantage of the added capabilities in those areas. Also, with the aid of a federal grant, we plan to step up investigation and prosecution of Internet crimes against children. Our statewide campaign on prevention and public awareness of methamphetamine abuse is being taken to a higher level that will soon spread the Attorney General's Office current education and outreach efforts to an even wider audience across New Mexico.

I am pleased with the Office's progress and successes in 2009 and excited by the work that lies ahead. As New Mexico enters an uncertain fiscal future with lingering frustrations over allegations of government corruption, my office remains dedicated to investigating and prosecuting such cases while providing the best legal representation possible for state agencies and vigorously protecting New Mexico families in 2010.

Sincerely,

A handwritten signature in black ink that reads "Gary K." in a cursive style.

Gary K. King
New Mexico Attorney General



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REPORT FROM THE EXECUTIVE OFFICE

CHIEF DEPUTY ATTORNEY GENERAL
ALBERT LAMA

This annual report documents some examples of how the Attorney General and his staff of professionals accomplished the duties of the office in 2009. We continue to appreciate the support that Legislators have provided throughout the years and we ask for your continued support in 2010.



As Chief Deputy, I am committed to our role and responsibility as the State's Attorney and I expect us to continue to carry out our mission to the best of our abilities on behalf of the citizens of the State of New Mexico. In looking ahead to 2010, there are many significant challenges as well as opportunities to advance the best interest of our clients and the public. As many of you are aware, the state is experiencing economic hardships that have impacted funding for all government entities. This financial circumstance requires us to think strategically about our use of resources. However, our resolve is strong to provide the highest quality legal representation to our client, the State of New Mexico. As before, the Attorney General will continue to hold individuals accountable when they act illegally or otherwise violate the public trust. The Office will also continue to pursue efforts to support the enactment and enforcement of laws that protect the interests of our state, its people and its resources.

We will continue to inculcate commitment and dedication to duty to ensure that our elected and appointed officials receive the best legal advice available to assist them in making wise and effective decisions on behalf of all New Mexicans.

Sincerely,

Chief Deputy Attorney General
Albert Lama



DEPUTY ATTORNEY GENERAL DAVID THOMSON



David Thomson serves as Deputy Attorney General and is AG King's top advisor concerning civil litigation. His duties include counsel for and supervision over the general operation and management of the civil legal service divisions in the agency. Deputy Thomson provides legal advice to the Attorney General on legislative efforts and at the Attorney General's direction, assists in the execution of multi-state litigation.

In 2009, as a member of the AGO's tobacco team, he assisted in continuing enforcement of New Mexico laws regulating tobacco sales and distribution. He also serves on a multi-state negotiating team dealing with arbitration. Mr. Thomson continues to monitor numerous State Qui Tam cases, reviewing and writing consumer amicus briefs, while maintaining a civil caseload, including serving as co-counsel on numerous cases. Mr. Thomson manages and appears in significant appellate cases in the New Mexico Supreme Court and the 10th Circuit Court of Appeals. David Thomson also volunteers his time to serve on the Rules and Civil Procedure Committee and Federal Court Committee as pro se litigants.

The "Report to the New Mexico Attorney General-A Response to the GAO's 2004 Report Treaty of Guadalupe Hidalgo: Findings and Possible Options Regarding Longstanding Community Land Grant Claims in New Mexico" was presented to the entire legislative committee and Mr. Thomson continues to monitor and report the federal response.

CHIEF OF STAFF MICHELLE GARCIA

As Chief of Staff, Michelle Garcia assists in the development of policies for the agency and provides direction to the divisions within the agency to implement those policies. She directs the multi-disciplinary staff in accomplishing the goals and objectives of the Attorney General through supporting activities and participation in projects and programs initiated at the request of Attorney General King. Ms. Garcia enhances staff development through interaction with employees within the agency, assisting in interviews with personnel applicants and developing staff training programs. She also represents the Attorney General on several law enforcement boards.



Among the Attorney General's priorities for 2009 were the expansion of outreach programs targeting risky behavior by New Mexico teens. To augment the efficacy of the Methamphetamine Alert Project, created and implemented in-house, in 2008, Ms. Garcia spearheaded a federal grant application which was awarded to the agency in September, 2009. The grant funds will be used to broaden the efforts of this program through creation of a unit to specifically address this growing drug epidemic through information, education and a train-the-trainer program. One full-time and two contract positions will be established to achieve the goals

and objectives of the program. Other youth outreach programs were initiated to address teen dating violence and underage drinking. The Youth Film Challenge competition for peer-to-peer anti-underage drinking messaging was launched and was met with tremendous response. The ads were presented in the rotunda during the 2009 legislative session. The presentations were later judged by a panel of participants and prizes were awarded to the top three submissions at their schools by Attorney General King.

As a law enforcement officer, Chief of Staff Garcia brings a wealth of knowledge and experience to her duties as liaison to the state's law enforcement community. She serves as a representative on the Anti-Terrorism Advisory Council (ATAC), the High Intensity Drug Trafficking Area, Child Fatality Review Panel and the New Mexico Intimate Partner Violence Death Review Team.

In the coming year, Ms. Garcia will continue to develop and support the priorities of Attorney General King.

LEGISLATIVE TEAM

STUART BLUESTONE, PHILLIP BACA,
VICTORIA BRANSFORD



The Legislative Team continues to advance the legislative agenda directed by and on behalf of Attorney General King. The team is led by Senior Counsel Stuart Bluestone.

In the 2009 Legislative Session, the team drafted and along with the AG, successfully lobbied for passage of landmark ethics legislation placing caps on campaign contributions. Prior to AG King's efforts, New Mexico had been one of only 5 states with no limits on political contributions.

The team also helped Attorney General King succeed in pushing for the passage of a landmark consumer rights bill to protect homeowners: the NM Mortgage Loan Originator Licensing Act. This new statute expands the regulation and supervision of the mortgage industry by (1) requiring licensing and testing for the mortgage industry, (2) imposing a fiduciary relationship between the mortgage loan originator and the borrower, and (3) mandating bonds to reimburse homeowners for fraudulent activity.

For the 2010 Legislative Session, Attorney General King has set four key priorities:

- Ethics
- Underage Drinking and DWI
- Consumer Lending Reform, and
- Domestic Violence Amendments

Some of the key ethics bills include: (1) establishing an independent Ethics Commission; (2) creating more transparency of campaign contributions to address Pay to Play in the procurement process (3) creating a Whistleblower Protection Act and (4) expanding the "Governmental Conduct

Act” so that all local government would be required to follow the same ethical standards currently imposed on state government.

To combat DWI in our state, Attorney General King wants to expand the “Local Liquor Excise Tax Act”, which currently gives only McKinley County the option to increase alcohol taxes to fund treatment for alcohol and substance abuse. AG King would like to extend this option to more Counties. And Attorney General King wants to close a legal loophole to effectively prohibit underage drinking in New Mexico.

CONSTITUENT SERVICES CORDY MEDINA

Officially, the position of Constituent Services Coordinator involves resolving issues and problems reported to the Attorney General’s Office by the general public. In reality, Cordy Medina provides personal attention to hundreds of people who have found no other source of help for their particular type of problem or issue.

Sometimes the reported problems are of a legal nature and Ms. Medina quickly routs them to the appropriate staff within the Attorney General’s Office. Other constituent complaints are often handled by collaborating with other state agencies to find solutions. Many times this past year, Cordy personally traveled to various towns and villages around New Mexico to meet with groups of local residents about their problems.



Attorney General King established this position in the office in order to bring services and help to people in New Mexico who might have difficulty navigating the sometimes intimidating bureaucracy of government. Judging by the hundreds of letters, phone calls, and emails received by her office; the word is out that Cordy Medina at the Attorney General’s Office is here to help.

COMMUNICATIONS DIVISION

VISION

The Communications Division maintains the public interface with the Attorney General's Office. News releases, media advisories, publications, and education & outreach are all part of the division's daily responsibilities. Communications staff are also responsible for content on the AG's Web site and work together with the IT Division to regularly update and add new Internet-based services to the general public.



DIRECTOR
PHIL SISNEROS

YEAR IN REVIEW

Implementation of Attorney General King's methamphetamine awareness and abuse prevention initiative was a major accomplishment in 2009.

During approximately 70 presentations across New Mexico, about 6,700 young people and others were given information about the dangers of methamphetamine use and suggestions for prevention and treatment. The education and outreach campaign includes a parent/teen flip booklet and PowerPoint presentation.

Adding to the long list of AGO-generated publications, the division produced a number of new ones in 2009 including information about:

- Animal Cruelty
- Animal Sales
- Census 2010
- Cyberbullying
- Digital TV
- Environmental Crimes
- Human Trafficking (recognition)
- Human Trafficking (victim services)

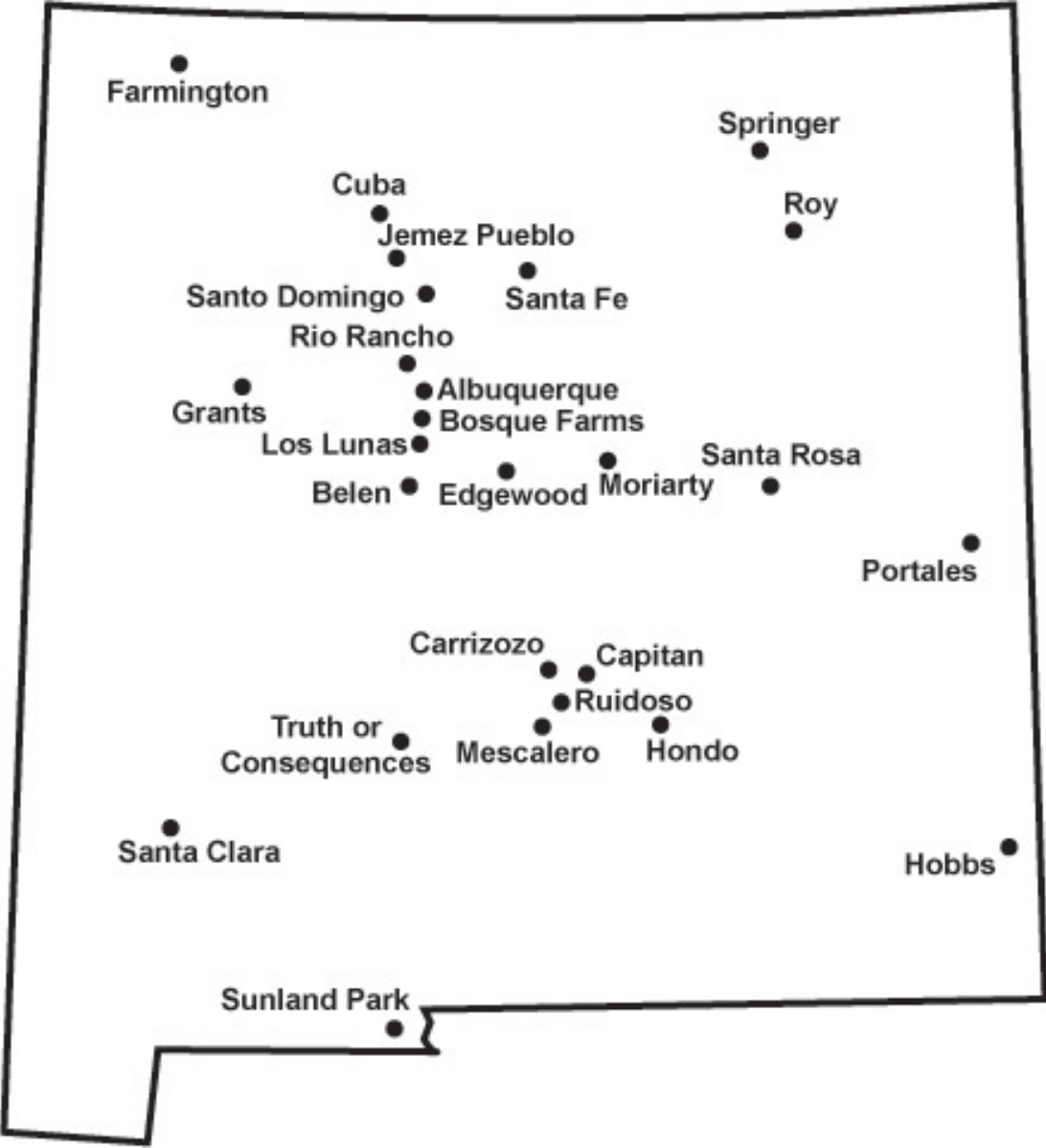
Communications staff found ways to produce publications using in-house equipment in order to save money on outside publications costs. The division has now converted the majority of AGO publications to in-house production to continue costs savings moving forward.

LOOKING AHEAD

Plans for 2010 include further expansion of the AG's methamphetamine project with a statewide public awareness campaign using funds from a federal grant for this purpose. The expansion includes a 'train-the-trainer' program in which the current AGO meth education/outreach efforts will be taught to others across New Mexico so that participants can take what they learn and present the program in their local communities. Other outreach efforts for the coming year include presentations on Cyberbullying, Internet Safety, and others as they are updated and developed.

As budgetary limitations allow, the Attorney General's Roadshow will continue to visit communities across New Mexico, presenting seminars on the state's "Sunshine Laws" and other AGO presentations designed to inform and protect consumers and other citizens.

AGO Education and Outreach in 2009



Number of Attendees in 2009:

Meth: 11,325

Internet Safety/Cyberbullying: 6,447

Updated Presentations:

Meth for Teens and Parents

Internet Safety

Scams and Identity Theft

INFORMATION & TECHNOLOGY DIVISION

VISION

The Information and Technology Division (IT), strives to provide innovative, contemporary and accessible technology in computing, media and telephone services to assist the agency in accomplishing its mission.

YEAR IN REVIEW

In 2009 the IT division focused on building a robust, highly available network. All network public access points are now protected with top rated firewalls that include intrusion detection and prevention. Data is continually replicated between offices offering the ability to continue AGO operations in the event of a city-wide disaster. Email systems, the core of AGO communication, has been upgraded to allow each staff 25gb of storage, this equates to a full career without the need to delete valuable information. The new email system also offers first rate security and global redundancy.



DIRECTOR
JAMES FERREIRA



LOOKING AHEAD

In 2010 IT will shift its focus to cost savings and end user training. Part of building the AGO network over the last few years included putting in place the infrastructure to support virtualization at the server and desktop levels. This year IT will be converting several older PC workstations to thin clients. This project will save the AGO a tremendous amount in equipment cost and allow for greater ease in workstation management. This project will also allow greater work productivity on faster virtual workstations as well as extend the work desktop to a user's home or other out-of-office location further reducing travel and other costs.

IT will not be requesting any funding for new projects in FY11. The new AGO infrastructure, built on the Google Apps Platform, provides for application development without equipment cost. Additionally, the investments in network equipment in the past two years was made with the expectation that this equipment would last six years. The AGO is effectively set and prepared for the future. AGO systems are primed for advances in technology and the flexible architecture is both cost affective and scalable. It is now possible for the AGO network to become a model for other state agencies wishing to use modern technology while reducing IT costs.

ADMINISTRATIVE SERVICES DIVISION

VISION

The Administrative Services Division serves the entire Attorney General's Office and facilitates its fiscal operation within the parameters of the budget established by the Legislature. The Division also provides Human Resources Management and services for the AGO. The Administrative Services Division is responsible for managing the finances of the Attorney General's Office in order for it to function properly and provide the public and state government with its statutorily directed duties and responsibilities.



**DIRECTOR
EVANGELINE
TINAJERO**

YEAR IN REVIEW

2009 was a difficult year in terms of continuing to provide the budget resources necessary to do the business of the Attorney General's Office. State revenue shortfalls and budget reductions required the Office (along with all other state agencies) to cut expenses and further reduce spending as much as possible. Although our resources were reduced, the responsibilities and duties of the Attorney General's office were not decreased. The Administrative Services Division has provided assistance, financial guidance and creative solutions to maximize the Office's limited resources.



The Administrative Services Division is the Customer Service entity in the Attorney General's Office. We assure that there is financial guidance and assistance as well as sourcing the goods and services needed to accomplish the work of the entire Office.

Our staff is our most important resource and as such they are valued and deserve our utmost attention. The Division provides all the Human Resource services to support the staff and management as they strive to excel in their many endeavors to meet their responsibilities to the State of New Mexico.

LOOKING AHEAD

For the coming year, the Administrative Services Division has already begun mapping ways to deal with the fiscal crisis that continues to adversely affect state and federal budgets. Fiscal creativity and planning is even more critical as ASD strives to excel as a customer service provider for agency personnel while providing the necessary financial guidance for the Attorney General to accomplish the many aspects of his responsibilities to the people and government of New Mexico.

BORDER VIOLENCE DIVISION

VISION

In October 2005, the Border Violence Division was formed to develop and maintain liaison on mutual law enforcement matters between Mexico and New Mexico and to coordinate between prosecutors and law enforcement agencies in New Mexico with similar entities in the Republic of Mexico.

The Border Violence Division provides specialized legal and technical assistance to law enforcement and district attorneys in New Mexico in matters of foreign prosecutions with Mexico and international criminal extraditions. District attorneys and law enforcement refer these cases to the Border Violence Division for the expertise needed in these complex and specialized cases to ensure that criminals do not evade justice by fleeing across the border into Mexico or any other country.

The Border Violence Division also addresses border-related policy issues such as human trafficking and criminal justice reform with Mexican states.



DIRECTOR
MARIA
SANCHEZ-GAGNE

YEAR IN REVIEW

Since passage of the legislation creating New Mexico's Human Trafficking Law in 2008, the BVD has worked to provide trainings and create working task forces in New Mexico's thirteen judicial districts consisting of federal, state and local law enforcement, and victim service providers. The division initiated dozens of targeted trainings basically focusing on: understanding human trafficking and the NM Law; explaining how law enforcement identifies victims; establishing task forces; conducting victim sensitive interviews; the continued presence application process; the T-Visa application process; and other related topics.

The BVD has been successful in reaching the stated goals of the initial phase of establishing task forces which will, in turn, provide identification of victims, subsequent effective victim assistance, and collaboration in the investigation and prosecution of human trafficking cases. It is a powerful beginning.

In addition to the formulation of task forces, BVD accomplished the following from January, 2008 to November, 2009:

BVD's Director expanded outreach efforts to provide 27 Human Trafficking Awareness trainings to include a wide variety of counties, particularly more rural counties, including: Lincoln, Dona Ana, Luna, Taos, San Miguel, San Juan, Santa Fe, and Bernalillo. In the span of eleven months, more than 727 individuals throughout the State attended these Human Trafficking Awareness trainings.

Representatives from a wide array of agencies and organizations participated in the trainings including branches of law enforcement; a variety of state and private agencies providing social and/or human services; legal entities; VISTA and other volunteers; students and teachers at universities and colleges; attorneys; medical personnel; and many more.

Comprehensive evaluation forms indicated great success of the trainings. A majority of the attendees gave the score of “excellent” to the questions determining if the trainings met their stated objectives and to the overall rating of the training. Further, a majority reported that they would incorporate the information from the trainings into their work.

The variation in the ranks and the positions of those in attendance spanned the spectrum from community volunteers and student interns to Chiefs of Police, Sheriffs, Marshals, executive directors, supervisors, JPPOs, social workers, CYFD case workers, and medical providers. This diversity in ranks and positions added to the richness of the conversations and points of view about human trafficking during the trainings.

BVD Director, Maria Sanchez-Gagne, in addition to the large number of effective Human Trafficking trainings she provided, was involved in a variety of public awareness events regarding human trafficking. A few examples of some of these events included: radio interviews; participation on several panels; and television interviews. The BVD also was featured in a statewide radio and television educational ad campaign that urges people to learn how to recognize and report human trafficking.

The Border Violence Division continues to work on a number of Provisional Arrest Warrants (PAWs) for extradition purposes on behalf of law enforcement agencies around the state. These fugitives are all wanted on first degree murder and other charges.

LOOKING AHEAD

BVD’s goals include presenting comprehensive educational trainings; providing investigative assistance to the task forces within their individual communities; and overall encouragement and support of related activities. The division is working to further develop a proactive law enforcement investigative capability for human trafficking and is seeking additional federal funding to support human trafficking efforts. BVD plans to increase services for extradition and/or foreign prosecution of wanted persons located in foreign countries, particularly Mexico. In addition, the division looks to increasingly address border-related policies and criminal justice reform with Mexican states.



HUMAN TRAFFICKING TRAINING

Thanks to a recent “Rural Law Enforcement Assistance: Combating Rural Crime” grant recently received from the Department of Justice, the BVD has expanded its work to educate and activate a wide range of relevant partners to help bring awareness and creative responses to ending human trafficking and addressing border issues.

In order to accomplish these goals, the BVD will:

- Significantly increase the number of staff and services by creating four new positions.
- Provide direct assistance to local, state and federal law enforcement and prosecutors addressing reports of human trafficking while emphasizing a multi-agency, multi-jurisdictional approach.
- Provide statewide training opportunities in human trafficking investigation, prosecution and victim assistance.
- Implement Intelligence-Led Policing concepts in the collection and analysis of statistical data, training evaluation and examination of established or newly created protocols in order to track progress and increase knowledge.
- Continue collaborative efforts and create new information-sharing collaborative partnerships with US federal and state agencies, local law enforcement and NGO agencies, and Mexican federal and state agencies by continued development of compatible strategies in prevention, information, education, intelligence, and anti-trafficking law enforcement efforts.
- The BVD has requested that Human Trafficking trainings be required by the New Mexico Law Enforcement Academy which mandates training requirements for all law enforcement officers in the state. Approval of this request is anticipated.

CIVIL DIVISION

VISION

The Civil Division provides quality legal services to the Attorney General's Office and its state agency clients. The Division's three primary areas of responsibility are: (1) the provision of legal advice and representation to more than 100 state agencies, boards and commissions; (2) researching and drafting Attorney General opinions and advisory letters in response to requests by state legislators, state officers and district attorneys; and (3) enforcing the Open Meetings Act and Inspection of Public Records Act by handling complaints alleging violations of the Acts and providing training to state and local government bodies and members of the public regarding their rights and responsibilities under the Acts. The Division's Charity Unit is responsible for registering nonprofit and other charitable organizations, conducting financial reviews and taking appropriate legal action against charitable organizations that violate the Charitable Solicitations Act or their charitable purposes.



DIRECTOR
ELIZABETH A.
GLENN

YEAR IN REVIEW

- During the 2009 Legislative Session, the Civil Division received, routed and administered 638 requests from the Legislative Finance Council and others for bill analyses. The Attorney General's Office prepared 604 bill analyses, 371 of which (or 61.42%) were drafted by the Civil Division.
- The Attorney General's Office issued 3 formal opinions and 15 advisory letters in 2009. Topics addressed included the legality of the Taxation and Revenue Department's e-portal; allocation of responsibilities for transporting juveniles to detention facilities; conflicts of interest associated with holding more than one public office; scope of the Gift Act; taxation of property leased to a school district; local option district elections under the Liquor Control Act; and contributions to Public Regulation Commission candidates.
- Civil Division provided legal services to state agency clients, including providing legal advice at board meetings and disciplinary hearings; defending agency decisions in judicial appeals; and reviewing contracts and other legal documents.



- The Division handled approximately 53 judicial appeals and similar court proceedings on behalf of state boards, commissions and agencies in 2009. Among these proceedings was a prevailing wage case for which the Civil Division AAG, representing the Department of Workforce Solutions, negotiated a settlement resulting in a \$236,000 payment for construction workers in Farmington.
- The Division revised its guide to administrative discipline and licensing procedures, which is intended for use by state professional licensing boards and commissions.
- In 2009, the Civil Division received 53 complaints alleging violations

of Open Meetings Act and Inspection of Public Records Act. To date, the Division has issued 27 determination letters responding to the complaints. The remaining complaints are still being investigated, have been withdrawn or have been otherwise resolved. Members of the Division held 13 training sessions on both Acts throughout New Mexico as part of the AGO's outreach program and made additional presentations at trainings and conferences conducted by the League of Women Voters, Municipal League, Association of Counties, DFA's Local Government Division and others.

- In 2009, the Civil Division issued 53 approving opinions for school district general obligation bond issues.
- The Charity Unit had 748 new registrations in 2009, bringing the total number of registered charitable organizations to 7,040. AAG Elizabeth Korsmo participated as a lead state member in a multi-state case with 30 other states and the Federal Trade Commission against a charitable organization operating in NM and other states that resulted in a settlement of \$10,000 for NM and injunctive relief.

LOOKING AHEAD

The Civil Division looks forward to another year of providing legal services to its state agency clients and will renew its efforts to enhance communication and cooperation with those clients. Regarding the Open Meetings and Inspection of Public Records Acts, the Division is publishing revised Compliance Guides reflecting amendments to both Acts enacted in 2008. The Charity Unit's online registration and reporting capabilities, which should substantially facilitate the Unit's ability to register charitable organizations and review their filings is scheduled to be implemented in the near future and will be supported by a comprehensive education and training program for charities, professional fundraisers and the public.

CONSUMER PROTECTION DIVISION

VISION

The Consumer Protection Division (CPD) is charged with enforcement of consumer protection laws to prevent and deter unfair, deceptive, and unlawful practices that injure consumers and harm businesses that operate lawfully in the competitive market place. Division staff promote and improve consumer protection through:

Community education and outreach;
Voluntary dispute resolution services to resolve consumer complaints;
Monitoring and investigations of suspicious business practices when business activities or practices may violate consumer protection laws;
Regulatory enactment and legislative proposals to address evolving issues;
Promulgation of regulations and legislative initiatives; and
Legal actions to enforce consumer protection laws where violations have occurred.



DIRECTOR
KAREN MEYERS

YEAR IN REVIEW

- Consumer intake calls increased by 30%.
- Number of written complaints filed: 4,296.
- Dispute resolution - Restitution to consumer: \$3-Million to benefit consumers.

Enforcement Actions

The Division's Assistant Attorneys General have pursued enforcement actions against companies doing business in New Mexico to ensure compliance with the Unfair Practices Act.

The Consumer Protection Division pursued contempt proceedings against a car dealership in Albuquerque that took consumer money but failed to pay off the contracts on vehicle trade-ins and then went out of business. In this case, the AGO secured restitution in excess of \$100,000 for injured consumers. In other pending litigation, assistant attorneys general brought suit against car dealer defendants who had either failed to pay off trade-ins or refused to release car titles to the consumer in violation of New Mexico law.

The AGO filed suit against two different installment loan companies that charge interest rates of 1,147% and 500% for small loans to consumers. In this litigation, the AGO has requested the Court to find that the interest rates are unconscionable as a matter of law and public policy.

Ongoing legal action is continuing against a Texas attorney who was soliciting clients in New Mexico although not licensed to practice law in New Mexico and was using a client retainer form with terms that violated the Unfair Practices Act.

A settlement with reached with a national mortgage company that had engaged in deceptive and unfair practices in mortgage lending and loan products. In this settlement, homeowners at risk of foreclosure will receive assistance for loan modifications to allow them to remain in their homes and

those homeowners who lost their homes will receive some monetary relief.

Ongoing legal action against two Santa Fe jewelry stores for the sale of items fraudulently identified as made by a prominent Navajo artist was settled and agreements entered requiring the companies to cease the deceptive practices and awarding restitution to injured consumers and civil penalties.

Division attorneys continue to monitor compliance with a settlement agreement between the State and an Albuquerque furniture business in a case involving retail sales practices.

A stipulated judgment was entered against a payday lender firm that engaged in collection efforts while threatening consumers with criminal action and jail. In this case, the company was ordered to pay consumers restitution and is prohibited from engaging in the challenged practices.

Legal action is pending against a travel discount company for failing to provide the travel services paid for and failing to accurately represent the discounts available with the membership.

Consumer Division staff have been actively working with regulatory agencies, industry representatives and consumer advocates to develop legislative initiatives to respond to many of the economic issues facing New Mexico, including mortgage foreclosure procedures, predatory lending, mortgage broker licensing, and consumer protection in financial matters.

The Consumer Division continues to monitor the endless number of scams that are increasingly plaguing consumers. Through community education, outreach, scam alerts to consumers and media and a counterfeit check database, the Attorney General and staff provide consumers the information they need to help avoid becoming victims of a scam or identity theft.

New Mexico's Commonly Reported Consumer Problems:

- Auto Sales
- Contests/Sweepstakes/Prize Promotion Credit Cards
- Retail Sales
- Home Repair/Construction
- Debt Collection
- Telemarketing
- Auto Repair
- Satellite TV sales
- Travel Clubs



LOOKING AHEAD

The staff of the division will continue successful dispute resolution efforts to assure that consumers and business can resolve disputes efficiently and economically. The division is committed to working with other state agencies and interested parties to respond to problems of predatory lending, the impact of mortgage foreclosures, and ongoing sharp dealings by some businesses that use deceptive practices to gain unfair and illegal advantages over consumers. Consumer Protection will strengthen its outreach and education focus because experience shows that knowledgeable consumers help level the marketplace playing field.

CRIMINAL APPEALS DIVISION

VISION

The Criminal Appeals Division is comprised of sixteen attorneys and two paralegals. The division is responsible for all direct appeals from a criminal conviction in the New Mexico Court of Appeals and New Mexico Supreme Court.

In addition to the state appellate work, the division is responsible for all federal habeas corpus, 28 U.S.C. § 2254, responses and evidentiary hearings. Other duties include state habeas corpus proceedings in both the state district courts and New Mexico Supreme Court.

The division reviews and lobbies for changes to New Mexico criminal and related statutes during each legislative session. Attorneys serve on the Rules of Appellate Procedure Committee, the DNA Oversight Committee, the Board of Bar Examiners, the Governor’s DWI Task Force, and the Access to Justice Commission. Joel Jacobsen has continued his invaluable service to all prosecutors nationwide with his treatise and survey regarding Crawford v. Washington.



DIRECTOR
MARGARET
MCLEAN

Another important function of the division is acting as a liaison for all district attorneys offices throughout the State as well as an in-house liaison for all divisions of the Attorney General’s Office. Acting as an “on-call” appellate specialist for other divisions including Government Accountability, Special Prosecutions, and Litigation the division has resolved pending issues during an investigation, pretrial motions, trial, and sentencing. At times, the division is asked to review the drafts of Attorney General Opinions for the Civil Division.

YEAR IN REVIEW

Case responsibilities are tremendous and require expert legal knowledge coupled with management skills. During the past fiscal year, approximately 130 cases were litigated in the New Mexico Supreme Court including direct appeals in first-degree murder cases, state habeas corpus cases, and death penalty proceedings. In the New Mexico Court of Appeals, 431 cases were opened including both criminal and children’s court appeals. Cases in the New Mexico Supreme Court generally require oral argument. Arguments in the New Mexico Court of Appeals were held in Santa Fe, at the University of New Mexico Law School, and at high schools throughout the State.

In addition to the statutory duties imposed, the division participates in many activities relating to the criminal justice system. Attorneys have presented seminars for prosecutors, victim advocates, and provided support for those individuals committed to stopping domestic violence. In November 2009, Anne Kelly and James Grayson gave a presentation about the record on appeal at the District Attorney Conference. Margaret McLean gave an appellate update at the Spring and Fall District Attorney Conference and at the Second Judicial District Attorney Summer Conference.

LOOKING AHEAD

Criminal Appeals expects to continue work on bill analyses during the 2009 Legislative Session. The division anticipates continued involvement in U.S. Supreme Court cases with the National Association of Attorneys General and continues to offer dedicated legal expertise in all state and federal court cases in which the Attorney General's Office is involved.



GOVERNMENT ACCOUNTABILITY DIVISION

VISION

This division's mission is to investigate, evaluate and prosecute complaints of public corruption. GAD is dedicated to the vigorous enforcement of all laws intended to ensure the open and clean operation of government for the citizens of New Mexico.



DIRECTOR
ANN BADWAY

YEAR IN REVIEW

- A guilty verdict was obtained in the trial of Roberta Vigil, former Director of West Las Vegas Schools Bilingual Education Program. Vigil was convicted of two felonies: Fraud over \$2500 and Conspiracy to Commit Fraud over \$2500, placed on three years supervised probation and ordered to pay approximately \$13,856.34 in restitution.
- Co-defendant ,former West Las Vegas Schools Superintendent Joe Baca, pled to Fraud (\$250 or less) and was ordered to repay \$2,750 in restitution to NMPED.
- The remaining co-defendants in the Metropolitan Courthouse case pled and were sentenced. Manny Aragon, Toby Martinez, Raul Parra, and Mark Schiff, received terms of incarceration and were ordered to pay over \$1 million in restitution. Sandra Martinez, Michael Murphy, and Ken Schultz were sentenced to probation.
- Former Los Lunas Police Chief Nick Balido pled to two counts of Filing False Public Voucher and two counts of Receiving Payment for Services Not Rendered. Balido received a probated sentence, was ordered to pay \$5,456.58 in restitution, and complete 100 hours of community service.
- Kimberly Colbert was convicted of Fraud over \$20,000 and Attempt To Evade or Defeat Tax and is currently serving a two year prison sentence. Colbert was ordered to pay over \$600,000 in restitution for embezzling funds from the Motor Vehicle Division as an MVD agent.
- Father and son, Jerome Block Sr. and Jerome Block Jr. were indicted by a Santa Fe Grand Jury, on charges relating to Block Jr's 2008 campaign for Public Regulations Commissioner, including allegations of election law violations, embezzlement, tampering with evidence and conspiracy.
- Former Secretary of State Rebecca Vigil-Giron, along with co-defendants Elizabeth Kupfer, Joseph Kupfer and Armando Gutierrez, were each indicted on fifty felony counts relating to a \$6-Million Help America Vote Act (HAVA) media campaign contract.
- Defendant Vincent "Smiley" Gallegos is charged in two separate but related felony cases involving Region 3 Housing Authority. Gallegos served as Executive Director of Region 3 from 2003 through 2006 when it issued \$6,000,000 in bonds to the State Investment Council. Region 3 later defaulted on the loans and a subsequent investigation lead to criminal indictments against Gallegos, Robert Strumor, Dennis Kennedy, and David Hernandez.

LOOKING AHEAD

The division expects to continue its stated mission in the year ahead. Ongoing cases are carefully and vigorously being managed, others will be forthcoming. Staffing has been augmented in several areas in order to better address government accountability.

INVESTIGATIONS DIVISION

VISION

The Investigations Division is the law enforcement arm of the Attorney General's Office. The team of highly experienced investigators assists investigative operations conducted by state, local and county law enforcement agencies. The division includes: The Government Accountability Investigations unit; the Internet Crimes Against Children unit (ICAC); and the Special Investigations unit.

The ICAC unit is part of the New Mexico ICAC Task Force, which has increased its investigative and prosecuting abilities statewide. The development of ICAC investigations was initiated through the funding of a federal grant managed by the Attorney General's Office. The ICAC Unit has a fully equipped computer lab specifically designed to provide forensic analysis.



DIRECTOR
EARL HOLMES

The Government Accountability Investigations unit was specifically developed by Attorney General Gary King and launched in 2007 to address alleged abuses within the state government of New Mexico. The primary mission of this unit is to identify, investigate and provide quality criminal cases that involve state corruption and fraud to the Government Accountability Division prosecutors. The unit is comprised of highly trained senior law enforcement officers, specifically selected for this important mission.

The Special Investigations unit, assists district attorneys and local law enforcement agencies in complex or multi-jurisdictional investigations and in cases where local conflicts of interest arise and the unit conducts special investigations as directed by the Attorney General. It also investigates a broad range of criminal inquiries and cases, including violent crimes, such as child abuse, homicide, and sexual assaults.

YEAR IN REVIEW

ICAC prosecutions have steadily increased, resulting in 433% more guilty pleas than last year while ICAC cases going to trial within NM have increased by 200%. AGO Special Agents, with resources from a federal grant and in collaboration with several federal law enforcement agencies, conducted law enforcement training statewide that included an overview of the ICAC program; how to read cybertips; and how to conduct an ICAC investigation. The training offered six hours of extended learning credits for law enforcement and attorneys. Funds from a federal grant were also used to purchase and distribute forensic computers and other equipment to the statewide task force. The AG's ICAC Unit has trained more than 300 Officers, prosecutors, advocates and social workers this year. The Attorney General's Office has successfully obtained official agreements with 39 law enforcement and District Attorneys agencies statewide that are willing to participate in ICAC trainings and have committed to prosecuting ICAC-related cases. Additionally, the NM ICAC Task Force has five federal agencies committed to the task force efforts statewide.

Government Accountability Investigations unit agents continued to work on several major in-depth criminal cases. A number of completed cases were forwarded to the Government Accountability

Division prosecutors for review and subsequent indictments and convictions followed as a result of these investigations. The team continues to work jointly with federal, state and local agencies in addressing state corruption and fraud.

The Special Investigations team continued to work jointly with federal, state and local agencies in addressing various other criminal complaints. Agents have also supported other divisions and units within the Attorney General's Office with supplemental criminal, civil and internal investigations.

LOOKING AHEAD

The Investigations Division will continue its efforts for collaborative and cooperative efforts with other federal, state and local government agencies and work toward educating New Mexicans regarding crime prevention and safety. As investigative capabilities of the New Mexico Attorney General's Office continue to evolve technologically, the division remains committed to providing the highest case quality and professional investigation possible.



LITIGATION DIVISION

VISION

The Litigation Division provides professional legal representation for state officials and state agencies. The division can also protect New Mexico citizens, when necessary, by initiating lawsuits on behalf of the state. Finally, the division seeks to conduct administrative prosecutions in an effective and ethical manner that furthers the policy goals of the various state Boards and Commissions while protecting the due process rights of licensees.

YEAR IN REVIEW

The Litigation Division provides representation for state agencies and executives in all aspects of litigation, performs administrative prosecutions and representation of judges and state officials on civil writs. At the conclusion of 2009 the division consisted of 9 attorneys and three paralegals. The division has consistently achieved favorable results for the state. Deputy Attorney General David K. Thomson has also been serving in the role as Acting Division Director and has maintained a litigation calendar, while serving as a representative on the Tobacco National Arbitration Board.



ACTING
DIRECTOR
DAVID
THOMSON

Litigation Division Highlights:

Tobacco

The division enforces the terms of the tobacco industry's Master Settlement Agreement, along with the state's tobacco enforcement statutes, which includes filing actions against manufacturers and distributors that fail to comply with enforcement statutes or fail to pay the statutory amounts due. The division demanded that Internet sellers of cigarettes cease and desist selling non-directory cigarettes into the state and further requested that a disclosure be placed on their Web site that states they are not permitted to ship sales via the Internet into New Mexico. Since that notice was issued, all the known Internet sellers located in New Mexico have moved to other states, a disclaimer appears on their Web sites stating that they cannot sell into New Mexico.

Legislation was passed in 2009 effective July 1, 2009, that provides the Attorney General with new tools for enforcement against manufacturers and distributors that sell cigarettes into New Mexico. With these tools, this office now requires monthly filing for distributors of cigarettes, and quarterly reports, which can be audited, for all manufacturers. These changes along with the AG's commitment to this division have increased overall compliance with New Mexico tobacco regulations.

New Mexico has sued two of the larger distributors of non-directory cigarettes. The Litigation Division also brought an action against a large importer of non-directory cigarettes. The division has investigated and tracked non-directory sales in New Mexico and has worked cooperatively with other states and the federal government to abate the trafficking of non-directory tobacco products.

The division also discovered shipments of non-directory cigarettes into New Mexico from the

foreign trade zone in Las Vegas, Nevada. The division has worked with other states and the foreign trade zone to ensure that product released into the state complies with New Mexico law.

Litigation Division staff identified then sued and obtained judgments against 5 overseas companies caught selling contraband tobacco products in the state of New Mexico. For more information on tobacco enforcement see the Attorney General's Office Web Site at : <http://nmag.gov/office/Divisions/Lit/Tobacco/Default.aspx>

Boards, Commissions and State Officials

The Litigation Division represented state officials, judges, agencies, boards, and commissions when those entities were sued in their official capacities in non-tort claims. The division also served as administrative prosecutor to 32 boards and commissions primarily for violations of the Uniform Licensing Act. Sanctions imposed ranged from fines to revocation of state-issued licenses. The office processed 53 cases for the Law Enforcement Academy Board alone. The division represented many judges and state officials whose decisions were challenged by writs of superintending control or by mandamus in the New Mexico Supreme Court and various district courts. One significant writ was brought by a state employee challenging language in last year's General Appropriation Act. Through the division's representation of the GAO, LFC and DFA, the writ was denied, and the legislation was upheld. Additionally, the Litigation Division is responsible for tracking, investigating and researching about 130 cases that have been brought under the New Mexico Fraud Against Taxpayers Act. While many of these cases are filed in other districts in federal court, the division actively monitors or reviews all of the cases brought under the Act that were filed in any New Mexico court.

Cases

In 2009, the Attorney General's Office represented the State Treasurer's Office and the New Mexico Finance Authority in litigation against The Reserve, the manager of the Primary Fund, a money market fund in which both the Treasurer's Office and the Finance Authority invested substantial sums. The lawsuit sought the return of approximately \$87.5 million from a fund The Reserve had established to pay its legal fees and expenses in connection with litigation stemming from the performance of the Primary Fund. That lawsuit ended with the entry of an order requiring The Reserve to distribute, on a pro rata basis, all of the money still remaining in the Primary Fund, including the funds the Treasurer's Office and Finance Authority had sought in their claims.

Through the Litigation Division, the State reached a settlement with drug maker Eli Lilly and Company for \$10.5 million. The settlement was compensation for Lilly's practice of fraudulently marketing its anti-psychotic drug, Zyprexa for unapproved uses, and for inadequately labeling the drug to warn about its serious side effects.

The AGO also represented the Secretary of State's Office in all of its election-related litigation including: (1) a ballot access case filed by two minor parties and their candidates; (2) a case challenging the constitutionality of New Mexico's regulations on the activities of third party voter registration agents; (3) a case involving New Mexico's compliance with certain provisions of the National Voter Rights Act of 1993; and (4) litigation concerning the constitutionality of New Mexico's regulatory scheme governing electioneering communications by non-profit organizations. This last lawsuit, styled New Mexico Youth Organized, et al. v. Herrera, involves the constitutionality of NMSA 1978, Section 1-19-26(L) and is currently on appeal with the Tenth

Circuit Court of Appeals. The case has significant implications for New Mexico's ability to regulate, through required disclosures, the electioneering activity of non-profit groups that only occasionally engage in such activity.

The division received a favorable decision in the Cuba Soil case from 10th Cir. holding no private cause of action under the federal Mineral Rights Act, and then filed briefing to oppose a Petition for Certiorari to the Supreme Court. The petition was denied by U.S. Sup.Ct. in 2009.

In July, division staff successfully defended litigation, on behalf of the state and the Educational Retirement Board, brought by AFCME challenging the public employee retirement contribution shift legislation. The court denied the Plaintiff's request for preliminary injunction and the state and ERB have motions to dismiss currently pending. Plaintiffs have taken no action of any kind since the denial of the application for a preliminary injunction.



Zangara Dodge brought a challenge to the NM regulations governing vehicle tailpipe greenhouse gas emissions that has been vigorously defended by this office. As a part of a national settlement between federal EPA and the auto manufacturers, the AGO's case has been stayed until May, 2010. The expected result is dismissal of the claims.

Interested parties brought constitutional challenge to the statute prohibiting cockfighting in NM and the Litigation Division defended the legislation. The trial court dismissed the action holding the statute constitutional. On appeal to the NM Court of Appeals, the decision was affirmed with a favorable opinion.

This division also defended a massive class action challenge by pharmacists to NM statutes governing the Medicaid program to reimburse pharmacists, which would have ultimately cost the state millions of dollars, had the state not prevailed.

Bankruptcy

The division's bankruptcy specialist assistant Attorney General James C. Jacobsen represented the interests of the State in 149 bankruptcy cases filed in New Mexico during 2009, as well as hundreds of cases still pending from years past. In cooperation with attorneys from the Water, Environment and Utilities Division, and governmental attorneys from around the country, he represented the State in the ASARCO bankruptcy, which resulted in full payment of the State's million dollar environmental claims. He chaired the Local Rules Advisory Committee that extensively revised the Local Rules for the Bankruptcy Court, District of New Mexico. In an honor highly unusual for governmental attorneys practicing in commercial areas of the law, Jacobsen was named the New Mexico Business Weekly's 2009 Best of the Bar for bankruptcy law.

Antitrust

The Vitamins II case, litigated by this division in 2002, is pending preliminary approval in a D.C. federal court for a settlement in which NM's consumer share should be in excess of \$500,000 plus

attorneys fees for the administration of the settlement fund. The commercial class in NM will receive a similar amount. The consumer portion will be distributed to state agencies and/or private charities for the purpose of advancing nutrition.

Antitrust personnel participated in the FTC-NAAG symposium on Federal-State Antitrust Cooperation at Columbia University in New York City in October. Two weeks later the same personnel, plus Chief Deputy Albert Lama, also attended the week-long Attorneys General Education Program, hosted by the Public Policy Institute at Northwestern Law School in Chicago at no cost to the AGO or the State.

LOOKING AHEAD

The Litigation Division will continue to pursue its mission of providing professional legal representation for New Mexico agencies and officials. Diligent enforcement of the terms of the tobacco industry's Master Settlement Agreement and state tobacco enforcement statutes will be further enhanced using the new legal tools provided by legislation in 2009. The division also seeks to expand its role in initiating lawsuits generated by other divisions of the Attorney General's Office and if the division's legislative-controlled budget permits, more litigation can be undertaken that would generate revenue for the state from potential settlement funds.



MEDICAID FRAUD & ELDER ABUSE DIVISION

VISION

The Medicaid Fraud and Elder Abuse Division of the Attorney General's Office is certified by the federal government to investigate and prosecute the abuse, neglect and exploitation of Medicaid recipients. Federal law requires states that receive Medicaid funds to have a federally certified Medicaid Fraud unit that is completely independent of the state agency that receives and disburses Medicaid funds to providers. MFEA is comprised of 21 positions, including attorneys, nurse medical care investigators, CPA forensic auditors, law enforcement officers, information technology analysts, paralegals and support staff.



DIRECTOR
ELIZABETH
STALEY

Our prosecutions protect residents in care facilities that receive Medicaid funding as well as the elderly, developmentally disabled and others who receive Medicaid-funded-in-home services. Medicaid payments that are made improperly to providers are recovered by the division and returned to the New Mexico Human Services Department to be used to provide Medicaid services.

MFEA also works:

- To establish collaborative relationships in these areas with state and federal agencies through presentations, task forces and meetings.
- To continue to seek recoupment from pharmaceutical companies that violate Medicaid regulations and to participate in multistate and qui tam litigation to recover funds owed the New Mexico Medicaid Program.
- To collaborate with local law enforcement to enhance the reporting of allegations of abuse, neglect and fraud involving Medicaid providers.
- To make referrals to appropriate agencies of complaints that are outside the division's jurisdiction and to inform the complainants of the contact information for the authorities to which the Division refers those complaints.

YEAR IN REVIEW

The goal for 2009 to have a staff of credentialed professionals investigating and prosecuting Medicaid fraud, abuse and neglect was realized with the hiring of two CPA forensic auditors and a third nurse medical care investigator, all of whom were hired to fill existing positions. The management of the federal grant that funds MFEA was enhanced by having the division's first CPA/certified fraud examiner transfer within the division to become the grant administrator.

In 2009, the division received 347 complaints of fraud, abuse or exploitation by care or service providers, family members or others who prey on the elderly, ill or disabled.

2009 Medicaid Fraud Unit Highlights:

- 79 new investigations of fraud, abuse or exploitation opened (which is a 147 percent increase in the division's workload since 2008).
- Completed 44 investigations
- 7 convictions (four for fraud and three for abuse and neglect)

- 6 indictments
- Collections of more than \$1.05 million
- Identification of more than \$31.4 million in Medicaid program savings

One high profile case involved the successful prosecution of an Albuquerque nursing home – Laurel Canyon -- in February. The jury returned guilty verdicts of criminal abuse of a resident resulting in substantial pain or incapacitation and alternative charge of neglect stemming from a case in which a resident died after he was allowed to lie on a bedpan for more than 24 hours on Christmas Day 2005.

In another case, Albuquerque dentist Lilian Jaime pleaded guilty to three counts of Medicaid Fraud in a case involving allegations of inadequate dental treatment provided to Medicaid patients over the course of four years. She was ordered to return funds to the New Mexico Medicaid program. The dentist and her corporation still face a civil action by the Medicaid Fraud and Elder Abuse Division for the recouping of \$700,000 in additional Medicaid funds.

Additionally, the Division Director and prosecuting attorney were invited to provide training on the criminal prosecution of corporate Medicaid providers to the National Association of Medicaid Fraud Control Units in September.

LOOKING AHEAD

The division continues to emphasize appropriate criminal prosecution of providers who commit monetary Medicaid Fraud and abuse and neglect of Medicaid recipients. Maltreatment of developmentally disabled New Mexicans remains a special focus, and there are pending criminal charges against a caregiver in a DD community program.

Division staff is focusing on prosecution of abuse and neglect in nursing homes with heightened emphasis on unnecessary deaths.

Active collaboration continues with other agencies that deal with Medicaid fraud, abuse or neglect to address common issues and facilitate joint prosecutions.

Other Goals in 2010:

- Continue aggressively prosecuting the backlog of older complaints and cases with the goal of eliminating years-old files while not allowing newer complaints and cases to languish.
- Continue participation in the newly formed Multistate Qui Tam Working Group to maximize monetary recovery for the Medicaid Single State Agency utilizing Medicaid laws and regulations and the Fraud Against Taxpayers Act.
- Continue efforts to cement the relationships between agencies that deal with Medicaid matters through direct contact, meetings and investigation assistance with the goal of a continued increase the number of investigation referrals received.
- Continue to provide updated presentations and handouts to providers and clients to increase awareness of the Division's functions and capabilities among Medicaid recipients, family members and providers.
- Proactive facility visits to ascertain regulation compliance and recipient safety.
- Provide leadership to resolve the inconsistent programs and standards for medication aide assistance for vulnerable patients.

SPECIAL PROSECUTIONS DIVISION

VISION

The Special Prosecutions Division of the Attorney General's Office, with offices in Santa Fe and Albuquerque, prosecutes priority cases designated by Attorney General King, and serious violent felony offenses including homicides, sex crimes and crimes against children.

Special Prosecutions is emphasizing prosecution of Internet Crimes Against Children (ICAC) and expects to expand prosecutions statewide as a result of a federal grant award to the AG's Investigations Division to implement training programs for the prosecution of ICAC offenses. In addition, in October 2009 the Special Prosecutions Division was awarded a Violence Against Women Act grant to prosecute domestic violence, sexual assault and stalking.



DIRECTOR
MARY HELEN
BABER

YEAR IN REVIEW

Several challenging cases were resolved by jury trials and guilty pleas.

Since January 2009, the ICAC prosecutor indicted new cases involving possession of child pornography. Further investigation in a number of cases revealed that there was evidence of sexual abuse of children in addition to the original charges of possession of child pornography. The division has eighteen active ICAC cases (post indictment) and numerous cases pending investigation. Upon conviction, the defendants are required to register as sex offenders. The division collaborated with the United States Attorney's office in selected ICAC cases, obtaining significant sentences.

In May, Special Prosecutions assisted the Government Accountability Division in successfully prosecuting a public official for fraud and conspiracy. In September, a Santa Fe jury was unable to reach verdicts on multiple counts and acquitted on 6 counts after a long embezzlement trial involving two co-defendants. In October, another Santa Fe jury acquitted a Los Alamos driver of vehicular homicide.

In a mortgage fraud case, a woman who had prior convictions for violating the mortgage loan broker act, pleaded guilty to seven new felony counts including fraud (Unlawful Mortgage Company and Loan Brokers Act), forgery, fraud. She is scheduled for sentencing in early 2010.

LOOKING AHEAD

In the next two years, with the aid of a federal grant, the ICAC prosecutions unit plans on continuing statewide efforts to educate law enforcement and DA's offices in investigation and prosecution of Internet crimes against children. In furtherance of this goal, the ICAC Task Force has purchased equipment for state and local law enforcement, including prosecutors, to utilize in ICAC prosecutions. With the hiring of an additional full time ICAC prosecutor, the division expects to expand the number of cases prosecuted directly by the AG's office and to increase ICAC prosecutions by DA's offices across the state.

The Special Prosecutions Division was awarded a federal grant to prosecute domestic violence, sexual assault and stalking cases. Federal funds will finance the hiring of an experienced domestic violence and sexual assault prosecutor as well as a paralegal, both of whom will actively participate in prosecution and provide training to law enforcement and prosecutors statewide. The unit plans to assist in certain tribal prosecutions and state jurisdiction cases. The new unit will continue collaboration with the Governor's Domestic Violence Czar in pursuing legislative initiatives from the Attorney General and Governor.



The Special Prosecutions Division continues to review, investigate and prosecute challenging and high impact cases specifically designated by Attorney General King.

VIOLENCE AGAINST WOMEN DIVISION

VISION

The Violence Against Women (VAW) Division prosecutes specific crimes including domestic violence and sexual assault against women and children. The division also facilitates statewide training for law enforcement and other professionals. New Mexico continues to record high numbers of complaints involving domestic violence, including women murdered by men and sexual assaults. Additionally, one in four adult females in New Mexico has been the victim of stalking.



DIRECTOR
ANN BADWAY

YEAR IN REVIEW

VAW received a Department of Justice (DOJ) Grant to Encourage Arrest Policies and Enforcement of Orders of Protection. This 1.4 million dollar grant project involved an intensive study of enforcement of orders of protection in state and tribal jurisdictions in New Mexico. A task force comprised of representatives of law enforcement, prosecution and defense, judiciary, civil legal advocates, emergency dispatch, therapists, victim advocates, and other stakeholders collaborated to identify and adapt replicable best practice models for protection order enforcement.



VIOLENCE AGAINST WOMEN TRAINING

As a result, the Enhancing Enforcement of Orders of Protection in New Mexico, A Best Practices Guide for Law Enforcement, Prosecution and Courts, was drafted and approved by DOJ's Office of Violence Against Women. A training team conducted statewide Best Practices Guideline trainings. Nine trainings were conducted throughout the state (approximately 500 attendees). As of July 1, 2009, the Best Practices Guide, accompanying curriculum and training materials, is being utilized by the New Mexico Department of Public Safety Academy. Two additional training resources are being developed on access and issuance of orders of protection, in DVD format, for court clerks and judicial officers involved in the protection order process.

The following materials were also produced:

- A Best Practices Guide curriculum includes scenarios, statutes, special topics (firearms, minors, child support, and custody)
- Law Enforcement Guide for Handling Domestic Violence Cases(Flip Chart)
- Pocket sized card to assist in verifying and enforcing orders of protection

LOOKING AHEAD

In anticipation of the 30 day legislative session, the Attorney General sent a letter to the Governor requesting a Special Message for: Family Violence Protection Act Revisions; the Enforcement of Domestic Violence Protection Orders, and the HIV Testing for Offenders legislation. In addition, the Attorney General has presented these bills as his priorities to the Interim Courts, Corrections and Justice Committee and requested that the Committee endorse these bills.

WATER, ENVIRONMENT, & UTILITIES DIVISION

VISION

The Water, Environment & Utilities Division (WEUD) works to protect, preserve and recover New Mexico's fragile environment as well as our precious water and other natural resources. Division staff accomplishes this task through litigation when necessary and through unique cooperative efforts with stakeholders such as farmers, environmentalists, municipalities, industry and state and federal government agencies. In addition, WEUD represents the interests of New Mexico's residential and small business consumers in matters of natural gas, electricity and telecommunications regulation.



DIRECTOR
STEPHEN FARRIS

YEAR IN REVIEW

Water & Environment

Interstate Compacts

The State of New Mexico intervened in the Grand Canyon Trust case in federal district court in Arizona along with the other six states who are parties to the Colorado River Compact - Arizona, California, Nevada, Utah, Colorado and Wyoming. The case is a challenge by environmental groups to the operation of federal facilities on the Colorado River. The state intervened to defend existing environmental protections and to ensure that the compact was not violated. In addition, the Attorney General's Office continues to coordinate the multi-year legal and technical work necessary to defend against threatened interstate litigation on the Lower Rio Grande.

Desert Rock

On July 31, 2008, the Environmental Protection Agency (EPA) issued a permit under the Clean Air Act for the construction of the Desert Rock Energy Facility, a coal-fired power plant proposed to be built on the Navajo Reservation approximately 25 miles southwest of Farmington, New Mexico. WEUD was instrumental in winning the Desert Rock case at the Environmental Appeals Board level—resulting in the remand of a Prevention of Significant Deterioration Permit back to the EPA board so that the board could reconsider its action on several issues raised by Counsel for the State of New Mexico, lead by the Attorney General's Office.

Office of the Natural Resources Trustee (ONRT)

WEUD continues to provide legal counsel for the ONRT in support of its efforts to recover Natural Resource Damages (NRD) at sites with hazardous substance releases throughout the State. These efforts include ongoing negotiations to settle NRD claims at three Freeport McMoRan mines near Silver City, finalizing the consent decree for the Chevron MolyCorp NRD settlement for the mine near Questa, initiation of an NRD assessment at the Los Alamos National Laboratory, conduct of a NRD assessment for the Fort Wingate Depot Army facility, and startup of a NRD assessment for Rio Algom Mining's ten mines/mill in the Ambrosia Lake mining district.

Legal Actions

- *REE-CO v State of New Mexico Mining Commission, State of New Mexico Energy Minerals and Natural Resources Department, Bill Brancard, Holland Shepherd and James Hollen*

Ree-CO deals with a uranium mining challenge to New Mexico's authority to apply state mining law against a federal applicant for rights under the 1872 Mining Act.

- *ASARCO Bankruptcy*

The Asarco bankruptcy proceeding, ongoing since 2005, concluded in December 2009. New Mexico received \$3.6M under the terms of approved settlements, in the form of cash payments and contributions to a custodial trust to be used for remediation, restoration, and reclamation of New Mexico's environment and natural resources at various sites.

- *State of New Mexico v. Amerada Hess et al., (MTBE Case)*

The Attorney General's Office reached a settlement with Exxon Mobil and Navajo Refining Company after bringing suit against these companies for damages to soil and groundwater caused by the release of MTBE into the environment in New Mexico.

- WEUD is instrumental in the representation of the OSE in Tri-State Generation and Transmission Association, Inc. v. D'Antonio, currently before the New Mexico Court of Appeals.



Utilities

PNM Cases

The Attorney General's Office intervened in the two electricity rate cases filed at the Public Regulation Commission in 2009. El Paso Electric Company (EPE) sought a rate increase of \$12.6 million; Southwestern Public Service Company (SPS) sought an increase of \$24 million.

After negotiations between the utility, the Attorney General, staff of the Public Regulation Commission and others, both of these rate cases were settled for approximately half of the increase initially sought by each utility. Both of these settlement agreements were approved by the Public Regulation Commission, and in each case the utility also agreed not to seek another rate increase for at least a year. There were many other elements of the settlements, but among the most significant for energy policy were rate design changes which will reflect the actual cost structure of the utilities, and are intended to promote consumer efficiency and conservation.

Telecommunications

In the Qwest "alternative form of regulation" proceeding, the AGO advocated for a rate freeze and increased investment commitments from Qwest. The goal of this advocacy is to assure that rural New Mexicans have equal access to the Internet. The PRC granted the AGO's request for increased investment in rural areas and also imposed a rate increase that the Attorney General opposed.

The Attorney General continued to advocate for the Low Income Telephone Assistance Program, to assure that all New Mexicans have access to basic voice telephone service.

The AGO presented facts and analysis to the New Mexico Public Regulation Commission concerning the state of telecommunications competition in New Mexico. According to a recent Federal Communications Commission report, New Mexico ranks last in the nation in terms of competitive penetration. Given that much of the impetus for deregulation came from the hope that competition would eliminate monopolistic abuse that comes from ownership and control of the network, it is vital for the PRC to be fully apprised of the dismal nature of telecommunications competition in New Mexico.

During the legislative session, AGO supported efforts to expand heating assistance to low-income New Mexicans.

Environmental Crimes Unit (ECU)

For the ECU in 2009, 23 complaints opened. Highlight is the statewide information campaign regarding environmental crime, including the unveiling of an ECU tip-line, ECU online complaint service and an informative brochure to assist constituents in identifying and reporting environmental crimes.



LOOKING AHEAD

In 2006, the State of New Mexico (Dept. of Information Technology, the Attorney General’s Office and Qwest entered into the “Second Amended Settlement Agreement”, a \$265 million agreement wherein Qwest agreed to upgrade old and deteriorating outside infrastructure, upgrade inter-office facilities and other improvement to the network. AGO continues to monitor progress under that agreement.

Most work of the Water, Environment and Utilities Division is ongoing and long term. Some litigation can take many years. Additionally, WEUD’s collaborative efforts to protect New Mexico’s interests involve projects that require long-term planning and implementation. These efforts are continuing and, as new issues arise, they will be handled in ways that protect and preserve New Mexico’s environment, natural resources, utility consumer interests and the health and welfare of the state’s residents.

PROTECTING THE YOUTH OF NEW MEXICO

In 2009, the New Mexico Attorney General's Office created and participated in several initiatives targeting the youth of the state on a number of different subjects including drug abuse prevention, underage drinking, and cyber safety.

METHAMPHETAMINE

The Attorney General's Methamphetamine Abuse and Prevention Initiative progressed with continued statewide education/outreach efforts before thousands of youth and their parents. The outreach program utilizes an educational guide and a visual/audio presentation which focuses on educating teens and parents on the effects of Meth. Parents are urged to use the guide and information from the presentation to talk to their teens about Meth. In 2009, the AG's office reached 11,725 teens and parents. In the coming year, the anti-Meth effort will expand again with a statewide "Train the Trainer" program aimed toward law enforcement, legal, and community organizations that will spread the AG's initiative throughout their local communities across New Mexico.



UNDERAGE DRINKING

Attorney General King helped fund and support a statewide video contest for teens aimed at discouraging underage drinking in New Mexico. The AG believes young people may be more inclined to listen to their peers about the perils of drinking alcohol before the law says they can, therefore, the contest was a good way to reach them with that message. The AG's Office, advocacy group, New Mexico Voices for Children and Web-based organization, The ūPublic, (www.theupublic.com), collaborated on the first By Youth For Youth video contest on underage drinking prevention.

Meanwhile, the Attorney General continued to advocate for underage drinking legislation in the 2009 legislative session that would:

- Adjust the tax on flavored malt beverages, known as "alcopops."
- Give every NM county the option for taxing alcohol at a higher rate rate to generate revenue for substance abuse programs.
- Ban alcohol with caffeine and other stimulants, a.k.a., alcohol "energy" drinks.
- Prohibit alcohol consumption by minors.
- Regulate alcohol advertising to young people.

INTERNET SAFETY

The Attorney General's Office continued its statewide education and outreach presentations about Internet safety and associated behaviors practiced by teens and other young people. 2009 saw the introduction of a new publication from the AGO that deals with Internet cyberbullying, a growing problem among youth. This new Cyberbullying trifold is now included in the presentation, accompanied by the Internet Safety guide for teens and parents, which targets middle school students

and covers topics such as cyber predators and protecting personal information online. In 2009, the AG's office reached 6,447 individuals across the state to teach them about safety on the Internet.



2009 IN PICTURES



ALCOHOL AWARENESS VIDEO
CHALLENGE AWARDS



SPECIAL OLYMPICS LAW ENFORCEMENT
TORCH RUN



PART OF THE METH AWARENESS TASK
FORCE AT THE NMPSA CUMBRE AWARDS



FORECLOSURE PRO BONO TRAINING



WEBWISE KIDS: PARENTS INTERNET SAFETY PROGRAM ROLL-OUT



GOLF TOURNAMENT FUNDRAISER FOR THE SPECIAL OLYMPICS LAW ENFORCEMENT TORCH RUN



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