

ARTICLES FOR 5-20-16 ROUNDUP

CWAG Supports Mexico's Transition to an Oral Adversarial Criminal Justice

Building a successful prosecution depends on each member of the investigative and prosecutorial team, starting with the first response to the scene of the crime, and continuing until a conviction is obtained.

That is the message Al Lama, National Association of Attorneys General (NAAG) chief of staff and National Attorneys General Training and Research Institute (NAGTRI) senior program counsel, and fellow instructors shared with Mexican state attorneys general personnel during a March team training held by the Conference of Western Attorneys General (CWAG) in Mexico City.

As Mexico transitions from an inquisitorial justice system inherited from Spain and France, to its new oral, adversarial criminal justice system, its actors require new skills. Through the CWAG Alliance Partnership, CWAG has organized volunteers from state attorneys general offices in the United States to work with their Mexican counterparts for more than seven years, to help their personnel acquire the skills necessary to success in the new system. As the June 18 deadline for the constitutional reforms looms, the pace of implementation of the reforms is frantic.

The CWAG Alliance Partnership is a cooperative program involving CWAG, NAAG, the U.S. Department of State's Bureau of International Narcotics and Law Enforcement Affairs (INL), and other public and private entities aimed at strengthening international relationships with state attorneys general offices in the United States, by supporting rule of law projects such as reinforcing judicial systems with greater efficiency and transparency; offering training programs that promote effective investigation and prosecution of transnational crime; and promoting collaboration among attorneys general from participating countries. Additionally, the CWAG Alliance Partnership Exchanges seek to bring together industry and public sector officials to foster increased international collaboration on issues such as human trafficking, cybercrimes, and intellectual property rights.

Since 2008, the CWAG Alliance Partnership has held more than 200 exchanges and events for law enforcement in Mexico, bringing together public and private sector experts and resources to reach more than 26,000 prosecutors, investigators, forensic scientists, judges and other members of the legal community in order to strengthen the rule of law in both countries.

During this latest training, Al Lama and his fellow instructors explored the dynamic of working as a team to investigate and bring a case to trial with a group of 23 Mexican state prosecutors, investigators, and forensics experts from areas as diverse as San Luis Potosí, Tabasco and Puebla as well as Mexico City. In most of Mexico, criminal investigators and forensics experts are part of the each state's Attorney General's Office, which has the primary responsibility for criminal prosecutions.

While transparency and efficiency are shared aims, Mexico's new criminal justice system is not a copy of the U.S. system. The Mexican system has no citizen juries; cases are presented to a panel of three judges. The victim's right to independent legal representation and to full financial restitution is enshrined in the constitution. The suspect can only be interrogated by a prosecutor and is not required to submit to cross-examination even if he chooses to make a statement during trial. The prosecutor has constitutionally-mandated principal responsibility for directing criminal investigations.

With these differences in mind, CWAG focuses on the transferable skills that will be needed in the new system. Working together as a team is a fundamental requirement for success. From the first response to the crime scene and throughout the investigation, prosecutors, police investigators, and forensics experts must coordinate the preservation and processing of evidence, the development of the theory of the case, and the preparation of witnesses and exhibits for trial.

Police investigators and forensics scientists will become polished public speakers and credible expert witnesses in their respective fields. Clear and concise opening statements, organized direct examinations, effective use of evidentiary exhibits, incisive cross-examinations, and persuasive closings will all be part of the repertoire of successful prosecutors. These skills and abilities are prerequisites in any adaptation of an oral, accusatorial criminal justice system.

Closing out the week of sharing experiences and advice, Al and the other instructors led the participants through a simulated oral trial, complete with witnesses and evidence. At the closing ceremonies, Al wished them much success, “We hope you find these new skills useful, and take them with you to your respective agencies and incorporate them into your new roles.”

Attorney General, Bureau of Indian Affairs, Tribal Law Enforcement, Service Providers & Coalition to Stop Violence Against Native Women Work to Combat Human Trafficking on Native American Lands

Albuquerque, NM – This week, prosecutors and special agents from the Office of the Attorney General joined the Bureau of Indian Affairs, tribal law enforcement agencies, service providers and the Coalition to Stop Violence Against Native Women (CSVANW) to combat human trafficking on Native American lands in New Mexico. The working conference, Sex Trafficking in Indian Country, demonstrates the critical importance of federal, state and tribal entities working together with service providers to attack human trafficking and protect victims on tribal lands in New Mexico.

“Human trafficking is modern-day slavery and the perpetrators prey on New Mexico’s most vulnerable populations,” New Mexico Attorney General Hector Balderas said. “Our partnerships with the Bureau of Indian Affairs, tribal entities, service providers and the Coalition to Stop Violence Against Native Women are key to preventing and prosecuting human trafficking across our state.”

"Human trafficking knows no borders. As such, inter-agency collaboration is vital to our efforts to foster safe and thriving Native communities," said Lawrence S. Roberts, Acting Assistant Secretary – Indian Affairs in the U.S. Department of the Interior. “I want to thank all of our partners for standing with us in addressing this national issue and working proactively to bring perpetrators to justice. Collectively, we will continue to do all we can in collaboration with tribes in New Mexico and across Indian Country to ensure the health and welfare of those communities.”

“Ensuring the safety of our Native women and children in New Mexico is one of our highest priorities at the Coalition to Stop Violence Against Native Women. The issue of sex trafficking of our most vulnerable, our women and children, extend well beyond any jurisdiction and needs to be addressed at all levels. CSVANW is pleased with the level of collaboration and united front that we have established with our state, tribal and federal partners. We are honored to work in partnership with the New Mexico Office of the Attorney General to take meaningful steps together to address and respond to trafficking of our Native women and children in New

Mexico,” said Deleana OtherBull, executive director of the Coalition to Stop Violence Against Native Women.

Other Bull continued, “Combatting trafficking calls for shared responsibility and coordinated action. The past two days of training has been an important opportunity for that kind of collaboration and we must continue to work diligently together. CSVANW remains committed in this work to bring broader awareness about trafficking in our communities and work to ensure safety of our women and children.”

If you are a victim of human trafficking or would like to report suspected human trafficking, call the Office of the Attorney General’s Special Investigations Division at 1-866-627-3249, text the 505-GET-FREE hotline, The Life Link’s Anti-Human Trafficking Initiative, or the National Human Trafficking Resource Center hotline at 1-888-373-7888.

For more information regarding the Coalition to Stop Violence Against Native Women please visit www.csvanw.org.

Attorney General’s Arguments Upheld in Unanimous U.S. Supreme Court Ruling

In a unanimous ruling, the U.S. Supreme Court upheld Montana’s argument that a delay in sentencing does not violate a person’s constitutional right to a speedy trial. On March 28, Montana Solicitor General Dale Schowengerdt presented this argument to the Court on behalf of the Attorney General’s Office.

Attorney General Tim Fox issued the following statement regarding today’s ruling:

“In its unanimous ruling, the U.S. Supreme Court affirmed the arguments made by the Montana Attorney General’s Office. While this office certainly recognizes the need for sentencing to occur as quickly as possible after conviction, the Court agreed with us that a sentencing delay does not violate a person’s constitutional right to a speedy trial. I am grateful to Solicitor General Dale Schowengerdt, who argued before the Court in March, as well as Assistant Attorneys General Mark Fowler, Tammy Hinderman, and Jonathan Krauss, who invested their time and talent into developing a strong case on behalf of Montana. As a result of their hard work, this case will have an impact on jurisprudence throughout the country.”

ATTORNEY GENERAL LAXALT CELEBRATES NATIONAL MILITARY APPRECIATION MONTH BY EXPANDING SERVICES OFFERED BY THE OFFICE OF MILITARY LEGAL ASSISTANCE

Department of Defense Names Nevada’s First-of-its-Kind Office of Military Legal Assistance a Best Practice Program and a Model for 49 Other States

Carson City, NV – This month, Nevada Attorney General Adam Paul Laxalt celebrates National Military Appreciation Month and reminds Nevada’s military service members, families and veterans to take advantage of new services offered by his first-of-its-kind Office of Military Legal Assistance. Launched in November 2015, the Office is the nation’s first attorney general-led, public-private partnership offering our military communities access to pro bono civil legal services. Recently, the Department of Defense named the Office a “Best Practice Program,” and recommended that the program be duplicated in states throughout the country.

The program pairs Nevada's active duty, Guard and reserve service members with local attorneys to receive legal assistance for civil matters including: consumer fraud, military rights, immigration, landlord/tenant, predatory lending and creditor/debtor issues. Nevada veterans may also receive assistance with wills and powers of attorney.

The Office of Military Legal Assistance was officially launched in November 2015. To date, the program has helped military personnel and veterans handle over 210 pro bono matters, including an array of pro bono litigation matters and estate planning matters by volunteer attorneys. Recently, the program teamed up with Nevada Legal Services to create collaborative workshops dedicated to drafting free wills and powers of attorney for veterans. Workshops will take place throughout the state, with an upcoming workshop opportunity on May 23 at Las Vegas' Texas Station from 10 to 4 p.m.

"The liberties we enjoy today are the result of ongoing vigilance and personal sacrifices made by our service members and families past and present," said Laxalt. "The Office of Military Legal Assistance is dedicated to giving back to our local military heroes by providing them with free legal services, and I'm honored it has been named a 'Best Practice Program' by the Department of Defense. It is my hope that this program will demonstrate a commitment to our military communities, and that eligible Nevadans will take advantage of these services."

Wills and powers of attorney workshops take place once a month throughout the state. Future workshops will be held in Carson City, Churchill County, Douglas County, the City of Henderson, Humboldt County, Laughlin, Lyon County, Mesquite and Nye County. For more information about the program, visit nvagomla.nv.gov. Individuals looking for more information on upcoming workshop opportunities should email HCooney@ag.nv.gov.

Vermont attorney general assists Google in ban of payday loan advertising

Vermont Business Magazine

Google announced ([link is external](#)) that it will ban advertising for high-interest personal loans, sometimes referred to as "payday loans." In 2014, as part of a statewide crackdown ([link is external](#)) on high-interest lending, the Vermont Attorney General Office's collaborated with Google. Over the past two years, Vermont identified ([link is external](#)) for Google hundreds of online lenders who violated Vermont or other state law by: (1) charging excessive interest, often 300% APR or more; or (2) failing to obtain a license as required by Vermont and other states that regulate personal loans. Consequently, Google disabled advertising for the identified illegal lenders.

"I am pleased that Vermont led the states in working with Google to stop online advertising by predatory lenders," said Attorney General William Sorrell.

Now, Google has taken a further step and simply banned advertising for all personal loans that charge over 36% annual interest or require repayment in under sixty days. The ban goes into effect July 13, 2016. Attorney General Sorrell applauded Google's announcement: "Google's advertising ban is a critical tool for consumer protection. The ban will prevent consumers from being deliberately targeted by the seller of a deceptive and harmful financial product."

When smuggling Colo. pot, not even the sky's the limit

Trevor Hughes, USA TODAY

DENVER – If you can dream up a way to smuggle marijuana out of Colorado, chances are someone else has already tried it: Cars and trucks. Potato chip bags and jars of peanut butter. The U.S. mail.

Not even the sky is the limit: A pilot last year confessed he used his skydiving planes to deliver nearly a ton of pot to buyers in Texas and Minnesota, court records show.

Authorities say growers are using loopholes in Colorado's legal cannabis system to produce marijuana destined for illegal export, tempted by the high prices that Colorado's high-grade marijuana commands on the black market, including convenient and discreet marijuana-infused candy.

And with margins of as much as 300%, smugglers are willing to take big risks.

"What we're hearing from out of state is that that best dope around is Colorado dope," says Tom Gorman, director of the Rocky Mountain High Intensity Drug Trafficking Area task force, which operates in Colorado, Utah and Wyoming. "It's high quality, and then you have the edibles and the hash oil."

The flow of high-quality marijuana out of Colorado has already prompted a lawsuit from the attorneys general in Nebraska and Oklahoma, who say their local jails are being overwhelmed by smugglers getting caught with Colorado pot. The U.S. Supreme Court in March declined to hear that lawsuit, and officials in Nebraska and Oklahoma are considering their options.

That's put Colorado authorities in the position of defending the state on the very issue its neighbors had griped about before it legalized marijuana: that it would foster more criminal activity. Legalization advocates argue that smuggling would stop if other states would simply change their laws to reflect the reality that marijuana is a widely used drug.

"These guys are on the wrong side of history," said Mason Tvert of the national Marijuana Policy Project.

But marijuana remains illegal in every state surrounding Colorado, and law enforcement in those neighbors are looking for it. The sheriff in Deuel County, Neb. has an evidence room piled high with Colorado marijuana his deputies have confiscated from drivers crossing the border.

"A big decision a jurisdiction has to make is how much money they want to put into going after those who participate in the black market or the grey market," said Beau Kilmer, the co-director of the RAND Drug Policy Research Center in Santa Monica, Calif. "It's not a surprise this is an issue."

Gorman's task force says investigators in 2014 made 360 seizures of Colorado marijuana destined for other states, a nearly 600% increase in the number of individual stops in a decade, seizing about 3,671 pounds in 2014. But those seizure reports are only from statewide agencies, not smaller police departments that also make seizures during traffic stops. Of the 360 seizures reported in 2014, 36 different states were identified as destinations, the most common being Kansas, Missouri, Illinois, Oklahoma and Florida.

While Colorado law makes growing and possessing small amounts of marijuana legal, it's still illegal to grow massive quantities without specific state approval, and all sales are supposed to stay within the regulated marketplace. Last year, investigators arrested 32 people and seized more than two tons of marijuana and \$10 million in cash -- from a single marijuana-smuggling operation.

"Illegal drug dealers are simply hiding in plain sight, attempting to use the legalized market as a cover," Colorado Attorney General Cynthia Coffman said.

There is confusion over the law as well. Cops in neighboring states say some people they catch with Colorado marijuana show a receipt to prove they bought it legally — apparently forgetting that Colorado law makes it illegal to take that pot across state borders.

Attorney General Kamala D. Harris Announces Indictment of Plains All-American Pipeline on Criminal Charges Resulting From May 2015 Santa Barbara County Oil Spill

SANTA BARBARA - Attorney General Kamala D. Harris and Santa Barbara County District Attorney Joyce E. Dudley today announced that Plains All-American Pipeline has been indicted by a grand jury on 46 criminal charges related to the May 2015 oil spill in Santa Barbara County. A Plains All-American Pipeline employee was also indicted on 3 criminal charges.

On May 19, 2015, a pipeline operated by Plains All-American Pipeline ruptured, releasing into the environment approximately 140,000 gallons of heavy crude oil onto land, beaches, and the Pacific Ocean near Refugio State Beach. Federal, state and local governments have spent millions of dollars to clean up the spill, which resulted in substantial damage to natural habitats and wildlife over a large area.

Attorney General Harris partnered with local and state law enforcement agencies to conduct a criminal investigation and jointly prosecute the criminal case with Santa Barbara County District Attorney Dudley.

"Crimes against our environment must be met with swift action and accountability," said Attorney General Harris. "The carelessness of Plains All-American harmed hundreds of species and marine life off Refugio Beach. This conduct is criminal and today's charges serve as a powerful reminder of the consequences that flow from jeopardizing the well-being of our ecosystems and public health."

On May 16, 2016, a grand jury indicted Plains All-American Pipeline on 46 charges, including 4 felony charges and 42 misdemeanor charges. The company was charged with felony violations of state laws regarding the spilling of oil and hazardous substances into state water. Both the company and James Buchanan, an employee, were charged with misdemeanor violations for failing to provide timely notice of the oil spill to the Office of Emergency Services. In addition, the company was indicted on three dozen misdemeanor charges linked to the spill's impact on birds and mammals.

"This indictment came as a result of many local and state agencies working together to present both inculpatory and exculpatory evidence to a hard-working Santa Barbara Grand Jury," said District Attorney Dudley. "The indictment is a response to the evidence presented and speaks to the alleged criminal culpability of both the corporation and an individual who are alleged to have

caused harm to Santa Barbara County's magnificent natural surroundings and death to some of its majestic wildlife."

Plains All-American Pipeline faces up to \$2.8 million in fines plus additional costs and penalties.

Attorney General Harris and District Attorney Dudley launched a joint criminal investigation 72 hours after the spill was discovered and in June, Attorney General Harris traveled to the site of the spill and met with command staff leading the cleanup and investigation. More information is available here: <https://oag.ca.gov/news/press-releases/photo-release-attorney-general-kamala-d-harris-tours-oil-spill-clean-refugio>.

In 2011, Attorney General Kamala D. Harris joined federal, state, and local officials in securing a comprehensive settlement with the owners and operators of the M/V Cosco Busan over the major 2007 oil spill in the San Francisco Bay.