**ARTICLES FOR 05-14-15 ROUNDUP**

**Tennessee's top lawyer named partner at firm**

May 8, 2015, 9:55am CDT

The former attorney general for Tennessee has returned to the private sector.

After 12 years of service in the state government, Robert “Bob” E. Cooper Jr. rejoins Bass, Berry & Sims PLC as a partner in its Nashville office. Cooper worked for the firm from 1984 to 2003 before becoming Gov. Phil Bredesen's legal council from 2003 to 2006. Cooper then served as the Tennessee attorney general from 2006 to 2014.

“It is a great place to come back to, and it’s nice to be reunited with friends,” Cooper said.

There’s a new attempt to get an elected AG in Tennessee

Cooper will work in the firm’s interdisciplinary Compliance & Government Investigation Practice Group and represent clients across the U.S. on issues pertaining to fraud and abuse, with a focus on the health care industry.

“A lot of what I will be trying to do is help those clients understand that law so they can operate in compliance and not face any problems with the government,” Cooper said. “But if that situation arises, I think it is helpful to act as a facilitator and help the two sides understand.”

Cooper is active in the Society of Attorneys General Emeritus and also works as an adjunct professor at Vanderbilt University Law School. He received his law degree from Yale Law School and his undergraduate from Princeton University.

Bass, Berry & Sims employs more than 220 attorneys across Nashville, Memphis, Knoxville and Washington, D.C.

**Cozen O’Connor launches New State Attorneys General Practice**

Cozen O’Connor is proud to announce the addition of 10 attorneys and government professionals to its Washington, D.C., office and the formation of the firm’s State Attorneys General Practice. Bernard Nash and Lori Kalani will co-chair the practice.

Nash and Kalani are joined by partners JB Kelly, Milton Marquis, Maria Colsey Heard, Ann-Marie Luciano and Chris Allen; senior adviser Chris Tampio; associate Bryan Mosca; and AG policy coordinator Emily Lundahl.

The nation’s leading State Attorneys General Practice has decades of experience representing companies on legal and policy matters brought by state attorneys general across the country including defending our clients against litigation, qui tam actions, and investigations (both multistate and federal co-enforcement actions) of business practices relating to antitrust, consumer protection, data privacy, and the environment.

With the addition of the State Attorneys General Practice, Cozen O'Connor now has more than 55 attorneys and government relations professionals in our Washington, D.C., office.

**Arizona Attorney General Brnovich Visits Sonora Attorney General Navarro**

Sonora, Mexico - Arizona Attorney General Mark Brnovich took a trip to Sonora, Mexico earlier this week. He met with Sonora Attorney General Carlos Navarro, Sonora Governor Guillermo Padres Elias, and President of the Sonora Supreme Court Juan Sebastian Sotomayor Tovar, among other government officials. Brnovich spent two days visiting with Navarro in Hermosillo, Sonora. The meeting was organized by the Conference of Western Attorneys General to further discussions regarding cooperation between the neighboring states that began in Phoenix in March.

Governor Padres Elias shared his desire to continue the strong working relationship between Arizona and Sonora on economic, public safety, and law enforcement fronts through the remainder of his term and beyond the 2015 elections. Upon meeting with Supreme Court President Sotomayor Tovar, they discussed the challenges the judiciary is facing with the 2016 transition to the adversarial justice system.

Attorney General Brnovich believes that strengthening relationships with Mexican law enforcement and judicial officials is crucial to the long- term fight against criminal activity from human and weapons trafficking to piracy and drug sales.

“I appreciate the generous efforts and hospitality from Attorney General Navarro and the opportunity to further our dialogue regarding cooperation between neighboring law enforcement entities,” said General Brnovich. “I am grateful for the opportunity to work together on our mutual development and safety and look forward to ongoing discussions.”

"The bilateral relationship and communication that currently exist between our states (Sonora –Arizona) is of the utmost importance,” said Sonora Attorney General Navarro. “To further the successful collaborations between our two Attorneys General’s Offices, we must continue strengthening our institutional camaraderie."

**New Mexico attorney general to review police training goals**

By Russell Contreras

AP writer | Posted: Tuesday, May 12, 2015 7:00 pm

ALBUQUERQUE — The state attorney general said Tuesday he will review the curriculum of the New Mexico Law Enforcement Academy and seek ways to ensure officer discipline is handled appropriately.

In his announcement, Hector Balderas, who chairs the board that oversees the academy, said he also will examine whether the facility is following state transparency laws months after facing criticism for changes to curriculum.

Those changes came as the U.S. Department of Justice launched an investigation into Albuquerque police amid more than 40 police shootings since 2010.

The city saw a string of protests following the March 2014 fatal shooting of a homeless camper in the Sandia foothills that was caught on camera.

Chris Mechels, a retired Tesuque resident and critic of the Law Enforcement Academy Board, said the proposals by Balderas sounded like a great opportunity for reforms.

“Now he just has to convince the board,” Mechels said.

The eight-member New Mexico board came under scrutiny in September 2013 following a vote to give complete control over curriculum to Director Jack Jones. Jones shortened classes to 16 weeks from 22 and changed use of deadly force training, saying it would reduce police shootings in the state.

Jack LeVick, executive director of the New Mexico Sheriffs’ Association, said members s are in full support of Jones and the curriculum changes and welcome a review by Balderas.

“It’s nice to see an active member,” LeVick said. “We don’t have any stones to throw.”

Former Attorney General Gary King faced criticism from police chiefs for failing to oversee changes so the Law Enforcement Academy Board could discipline troubled officers. In addition, King was attacked for not being aggressive enough and for being disorganized.

Balderas said the review is needed amid protests in Ferguson, Mo., and Baltimore over the killing of suspects by police.

“I intend to be a thoughtful and active chair and expect that this will be among the most aggressive and active boards in the country,” Balderas said.

The board is set to meets in Española on June 9 and 10.

**South Dakota Supreme Court Unanimously Rules the Attorney General Has**

**Followed South Dakota’s Disclosure Law on the Benda Death Investigation**

PIERRE, S.D. – Attorney General Marty Jackley announces that the South Dakota Supreme Court unanimously ruled that the Attorney General has followed South Dakota’s disclosure law relating to the Richard Benda death investigation conducted by local, state, and federal authorities.

“The South Dakota Supreme Court, the Trial Judge, and the Chief Hearing Examiner, have all ruled the Attorney General has followed South Dakota’s disclosure law relating to the death investigation of Richard Benda. I am pleased that the Court has applied the rule of law, and recognized the balancing of open transparency with the privacy interests of the family members faced with a tragic situation. Although the Attorney General is allowed to receive court costs as the prevailing party, I have determined to not seek costs from the plaintiff in the interest of avoiding any potential effect it may have on open government transparency under these unique circumstances,” said Jackley.

The Supreme Court recognized that “When the Legislature enacted the South Dakota Public Records Act in 2009, it broadened the presumption of openness in regard to public records”. The Court went on to opine that confidential criminal justice information is specifically made confidential by state law, and concluded that “the evidence establishes that the Attorney General took into account the public’s interest in Benda’s death and weighed that against the personal privacy interests of the Benda family.”

“After today’s decision, the final remaining action is for me to publically address my disappointment in how the federal government has handled this matter. I have expressed my concerns to the Department of Justice regarding its conduct and the appearance of political motivation associated with the handling, timing and publicity regarding the investigation from Washington. The actions of the Department of Justice’s Public Integrity Section were unfair to local federal investigators who worked in cooperation with state and local authorities to properly investigate this matter. I will certainly work with the new administration at the Department of Justice to assist them in properly addressing these concerns,” said Jackley.

On October 3, 2014, Attorney General Jackley advised US Attorney General Holder regarding his concerns associated with the Department of Justice’s handling of the investigation into the EB-5 Visa Program in South Dakota. The Attorney General specifically requested a review into the investigation that was conducted by the Public Integrity Section of the Department of Justice and a determination of whether politics had inappropriately driven decisions associated with this matter. The Attorney General clearly stated that his “concerns neither pertained to nor are they directed toward any actions of the local federal authorities.” Attorney General Jackley provided General Holder with specific information pertaining to his concerns, including: the Department of Justice’s aggressive tactics including but not limited to openly serving subpoenas on cooperative witnesses at their place of employment; failing to attend previously arranged joint meetings with the South Dakota US Attorney’s Office, DCI Agents and the Governor’s Office of Economic Development private attorneys; and potential direct violations of the Rules of Professional Conduct governing attorneys practicing in South Dakota.

On February 3, 2015, having received no response, Attorney General Jackley renewed his request that these significant matters be reviewed and addressed in a timely fashion. To date, no response has been forthcoming. To view the correspondence from Attorney General Jackley to US Attorney General Holder please click on the link provided:

http://atg.sd.gov/LinkClick.aspx?fileticket=t5F3\_aPsQOk%3d&tabid=442

**Attorney General’s Office prevails in defending background check voter initiative**

May 7 2015

SEATTLE — Attorney General Bob Ferguson today announced that his office successfully defended Washington’s voter-approved Initiative-594, which expanded the state’s firearm background check requirements, against a challenge in federal court.

U.S. District Court Judge Benjamin Settle dismissed the case of Northwest School of Safety v. Ferguson, in which the plaintiffs argued that the recently enacted law is unconstitutional. The court found that the Plaintiffs had suffered no injury from I-594, and thus lacked legal standing to challenge the law.

“It is my job to stand up for and protect the will of the voters,” Attorney General Bob Ferguson said, “I am proud of the work my office has done in this case to defend the challenge to I-594.”

Initiative 594 passed with 59 percent of the vote in the November 2014 general election. It expands Washington’s law requiring background checks to cover all firearm purchases and transfers, with limited exceptions set forth in the Initiative.

**Governor Signs Attorney General Fox’s Bill Prohibiting Sale of E-Cigarettes to Minors**

Yesterday the governor signed Senate Bill 66, which prohibits the sale of electronic cigarettes, also known as e-cigarettes, to minors. The bill was sponsored by Sen. Diane Sands of Missoula and introduced at the request of Attorney General Tim Fox.

E-cigarettes, the use of which is often referred to as “vaping,” are battery-operated products designed to deliver nicotine to the user by heating liquid nicotine, derived from tobacco plants, along with flavors and other chemicals, into a vapor that the user inhales. Often e-cigarettes feature fruit and candy flavors, and the marketing includes cartoon characters and other imagery clearly targeted at a younger audience.

“E-cigarettes can be just as dangerous and addictive as traditional cigarettes, yet right now it is perfectly legal to sell them to minors in Montana,” Fox said. “The legislature did the right thing and took another important step toward protecting children, and I’m grateful to Sen. Sands for her hard work on this important bill.”

“This bill will help protect the health of our young people,” Sen. Diane Sands said. “E-cigarettes are often marketed to kids as harmless and the number of high school students who have tried e-cigarettes has tripled in one year. Our bill sends a strong message that nicotine is harmful in any form and our kids should not be smoking cigarettes nor ‘vaping’ nicotine in an e-cigarette.”

During legislative debate, some objected to the bill on the grounds that certain retailers already refuse to sell e-cigarettes to minors, while others argued that e-cigarettes can help people quit smoking.

“Some retailers in Montana already do the right thing and won’t sell e-cigarettes to minors, but in many communities they are still readily available to children in stores,” Fox pointed out. “In my own family,” he added, “I have seen the devastating effects of smoking and I know how difficult it can be to quit the habit. Fortunately, this new law will have no impact on adults who may find e-cigarettes a useful tool to help them quit smoking.”

According to the National Conference of State Legislatures (http://www.ncsl.org/research/health/alternative-nicotine-products-e-cigarettes.aspx), there are currently 42 states and one territory prohibiting sales of e-cigarettes or vaping/alternative tobacco products to minors.

Montana’s law takes effect on January 1, 2016.

**Utah Attorney General Sean Reyes to Testify at Congressional Hearing**

SALT LAKE CITY—May 11, 2015—Utah Attorney General Sean Reyes announced today he will testify on Thursday, May 14, 2015 at a Congressional hearing titled, A Pathway to Freedom: Rescue and Refuge for Sex Trafficking Victims, which will be held before the House of Representatives Foreign Affairs Committee, Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations. Reyes participated in a rescue sting operation with Operation Underground Railroad in Colombia where he and several others liberated over 120 young children from a modern-day sex slavery ring operated by a network of human traffickers. Operation Underground Railroad (O.U.R) Founder and CEO and former CIA agent and special agent for the Department of Homeland Security Tim Ballard, will also testify on the growth of NGO rescue operations and how organizations such as O.U.R. can complement government agencies in expediting human and child sex trafficking rescue and rehabilitation efforts worldwide.

“I applaud Congressman Smith and the many others who support legislation like this International Megan’s Law,” said Attorney General Reyes. “Protecting children and women from exploitation by providing advance notice of intended travel by registered child-sex offenders to the government of the country of destination is another powerful step toward stopping child-sex trafficking. Having witnessed such atrocities with my own eyes last October, I can tell you this deplorable multi-billion dollar industry continues to flourish and must be stopped. By advancing International Megan’s Law, I am hopeful we can significantly reduce sex tourism and human and child sex trafficking on a nationwide and global scale.”

According to the Congressional subcommittee on Africa, Global Health, Global Human Rights, and International Organizations which oversees human trafficking, the United States government runs sting operations abroad to catch U.S. pedophile sex tourists and rescue victims where there is a nexus to the United States but often has to look to others to conduct rescue operations or run investigations that fall outside U.S. government jurisdiction. Attorney General Reyes will focus his testimony on his Colombian sting experience, his own experience combating human trafficking in Utah and why current provisions in H.R. 515 are critical to reduce and prevent human and child-sex trafficking.

**California attorney general, UC chief direct schools to respond quickly to sex assault reports**

By CHRISTINE ARMARIO Associated Press

LOS ANGELES — California law enforcement and education leaders on Wednesday directed colleges to quickly notify authorities when a sexual assault is reported on campus, following criticism that incidents were being hidden by universities and not investigated thoroughly.

Attorney General Kamala Harris and University of California president Janet Napolitano released a template outlining cooperation between campuses and law enforcement agencies mandated under a state law passed last year.

The model guidelines include requiring agencies to test rape kits; better coordinate interviews so victims don't have to recount a traumatic experience multiple times; and make sure students are informed of their right to file a report — or not to.

"Part of the work we have done is to acknowledge that there are silos in our system," Harris said. "And we need to break through those."

The guidelines came amid ongoing scrutiny over the handling of sexual assault cases on U.S. campuses.

The new measure is one of several aimed at improving university and law enforcement responses to sexual offenses in California. It requires that a victim's name be withheld unless they give consent.

In a separate law, California became the first state to define when "yes means yes," requiring an "affirmative, conscious and voluntary agreement" to engage in sexual activity.

California is one of the only states requiring colleges to contact law enforcement in a sex assault case.

Federal lawmakers introduced a similar measure last year requiring all colleges and universities to have an agreement in place with local law enforcement, but that bill has failed to advance in Congress. Critics contend that approach contradicts existing federal statutes allowing sexual assault victims to decide whether law enforcement should be notified.

Some activists believe concerns about preserving victim discretion were sufficiently allayed in California by allowing a victim to remain anonymous when law enforcement is notified. Others expressed concern about how anonymous cases would be handled.

"I don't know what they expect law enforcement to do with it when they get it except keep a file that describes an incident," said Carol Tracy, executive director of the Women's Law Project in Philadelphia.

She added that even if an incident doesn't provide a name it could still potentially contain identifying information.

Reports of sex offenses on college campuses provided to the U.S. Department of Education nearly doubled between 2009 and 2013 — a rise department officials attribute to increased federal enforcement and growing public attention. Napolitano said reports at UC campuses have also increased, but she did not know if that meant incidents had as well.

Law enforcement and education leaders say sex crimes frequently go underreported.

As of Wednesday, there were 121 sexual violence cases at 111 campuses under investigation by the U.S. Department of Education, including 12 California colleges and universities.

California schools have until July 1st to enact policies ensuring law enforcement is notified.

Napolitano said all UC campuses would adopt the memorandum. She described the university's previous response system as "very episodic."

"Different campuses had different things," she said. "And quite frankly students at different campuses received different levels of services."

The model memorandum requires schools, local authorities, rape crisis centers and medical facilities to identify a central contact at each agency.

If a student chooses not to file a report with authorities, the document recommends contacting her or him again within 48 hours and making the student aware a case can be reopened on request. Students should be informed that they are entitled to a forensic exam at no cost and regardless of whether they want to pursue charges.

Caroline Heldman, a professor at Occidental College and co-founder of the campus group Faculty Against Rape, said the memorandum is a positive step, but the key to preventing future assaults is making sure students who commit a sexual assault are adequately disciplined.

"I don't think we'll see the change we need until we start treating this with more serious penalties," she said.

**Supreme Court Seeks Obama Administration Comment on Marijuana Case**

Oklahoma and Nebraska call Colorado’s legalization of pot a ‘cross-border nuisance’

By

Jess Bravin

WASHINGTON—The Supreme Court Monday asked the Obama administration to weigh in on a lawsuit brought by two states seeking to roll back Colorado’s legalization of recreational marijuana use.

Nebraska and Oklahoma want the Supreme Court to invalidate Colorado laws implementing a 2012 voter initiative. The states claim Colorado has created a “cross-border nuisance” by increasing the supply of marijuana that could flow throughout the region, something exacerbated by the Obama administration’s policy to avoid interference with state experiments in legalization.

The petition, filed last December, asks the justices to step in under their special power to resolve disputes between states without waiting for lower courts to weigh in first. Such cases, heard under the court’s original, rather than appellate, jurisdiction, usually have involved boundary or water disputes between states. Rather than conduct their own trial, the justices typically assign an expert to gather the facts and make recommendations.

“The administration’s wholesale disregard for the law led Oklahoma and Nebraska to sue Colorado to stop the stream of illegal marijuana flowing into our states as a result of Colorado’s legalization of the commercial production and sale of marijuana,” said Aaron Cooper, spokesman for Oklahoma Attorney General Scott Pruitt. Nebraska Attorney General Doug Peterson said he was “excited the court has recognized the importance of the issue to Nebraskans and I look forward hearing the federal government’s views.”

“As we argued in our brief, the federal government’s decision to defer to Colorado’s regulation of marijuana is at the heart of this case,” said Colorado Attorney General Cynthia Coffman. “We are pleased that the Supreme Court has asked the United States to explain its position on this litigation.”

All three state attorneys general are Republicans.

Colorado in court documents asked the Supreme Court to dismiss the case, arguing that a nationwide re-evaluation of marijuana policy is under way. About half the states have authorized at least medical use of marijuana or decriminalized individual possession, Colorado said, including Nebraska itself, which classifies first-time possession of an ounce or less as an infraction.

In addition to Colorado, Alaska, Oregon, Washington state and the District of Columbia have legalized recreational use of marijuana.

The U.S. Justice Department declined to comment. A legal brief putting forward the administration’s position isn’t expected for several months.

University of Texas law professor Sanford Levinson said odds were slim that the justices would allow Nebraska and Oklahoma to circumvent the normal process of filing suit in district court and appealing to circuit court before seeking Supreme Court review.

“The real lawsuit shouldn’t be filed against Colorado. It ought to be Nebraska and Oklahoma v. Lynch, to force the attorney general to enforce federal law which undoubtedly is supreme over Colorado law,” Mr. Levinson said.

Marijuana remains prohibited under the federal Controlled Substances Act, but the Obama administration, after some uncertainty in its early years, has adopted a hands-off policy toward enforcement in states that are regulating individual use. In a 2013 memo, the Justice Department said marijuana enforcement traditionally has been a state matter, and that federal narcotics priorities should be focused elsewhere.

The memo said that state legalization, when implemented with “strong and effective regulatory and enforcement systems,” would in general be let alone.

In 2005, the Supreme Court upheld the federal prohibition of marijuana under Congress’s power to regulate interstate commerce.

In addition to claiming Colorado’s legalization has increased the flow of marijuana into their states, Oklahoma and Nebraska contend it has undermined federal authority and U.S. obligations under international treaties.

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