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Attorney General Balderas' Criminal Affairs Update to Courts, Corrections & Justice Interim Committee

Albuquerque, NM – Today, New Mexico Attorney General Hector Balderas gave the New Mexico Legislature's Courts, Corrections and & Justice Interim Committee an update on the state of Criminal Affairs. Below are Attorney General Balderas' remarks as prepared for delivery:

- The Criminal Affairs section of the Office of the Attorney General has been structured to include all of our criminal divisions, which includes the Special Prosecutions Division, Special Investigations Division, Criminal Appeals Division and the Medicaid Fraud and Elder Abuse Division.
- All four of those divisions have overcome challenges and achieved many successes in the past nine months.
- We are nearly completely staffed with the positions we intend to fill in all of the Criminal Affairs Divisions and intend to be completely staffed by mid-November.

Medicaid Fraud and Elder Abuse Division

- I will start with our Medicaid Fraud and Elder Abuse Division and an update on the Behavioral Health Investigations that I know you are very interested in.
- During the last legislative session the Office of the Attorney General was granted a special appropriation of \$1.8 million from the Consumer Settlement Fund in order to expedite review of the behavioral health investigations
 - Since that award, the Office of the Attorney General has taken steps to ensure the process moves quickly and efficiently.
 - On June 3, 2015, we issued a Request for Proposals (RFP) soliciting contractors to assist with the behavioral health investigations.
 - We have chosen an auditing agency and recently formalized a contract on August 19, 2015.
 - The chosen auditing agency, McGladrey, has six months from the time of the contract award to complete the contract.
- We are proceeding with our litigation against one of the country's largest nursing home chains, alleging that the company's nursing homes failed to provide basic care to the

residents. The suit targeted a number of nursing homes run by Preferred Care, Inc. and the previous owner of many of those nursing homes, Cathedral Rock Corporation. **This case represents our efforts to protect the rights of vulnerable New Mexicans by ensuring that they are receiving the quality of care being paid for by public dollars.**

- With this interest in mind, based on multiple complaints about an Albuquerque nursing home, our MFCU executed its first unannounced nursing home inspection operation. We intend to continue to visit problematic nursing facilities throughout NM to investigate complaints of abuse, neglect, or exploitation.
- We are proceeding with expansion of our Medicaid Fraud Division to our regional office in Las Cruces. The NM MFCU requested an additional four positions in order to accomplish this expansion.
 - We have received approval by the federal government, who funds 75% of our expenses, for this expansion and will be seeking the remaining 25% funding from the legislature.
 - A significant amount of our resources, including investigator time, travel time and other travel expenses, are devoted to cases in the southern part of the state, concentrated in Las Cruces.

Special Prosecutions Division

- Our case load in the Special Prosecutions Division has grown substantially since I took office in January of this year.
 - The Division currently has approximately 49 cases pending trial, 12 post adjudication proceedings pending, 47 in review/pending indictment, in addition to several pending foreign extraditions.
 - Special Prosecutions also handles all sex offender parole review hearings for the State of New Mexico conducting 11 hearings this year to date. Of the 11 review hearings conducted this year, 10 parolees have remained on indeterminate sex offender parole and one has been released.
- Our successes this year include:
 - Successful prosecution of human trafficking offenses in New Mexico
 - *State v. Wallace Carson*:
 - Convicted first degree Kidnapping and Human Trafficking of a seventeen year old girl from Albuquerque, and Human Trafficking of a twenty-one year old girl he trafficked from San Antonio Texas.
 - Sentenced to 30 years of imprisonment and could be subject to 48 additional years as a habitual offender.

- *State v. Sharoski Jackson*: D was sentenced to a total of 49 yrs. in prison for Human Trafficking of a minor and related crimes as well as being a habitual offender.
 - Trial conviction of a domestic violence related homicide in Eddy County.
 - Defendant is facing 1-16 yrs. in prison.
 - Successful prosecution at trial of multiple child exploitation offenders
 - We also received a favorable outcome in a money laundering prosecutions
 - The Office of the Attorney General receives grant funding from the Southwest Border Alliance which allows us to focus on money laundering crimes perpetrated, often by transnational gangs, drug traffickers and cartels, throughout the state of New Mexico.
- We facilitated the extradition of a violent offender from Mexico
 - We continue to work closely with our local district attorneys, the U.S. Marshal and the Office of International Affairs to pursue foreign extraditions of offenders wanted to face trial in New Mexico on violent offenses.
- Our Special Prosecutions Division has continued to pursue high level public corruption offenses, violent offenses perpetrated by repeat offenders and those which endanger our communities throughout New Mexico.
- The Special Prosecutions Division has also continued statewide training efforts for law enforcement, prosecutors and other justice related personnel.

Criminal Appeals

- Our Criminal Appeals Division is one of the busiest divisions in the Office of the Attorney General.
- Just within the last 9 months, the Division has filed 165 briefs in the New Mexico appellate courts, 42 memoranda in opposition in the New Mexico Court of Appeals, 41 petitions for writ of certiorari or responses thereto in the New Mexico Supreme Court, and conducted 28 oral arguments in the New Mexico appellate courts.
- In state habeas corpus litigation, they filed 20 habeas corpus responses and conducted 33 hearings in state district court.
- In federal habeas corpus litigation, they filed one brief in the Tenth Circuit Court of Appeals, conducted one oral argument in the Tenth Circuit, and filed 24 answers to federal habeas corpus petitions in the United States District Court for the District of New Mexico.

- The Criminal Appeals Division has over 400 open cases including direct appeals in the New Mexico Court of Appeals and New Mexico Supreme Court, state habeas corpus actions, and federal habeas corpus actions.
- The Criminal Appeals Division also contributes to the Office of the Attorney General's statewide training efforts.

Special Investigations Division

- I have already noted the work that our Special Prosecutions Division does in the areas of public corruption, child exploitation, money laundering and human trafficking. Much of this work originates in our Special Investigations Division.
 - Two units that I would like to highlight within the Division are our Internet Crimes Against Children Unit and our Anti-Money Laundering Unit.
- The **NM ICAC Task Force lead by the ICAC Unit** has continued to increase the investigations, prosecutions, and outreach efforts statewide. There has been a substantial increase in the number of investigations submitted for state and federal prosecution.
 - The **NM ICAC Task Force** now consists of 82 federal, military, state, local and tribal law enforcement agencies.
 - During the time period January 2015 through June 2015 the **NMOAG ICAC Unit** received 161 cypertips for review and investigation. During the same time period, the Unit also proactively investigated 303 discreet instances of child pornography possession, manufacture and distribution.
 - Over the past six months the **ICAC Task Force** has executed 157 unrelated federal and state search warrants throughout the New Mexico; seizing computers and computer-related evidence related to child pornography offense, in addition to 40 arrests.
 - **NM ICAC Task Force lead by the NMOAG ICAC Unit** as a whole has conducted over 178 investigations, over 775 forensic exams and over 310 technical assists throughout the state.
 - **NM ICAC Task Force lead by the NMOAG ICAC Unit** has reached over 15,117 people through public Events and public awareness.
 - **The ICAC Unit** provided numerous statewide trainings NM ICAC Task Force affiliates during the months of January through June 2015
 - Equipment needs identified– A substantial need has been identified during the process of statewide training and the execution of search warrants over the last nine months.
 - It has been our experience that affiliate members are in every corner of the state and without the required equipment on site to conduct comprehensive computer based investigations.
 - One solution to mitigate this problem and is being submitted to the legislature for consideration is Mobile Digital Forensic Lab.

- A mobile lab will provide our agency, as well as the affiliates that we support the ability to process in real time on scene items of digital evidence.
- Our Anti-Money Laundering Unit investigated and ultimately secured a federal criminal indictment (which was unsealed on September 15, 2015) against two subjects, one New Mexico resident Arthur Herlihy and Bruce Beckner of the Republic of Honduras for wire, mail and bank fraud, conspiracy and aiding and abetting these activities.
- The **AMLU** has provided substantial support as well as subject matter expertise in several agency investigations involving violations of the governmental conduct act as well as human trafficking investigations.
- These are examples of what we are currently accomplishing with this project. We have obtained funding via the Southwest Border Anti Money Laundering Alliance (SWBAMLA) through 2019.
- We will be approaching the legislature in the future to request permanent funding for this important work to continue as a part of our mission serving the citizens of New Mexico.

Collaborative Efforts Among Criminal Affairs Divisions

- After the murder of Rio Rancho Police Officer, Greg Nigel Benner, I convened a Multidisciplinary Violent Crime Review Team to analyze the history of the defendant who stands accused of that murder, Andrew Romero, and to review our system responses to violent repeat offenders. The team, comprised of multiple state agencies, law enforcement, district attorneys, defense attorneys and other critical stakeholders, are working on developing recommendations that improve our agency and judicial responses to violent criminal offenders.

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