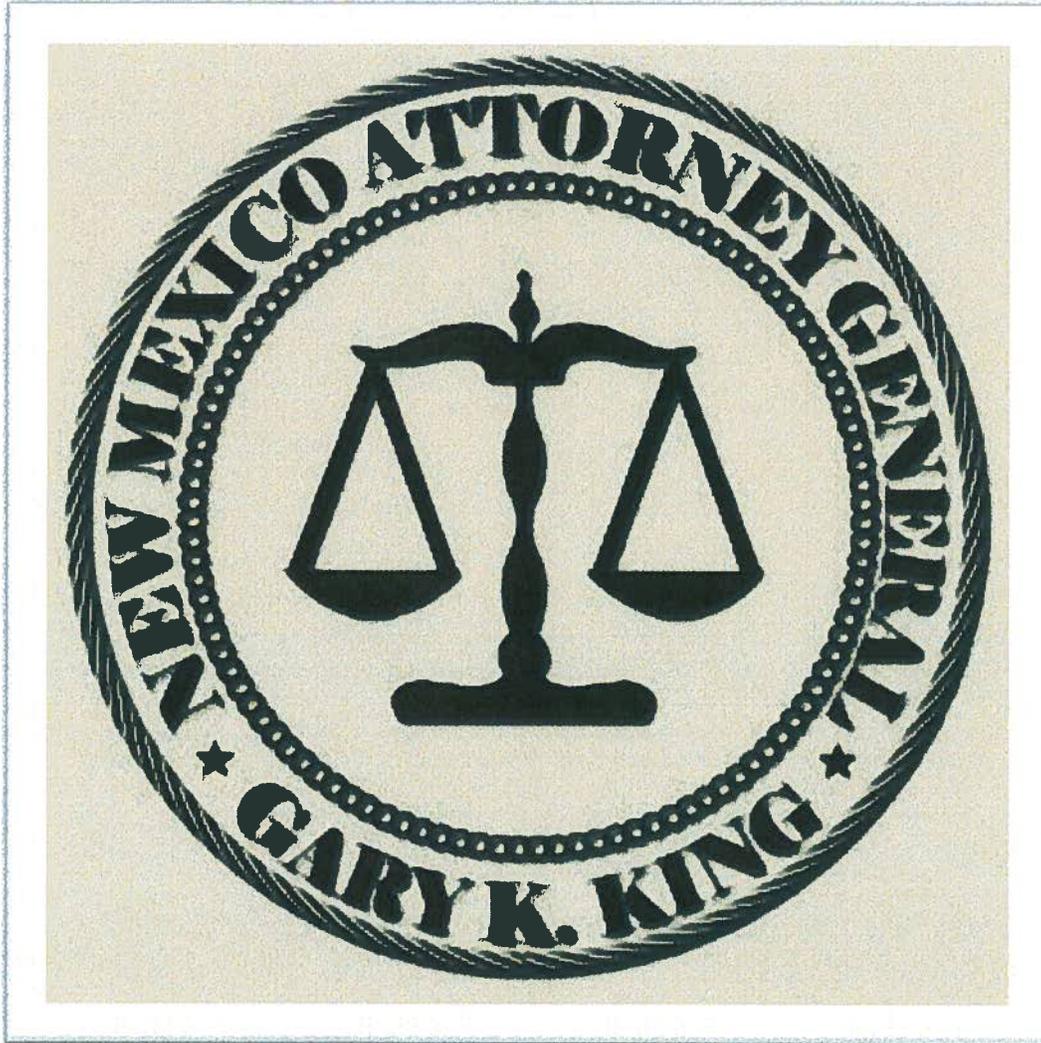


# LFC HEARING



**November 21, 2014**



## Attorney General of New Mexico

**GARY K. KING**  
Attorney General

**ELIZABETH A. GLENN**  
Chief Deputy Attorney General

November 21, 2014

The Honorable Luciano "Lucky" Varela, Chairman  
and Honorable Members of the Legislative Finance Committee  
325 Don Gaspar Ave. Suite 101  
Santa Fe, NM 87501

**Re: Fiscal Year 2016 Budget Request for Attorney General Gary King**

Dear Chairman Varela and Members of the Legislative Finance Committee:

We seek your assistance and support for our FY16 Budget Request. Although my administration is ending, we have made our request keeping in mind that Attorney General Elect Hector Balderas will also need adequate financial resources to continue the many work activities and important programs of the Attorney General's Office.

Our presentation includes a description of our activity in FY14 to acquaint the Committee with the many issues and services provided by the Attorney General's Office. The materials give a brief highlight of the multitude of accomplishments and contributions made by our 14 Divisions. We encourage your review of that information. We are continuing to move forward successfully with our ambitious initiatives in the Attorney General's Office. Through our collaborative efforts we have succeeded in providing quality legal service to the State of New Mexico and its citizens.

You will find that there is a substantial increase to our requested contribution from the General Fund. Again, we need to bring to your attention that our fund balance in the Consumer Settlement Fund is unpredictable. The funding for the Attorney General's Office has depended heavily on a contribution or cost sharing with the Settlement Fund over the last seven years. We are asking that the funding shift to a higher percentage of General Fund contribution. The only revenue we can predict accurately is the \$2M Pojoaque Settlement payment which expires in 2017.

The budget request for Legal Services is 4.2% higher than our FY15 operating budget. Our request for this program considers that there may be Tobacco Arbitration in FY16, requiring increased resources and allows for the normal increases in fixed costs. The increase to the Medicaid Fraud and Elder Abuse Division is 7.0% and requires only

\$36,000 in additional state funding as the program is 75% federally funded. We have proposed a 2% vacancy rate in Legal Services and a 5% vacancy rate in Medicaid Fraud due to our need to keep staffing at a level to support our work.

We have also proposed a small expansion for an additional attorney and paralegal to handle our increased volume of sex offender parole hearings.

Additionally, we are asking for the following special appropriations and language which have been included in the presentation package with more detail: **1)** Authority to expend from fund balance \$500,000 to continue Keep Your Home New Mexico Program through FY16. **2)** A Special appropriation of \$4.5M for FY16 and \$4.5M in FY 17 for a total of \$9M for litigation costs to be used beginning in FY15 through FY17 for water litigation on Interstate streams and their tributaries. **3)** Authority to expend up to one million (\$1,000,000) of the general fund appropriation transferred from the state engineer for water litigation on interstate streams and their tributaries; the money shall not revert at the end of the fiscal year 2015 and may be expended in fiscal year 2016. **4)** Authority to request budget increases up to five hundred thousand dollars (\$500,000) from other state funds for unexpected litigation costs related to both civil and criminal prosecutions, utility rate cases and consumer protection cases provided that the revenue expended shall be solely from settlements from consumer-related issues.

As always my staff is most willing to meet with you to discuss in detail our Fiscal Year 2016 Budget Request, Attorney General-Elect Hector Balderas may have additional needs to present to the 2015 Legislature. Our efforts to continually improve the effectiveness and services of the Attorney General's Office are dependent on the support of our proposed requests for Fiscal Year 2016. I very much appreciate the opportunity to explain the needs of the Attorney General's Office and look forward to working with you to develop your recommended appropriation for our agency.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary K.", written in a cursive style.

GARY K. KING  
ATTORNEY GENERAL

cc: David Abbey, Director LFC  
Connor Jorgensen, Principal Analyst  
Tom Clifford, Cabinet Secretary, DFA  
Michael Marcelli, Director DFA Budget Division  
Cyndi Montoya, Executive Budget Analyst

## FY16 BUDGET REQUEST

### **P625 Legal Services \$20,134,500**

- \$17,634,500 General Fund
- \$2,000,000 Consumer Protection Fund Balance
- \$500,000 from Consumer Protection Fund Balance will be going to the water resources research institute of the New Mexico State University annually, enforced by the Legislature (Laws of 2014, Chapter 63)
- Currently 160 Perm FTE and 1 Term FTE
- A 2% vacancy rate is applied to Personal Services and Employee Benefits, equivalent to 3.2 vacant positions
- Expansion Request includes a request from the General Fund for \$150,500 for 2 FTE
  - 2 FTE Sex Offender Parole Hearing Attorney and Legal Assistant

### **P626 Medicaid Fraud \$2,254,700**

- \$563,000 General Fund
- \$1,688,700 Federal Revenues
- \$3,000 Fund Balance
- No Expansion Requests
- Seventy-five Percent of Medicaid Fraud is Federally Funded
- A 5% vacancy rate is applied to Personal Services and Employee Benefits, equivalent to 1 vacant position
- Currently 21 FTE

### **Total AGO Request \$22,389,200**

- \$18,197,500 General Fund
- \$1,688,700 Federal Revenues
- \$2,003,000 Fund Balance
- \$500,000 Transfers (NMSU)

### Additional FY16 Budget Adjustment Authority

**Language:** Up to one million (1,000,000) of the General Fund appropriation transferred from the state engineer for water litigation on interstate streams and their tributaries shall not revert at the end of Fiscal Year 2015 and may be expended in Fiscal Year 2016.

**Language:** The Legal Services program of the Attorney General may request budget increase up to five hundred thousand dollars (500,000) from other state funds for unexpected litigation costs related to both civil and criminal prosecution, utility rate cases and consumer protection cases provided that the revenue expended shall be solely from settlements from consumer-related issues.

### FY16 Special Appropriation Requests

The Attorney General may expend from fund balance \$500,000 to continue Keep Your Home New Mexico program through FY16.

**Justification:** This request continues Keep Your Home New Mexico program for its intended use over a 3.5 year period. The funding for this activity came from a Mortgage Settlement awarded to the Attorney General's Office to provide services for homeowners in New Mexico who need help in keeping their homes out of foreclosure. The legislature awarded the whole amount to be used in FY15 which is not feasible according to the design of the program.

The New Mexico Attorney General's Office, (AGO) in cooperation with the Interstate Stream Commission (ISC) requests a special appropriation of \$4.5 M for FY16 and \$4.5M for FY17 for a total of \$9 M for litigation costs to be used beginning in FY 2015 (emergency clause requested) through FY2017.

**Justification:** Historically the agencies have requested this money jointly, and then entered into MOU's to allocate the money most efficiently to serve the State's needs. This non-recurring request assumes the AGO would receive \$2.25 M per year of the total appropriation to fund the MOU with the ISC to provide additional litigation support. The AGO is in its second year of defending an original action by Texas in the United States Supreme Court (USSC) alleging New Mexico is not complying with the Rio Grande Compact. *Texas v. New Mexico and Colorado*, No. 141 Original. The AGO remains in litigation against the US/Bureau of Reclamation in federal district court regarding the Bureau's operational changes to the Rio Grande Project. *New Mexico v. United States, et al.*, No. 1:11-cv-00691-JB/ACT (USDC NM) (the water litigation). These cases, involve complex issues of constitutional and water law, and require significant amounts of scientific evidence presentation in several fields, e.g., groundwater and surface water hydrology, geology, crop evapotranspiration and satellite imagery, historical analysis of United States reclamation policy, and compact negotiations, and natural resource economics. Presentation of these cases require the AGO to contract with expert witnesses and specialized outside legal counsel. All act at the direction of the AGO. Technical and legal assistance is provided, to the extent available, from the Office of the State Engineer and Interstate Stream Commission. As in past years, the AGO must also be fully funded to be able to provide the state adequate representation regarding other of New Mexico's interstate rivers and tributaries, in particular the Middle Rio Grande. Wild Earth Guardians has filed their requisite notice of intent to sue raising endangered species act claims against New Mexico and has filed suit already against the United States.

### **Additional Funding from Grants and Awards (FY 15)**

The NM Attorney General has 3 active multi-year grant and awards. Grants are not included in the budget request and are budgeted through budget adjustment requests.

- **Internet Crimes Against Children (ICAC)**
  - Award: \$298,183
  - FTE: 1
  - Purpose: To investigate and prosecute Internet Crimes against children and to provide training for law enforcement personnel throughout the state.
  - Grant Period: 10/01/2014 through 9/30/2015
  
- **Southwest Border Anti-Money Laundering Alliance (SWBAMLA)**
  - Award: \$4,189,780
  - FTE: 10
  - Purpose: To establish specialized anti-money laundering teams for investigative and prosecution purposes.
  - Grant Period: 03/01/2011 through 6/30/2015
  
- **Keep Your Home New Mexico**
  - Original Award: \$11,147,000
  - FY15 Award: \$4,505,000
  - FTE: 5
  - Purpose: An unprecedented effort in NM to assist homeowners who face mortgage delinquency or foreclosure.
  - Grant Award: 7/01/2012 through 06/30/2015

Chief Deputy Attorney General  
Elizabeth Glenn

Deputy Attorney General  
Vacant

ASD	BORDER VIOLENCE	INVESTIGATIONS	CRIMINAL APPEALS	GOVT ACCOUNTABILITY	MEDICAID FRAUD	FRONT OFFICE	LITIGATION	CIVIL	CONSUMER
Director E. Tinajero	Director M. Sanchez-G	Director E. Holmes	Director M. McLean	Director M. Maxwell	Director VACANT	Gen Couns S. Blumetsone	Director S. Fuqua	Director VACANT	Director K. Meyers
Fin Aud Supv V. Borrego	Asst AG 3 VACANT	Spec Agnt J. Burke	Asst AG 2 K. Stalter	Asst AG 3 L. Maxwell	Deputy Dir P. Padriano-T	Spec Prj Crd 2 P. Baca	Asst AG 3 VACANT	Asst AG 1 J. Dworak	Deputy Dir R. Branch
Fin Auditor 1 M. Estrada	Asst AG 3 S. Pino	Spec Agnt O. Pena	Asst AG 1 S. Mullis	Asst AG 2 J. Hughes	Asst AG 2 T. Long	Gen Couns D. Pederson	Asst AG 2 N. Sydow	Asst AG 1 A. Lewis	Asst AG 3 J. Cruz-Esparza
Fin Auditor 1 M. Sandoval	Asst AG 1 M. Bouillon	Spec Agnt C. Gibson	Asst AG 3 VACANT	Spec Agnt Supv G. Stover	Asst AG 3 A. Landau	Chief of Staff VACANT	Asst AG 1 S. Cunniff	Asst AG 2 VACANT	Asst AG 3 T. Herring
Fin Auditor 1 VACANT	Spec Agnt Supv VACANT	Spec Agnt Supv J. Ortega	Asst AG 2 Y. Chicoine	Spec Agnt S. Gloria	Asst AG 3 VACANT	Spec Prj Crd 2 D. Jackson	Asst AG 3 VACANT	Asst AG 3 M. Valicenti	Asst AG 1 A. Goodman
Fin Auditor 1 N. Eckert	Special Agent F. Ortiz III	Spec Agnt J. Whittitt	Asst AG 3 J. Medina	Spec Agnt VACANT	Sp Agnt Spv A. Flores	Adm Asst 2 C. Medina	Asst AG 1 R. Parish	Asst AG 1 A. Carrasco	Legal Asst 2 H. Winkel
Spec Proj Crd T. Herrera	Spec Agnt B. Baker	Spec Agnt Supv A. Maez	Asst AG 3 M. Wilson	Spec Agnt M. Sandoval	Spec Agnt R. Anaya	Dir of Comm P. Sisneros	Asst AG 2 A. Biernoff	Asst AG 3 M. Smith	Adm Asst 2 H. Sandoval
HR Manager D. Martinez	Spec Agnt R. Chesney	Spec Agnt E. Griego	Asst AG 3 P. Ganz	Fin Auditor 2 L. Santini	Spec Agnt M. Bard	Adm Asst 1 P. Noskin	Asst AG 3 J. Jacobsen	Asst AG 1 C. Kraft	Legal Asst 2 J. Maldonado
HR Admin 2 R. Lujan	Admin Asst 1 D. Segovia	Spec Agnt L. Huegler	Asst AG 3 J. Bernstein	Fin Auditor 2 H. Thomson	Spec Agnt E. Guevara	PIO 1 L. Southard	Asst AG 3 W. Hart	Asst AG 3 S. Malave	Asst AG 2 D. Kramer
Adm Asst 1 M. Bustos	Investigator J. Chavez	Spec Agnt J. Ratliff	Asst AG 3 J. Jacobsen	Legal Asst 2 VACANT	Spec Agnt J. Mascarenas	Adm Asst 1 Z. Freeman	Asst AG 3 S. Galanter	Asst AG 3 E. Korsmo	Asst AG 1 K. Owens
Adm Asst 1 M. Rivera	Vic Adv Ombud E. Martinez	Spec Agnt L. Kinch	Asst AG 1 VACANT	Evidence Tech J. Rodarte	Spec Agnt D. Gibson	PIO 1 D. Budris	Asst AG 3 R. Word	Asst AG 1 A. Sullivan Engen	Legal Asst 2 VACANT
Adm Asst 2 D. Rios	Fin Aud 1 M. Gallegos	Adm Asst 2 J. Sierra	Asst AG 3 N. Beder	<b>PROSECUTIONS</b>	Med Car Inv Y. Herrera	Adm Asst 3 T. Howard	Asst AG 1 J. Salazar	Adm Asst 2 C. Marquez	Legal Asst 2 VACANT
Admin 2 V. Bransford	Admin Asst 2 R. Rodriguez	Adm Asst 2 P. Diaz	Asst AG 2 M. Lovato	Director J. Noel	Med Car Inv C. Stafford	Adm Asst 1 B. Hise	Asst AG 1 J. Granata	Adm Asst 2 M. Pate	<b>ENVIRONMENT</b>
IT Manager D. Garcia	Adm Asst 2 T. Davila	Adm Asst 2 T. Davila	Asst AG 3 M.A. Kelly	Asst AG 3 VACANT	Fin Auditor 1 V. Levshin	Spec Prj Crd P. Bachicha	Adm Asst 2 R. Russell	Adm Asst 2 L. Vigil	Director S. Farris
Info Sys Adm 1 R. Rockman	Asst AG 3 J. Grayson	Asst AG 3 J. Grayson	Asst AG 3 S. Murdock	Asst AG 2 S. Murdock	Fin Auditor 1 S. Lester	Legal Asst 2 C.A. Ortiz	Legal Asst 2 L. Urioste	Adm Asst 2 S. Bond	Asst AG 3 S. Bond
Info Sys Adm 1 D. Rodarte	Asst AG 1 VACANT	Asst AG 1 VACANT	Asst AG 3 K. Graham	Asst AG 3 K. Graham	Legal Asst 2 A. Serrato	Legal Asst 2 C.A. Ortiz	Adm Asst 2 S. Espalin	Asst AG 3 P. C. Khoury	Asst AG 3 P. C. Khoury
Info Sys Adm 1 J. Chavez	Asst AG 1 VACANT	Asst AG 1 VACANT	Asst AG 3 M. Sanchez	Asst AG 3 M. Sanchez	Legal Asst 2 E. Enright	Adm Asst 1 L. Roller	Adm Asst 2 A. Abeyta	Asst AG 2 A. Abeyta	Asst AG 2 B. Harris
	Adm Asst 2 R. Leal	Adm Asst 2 C. Welch	Vic Adv Ombud E. Peterson	Vic Adv Ombud E. Peterson	Adm Asst 2 C. Romero		Adm Asst 2 A. Walker	Adm Asst 2 A. Walker	Asst AG 3 VACANT
	Adm Asst 2 C. Welch	Adm Asst 2 C. Welch	Legal Asst 2 J. Seigel	Legal Asst 2 J. Seigel	Info Sys Adm S. Baca		Adm Asst 2 P. Salazar	Adm Asst 2 P. Salazar	Asst AG 3 T. Fox
			Info Sys Spec F. Olvera	Info Sys Spec F. Olvera	Info Sys Adm S. Baca		Legal Asst 2 E. Heltman	Legal Asst 2 E. Heltman	Adm Asst 2 M. Cotner
			Vic Adv Ombud VACANT	Vic Adv Ombud VACANT	Info Sys Adm VACANT		Legal Asst 2 B. Aragon-Fue	Legal Asst 2 B. Aragon-Fue	Spec Agnt M. Valdez
							Investigator J. Sena	Investigator J. Sena	Legal Asst 2 L. Martinez

160 Appropriated - Legal Services  
 21 Appropriated - Medicaid Fraud  
 181 - Total Appropriated FTE  
 9 - Temp Positions  
 Vacant Appropriated FTE (GF=21, MF = 3; Grant=2)  
 Grant Funded positions (14 Term Positions)

## **Recent Accomplishments**

### **Criminal Appeals Division**

The criminal appeals division represents the State of NM in the state district courts, the NM Court of Appeals, the NM Supreme Court, the federal district court, the Tenth Circuit Court of Appeals, and the United States Supreme Court in all criminal and habeas proceedings. The division is one of the core functions of the Attorney General's Office and follows from the Attorney General's role as chief law enforcement officer of the state.

During the past year, the Criminal Appeals Division worked on the following:

- 214 decisions and memorandum opinions issued by the NM Supreme Court and the NM Court of Appeals;
- 67 formal opinions issued by the NM Supreme Court and the NM Court of Appeals;
- Federal habeas and state corpus cases: 41 hearings; 86 responses; 6 briefs; 10 motions; 1 evidentiary hearing in Federal District Court;
- Briefs filed in NM Court of Appeals and NM Supreme Court: 179 briefs; 14 responses; 52 memoranda in opposition, and 47 miscellaneous filings;
- 408 files opened;
- 501 files closed;
- 40 petitions for writ of certiorari filed in the NM Supreme Court
- 21 Oral arguments in the NM Court of Appeals and NM Supreme Court
- Death penalty litigation involving Timothy Allen, Robert Fry and Michael Astorga by Victoria Wilson in the NM Supreme Court;
- Over 100 cases: coordination of metropolitan court appeals to state district court and challenges to jurisdiction;
- Responses and objections to motions for release for both pretrial detainees and convicted offenders pending appeal;
- Preparing for and filing of a petition for a writ of certiorari to the US Supreme Court in State v. Schwartz;
- Responses to correspondence and letters of inquiry by inmates, other agencies, and the public; and,
- Participation in the oral arguments in high school programs coordinated by the NM Court of Appeals with arguments at Grants High School and Roswell High School

### **Water, Environment and Utilities Division (WEU)**

The WEU Division strives to protect New Mexico's most valuable resource: water, maintain a healthy environment for the citizens of the state and also represent residential and small business consumers in matters before the Public Regulation Commission.

During the past fiscal year, WEU:

- Defended NM in the US Supreme Court against Texas in Texas v. NM and Colorado, No. 141 Original;
- Working with NM Interstate Stream Commission and the NM State Engineer, preparing NM's defense if the Supreme Court decides the case goes to trial;
- New Mexico's suit against the U.S Department of Interior to strike down the 2008 Operating Agreement for the Rio Grande Project;
- Involved in the natural resource damage assessment process for the LANL site, the Fort Wingate Depot Activity Site, and Quivera mining site where Rio Algom Mining LLC mined uranium;
- Filed an appeal in the Court of Appeals challenging the Copper Mine Rule promulgated by the Water Quality Control Commission;
- Participating in multi-state matters involving EPA regulation; it has continued to support EPA regulations to limit mercury and other toxic emissions from power plants, to decrease particulate matter, and to set limits on greenhouse gases for existing power plants;
- Litigating a case in the Public Regulatory Commission in which PNM seeks regulatory approval to shut down two units of the San Juan Generating Station in order to comply with EPA mandates;
- Participating in rules making proceedings before the PRC in transportation matters;
- Sanders-Reed public trust greenhouse gas case; currently in the NM Court of Appeals; and,
- Involved in the Chevron Questa Mine Superfund Site remedial design and action activities and continues its active involvement in the Middle Rio Grande Endangered Species Act Collaborative Program, involving the Rio Grande silvery minnow and southwestern willow flycatcher.

### **Governmental Accountability Division**

Attorneys in the Governmental Accountability Division are dedicated to fighting corruption at the state and local level, holding public officials accountable to those they serve. Our vigorous enforcement of public corruption laws has resulted in a number of enforcement actions and prosecutions, including the following:

- Thomas Garza, Sherriff of Mora County;
- Jerome D. Block;
- Shaun Anaya;
- Virginia Guzman;
- Christopher Valdez and Joy Ansley;
- Region 3 Housing Authority; and,
- Andrew Torres

Public corruption represents a significant threat to public confidence in our democratic form of government, and it represents a stark betrayal of a public official's duty to the public.

## **Litigation Division**

The Litigation Division defends the constitutionality of New Mexico's legislative and regulatory enactments and of civil enforcement of various legal mandates, as well as representation of the judiciary in original writ proceedings initiated in the NM Supreme Court. The Division also prosecutes on behalf of the several professional licensing boards in NM. Those prosecutions entail disciplinary action taken against licensed professionals for violation of the Uniform Licensing Act and the regulations adopted by each of those licensing boards.

### **Major Accomplishments:**

- Successfully prosecuted hundreds of professional licensing cases this year;
- Successfully represented the State in an action to enjoin the opening of a horse slaughter plant;
- Handling several lawsuits against those tobacco manufacturers who failed to pay the escrow required by law;
- Continued representation of the State and its agencies as creditors in bankruptcy litigation all across the country, successfully handled hundreds of bankruptcy matters favorably for the State;
- Represented the State in actions filed pursuant to the Fraud Against Taxpayers Act, settling a claim against Chevron concerning fraudulent insurance payments made by the State to Chevron for the costs of environmental cleanup of stations selling Chevron gasoline;
- Represented the State in several multi-state antitrust actions, including a successful action against Apple Computers concerning alleged anti-competitive conduct in the distribution of e-books;
- Represented the State and Judge Alan Malott in separate actions concerning the constitutionality of New Mexico's prohibition on same-sex marriage; and,
- Successfully represented the AGO and HSD in cases brought under the IPRA dealing with the application of the law enforcement exception to an audit report performed by a contractor of HSD concerning several mental health providers in NM.

## **Civil Division**

The Civil Division has three primary areas of responsibility: (1) providing high-quality 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 investigating as responding to complaints alleging violations of the Acts and by providing training to governmental bodies and the public regarding their rights and responsibilities under the Acts.

Over the last year, the division's legal representation for state agencies included controversial and contentious proceedings such as:

- An appeal of a decision by the Alcohol and Gaming Division to allow a liquor store;
- A suit brought by the town of Gallup challenging the authority of the Livestock Board;

- A continuing appeal of the Environmental Improvement Board's air emissions and cap and trade regulations;
- A continuing appeal of the Water Quality Control Commission's dairy rules
- A challenge to rules promulgated by the Board of Chiropractic Examiners;
- An appeal of a decision of the Municipal Boundary Commission;
- Acted as counsel to the Secretary of State and provided advice and guidance on election related issues;
- Handled approx. 20 appellate cases and proceedings on behalf of the state boards and commissions; and
- Investigated over 55 complaints alleging violations of the Open Meetings Act and Inspection of Public Records

### **Border Violence Division (BVD)**

The BVD of the New Mexico Attorney General's Office is a legal division specializing in International Extraditions, Investigations and Prosecutions of Human Trafficking and Money Laundering cases throughout the state.

In the past year:

#### Money Laundering:

- Successfully convicted Robert Chavez and Joe Chavez for money laundering and other extensive charges. 36 years in prison and 48 years in prison respectively. Working collaboratively with 12<sup>th</sup> District Attorney's Office to prosecute 5 remaining defendants involved;
- Actively investigating 15 other cases throughout NM involving money laundering activity;
- Conducted 17 money laundering trainings for law enforcement and financial institutions;

#### Human Trafficking:

- Successfully convicted 6 human traffickers, 3 are still awaiting sentencing;
- In addition, there are 3 cases awaiting trial;
- Conducted 6 Human Trafficking trainings for law enforcement and service providers;

#### International Extraditions:

- Has submitted 6 provisional arrest warrant requests and has successfully extradited 2 individuals from Mexico.

#### Advocacy/Victim Notification:

- Victim advocate notified 247 victims regarding Appeals;
- Communicated with 61 victims;
- Made 4 CVRC Referrals; and
- Provided case support to 218 Victim/Witness with Interview/Court Notices/Trial Preparation

## **Investigations Division**

### Internet Crimes against Children (ICAC) Unit:

ICAC task force is to protect New Mexico children through community education and the identification, apprehension and prosecution of those who commit Internet crimes against them.

### In the past year, ICAC:

- Is ensuring that more offenders are being held accountable for their actions;
- Has executed 263 unrelated federal and state search warrants throughout NM, seizing computers and computer-related evidence related to child pornography offense;
- has made 91 arrests;
- as a whole has conducted over 540 investigations;
- over 1070 forensic exams;
- over 413 technical assists throughout the state; and
- Unit has impacted over 36,300 adults and children statewide through public outreach and community education.

### Special Investigations Unit:

The Special Investigations unit investigates criminal inquiries and cases, including violent crimes, property crimes and a wide range of other criminal activities. This unit specializes in investigating economic crimes and multi-jurisdictional crimes, working in cooperation with local, state and federal agencies.

### In the past year, the Special Investigations Unit:

- Reviewed and closed approximately 266 inquiries/matters;
- Closed 15 investigative cases;
- 25 matters still remain under review; and
- 6 investigative cases are currently open.

## **Consumer Protection Division**

The Consumer Protection Division (CPD) acts on behalf of the public to enforce consumer protection laws and prevent and deter unfair, deceptive, and unlawful practices that injure consumers and harm businesses that operate lawfully in the competitive market place. CPD also includes the Charitable Organizations unit which enforces the provision of the Charitable Solicitations Act, including registration and reporting, and acts on behalf of the public to protect the interest of donors to charitable organizations, the beneficiaries of those donations, and to ensure that each charity meets the obligations it has assumed under the public trust. CPD also includes “Keep Your Home New Mexico”, the Homeownership Preservation Project, to assist homeowners who face mortgage delinquency or foreclosure and deter mortgage rescue scams and fraud.

In the past year:

**Consumer Protection Division:**

- Recovered approximately \$3,638,460 for consumers through dispute resolution;
- 2,277 new written complaints filed;
- 2,083 complaints closed;
- More than 11,000 telephone inquiries;
- Presented 37 community outreach and education events to New Mexicans throughout the state on consumer protection issues;
- Successful litigation or settled matters involving high cost lending, debt settlement, retail sales, unlicensed practice of law, mortgage scams, mortgage servicing fraud, door-to-door sales, automotive repair practices, off-labeling of drugs, and used car sales.

**Charitable Organization Unit:**

- 7,028 charities are registered in the COROS registration database;
- Conducted 9 outreach events;
- Received 30 complaints from the public regarding charitable organizations; and
- Serves as co-counsel with Federal Trade Commission (FTC) on multi-state action in charitable fraud cases.

**Keep Your Home New Mexico:**

- Recovered \$1.2M in refund or value to homeowners who filed consumer complaints because of fraud or who sought loan escalation in loan modification;
- Implemented Foreclosure Settlement Facilitation Pilot Project in 2<sup>nd</sup> and 13<sup>th</sup> Judicial Districts Civil Enforcement actions.

**MEDICAID FRAUD AND ELDER ABUSE DIVISION (MFEAD)**

The MFEAD is vested with the responsibility for the investigation and prosecution of all applicable state laws regarding any aspect of fraud in connections with provision of medical assistance, and for reviewing and acting upon all complaints regarding abuse, mistreatment or neglect of patients of health care facilities that receive payments under public medical assistance programs. The MFEAD works to ensure the fiscal integrity of the NM Medicaid program and the well-being of the state's Medicaid recipients by investigating and prosecuting those who attempt to abuse, neglect or exploit its recipients of defraud the program.

**In the past year, MFEAD:**

- Indicted 5 individuals and were successful in 5 convictions based on improper billing by home health care providers, criminal sentencing resulted in \$58,490 in Medicaid restitution;
- 23 civil action recoveries totaling \$9,009,060 in civil settlements where investigations disclosed Medicaid payments for multiple claims, lack of documentation, and failure to comply with applicable Medicaid statutes;

Primarily through the MFEAD's participation in the National Association of Medicaid Fraud Control Units, the MFEAD participated in 10 national settlements which identified \$8,330,931.58 in recoveries.

The Qui Tam settlement yielding the largest recovery for New Mexico was a multimillion dollar settlement with drug manufacturer GlaxoSmithKline, a pharmaceutical corporation, over misrepresentations regarding their diabetes drug Avandia. Reports of potentially life-threatening complications, including heart attacks, from Avandia caused tens of thousands of patients in the United States to file lawsuits against GlaxoSmithKline, alleging that GlaxoSmithKline failed to inform patients about possible problems associated with the use of Avandia. GlaxoSmithKline agreed to repay \$3.8 million to offset state Medicaid expenditures and nearly \$600 thousand to offset federal expenditures on the drug Avandia.