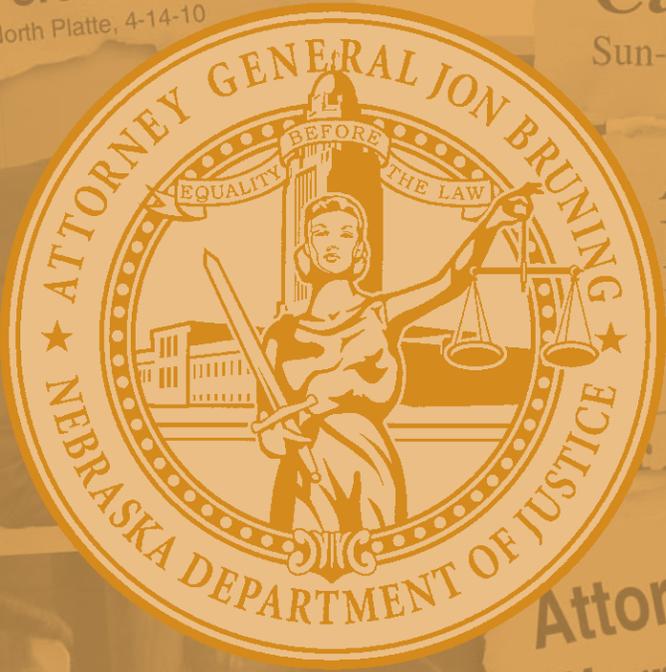


Bruning lauds child
porn crackdown
Bulletin, North Platte, 4-14-10

AG Responds to Health
Care Reform Challenge
Sun-Telegraph, Sidney, 11-26-10

2010



Attorney General Says
Popular Internet Site
Is No Place For Kids
Enterprise, Stapleton, 3-18-10

Attorney General
Warns of Bank Scam
Lincoln Business Journal, Lincoln, 3-18-10

Attorney General Bruning
Announces Sentence in
Dawes County Murder
World, Leigh, 1-20-10



Protecting the Good Life

2010 Annual Report
The Office of the Attorney General

Nebraska Department of Justice
Attorney General Jon Bruning

ATTORNEY GENERAL JON BRUNING

Dear Fellow Nebraskans:

James Madison once said, "The rights of persons and the rights of property are the objects for the protection of which government was instituted."

As your Attorney General, I am reminded every day that our way of life is safeguarded by those willing to stand up and fight for the interests of Nebraskans. I am proud to present the 2010 annual report highlighting the efforts of those very people, the attorneys and staff of the Nebraska Attorney General's Office.

In 2010, we provided protection for our most vulnerable citizens. Proudly, we have been the voice for victims of scams and frauds and returned more than \$1 million to Nebraskans through our consumer mediation services. Our criminal section strengthened the fight against cybercrimes statewide with the creation of the Rural Cybercrimes Unit. Our Nebraska Medicaid Fraud and Patient Abuse Unit investigated more than 300 cases resulting in a \$6 million recovery to the State. And, we defended Nebraska's natural resources and prosecuted those who knowingly polluted our air and waterways.

We took a leadership role in the fight to protect individual liberties and Nebraska's economic future by challenging the unconstitutional Patient Protection and Affordable Care Act. The people of Nebraska deserve integrity and honesty from those sworn to be stewards of our state. When that trust was violated, Nebraskans knew our office would be there to hold accountable those who abused their position of authority – and we were.

It is our commitment to *Protecting the Good Life* that drives our actions and continues to ensure justice for all.

Sincerely,



*Jon Bruning
Attorney General
State of Nebraska*



2010 AT A GLANCE

Money Saved in 2010

For every dollar spent, the Attorney General's Office generated or saved **\$20.75**

Dollars Generated or Saved by the Attorney General's Office

Consumer Protection	\$1,111,837
Public Protection	\$6,977,830
Civil Litigation	\$144,524,604
Department of Roads	\$16,639,403
Legal Services	\$12,112,000
Agriculture, Environment, and Natural Resources	\$1,261,106
Total	\$182,626,780



Criminal Bureau

John Freudenberg, Bureau Chief

Camacho de Jesus Sentenced to Life in Prison for Murdering Three-Year-Old Evelyn Verdugo Paniagua

In June 2010, Melecio Camacho de Jesus, 30, was convicted in Dakota County District Court of the first-degree murder of a South Sioux City three-year-old girl.

Evidence showed Camacho de Jesus broke into the window of the girl's South Sioux City home in the early morning hours of May 23, 2009 while her family slept. He took the child from her bed, raped and suffocated her. Camacho de Jesus had previously stayed in the girl's home as a houseguest.

In July 2011, Camacho de Jesus was sentenced to life imprisonment. A three-judge panel rejected the State's recommendation that Camacho de Jesus be sentenced to death for brutally raping and murdering Evelyn in her Sioux City home.



Criminal Bureau Chief John Freudenberg

Child Protection

Domestic Violence and Sexual Assault Prosecution

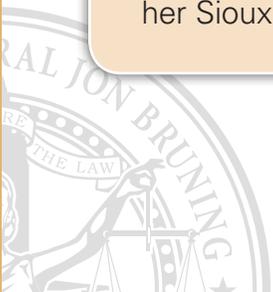
Drug and Violent Crime Prosecution

Criminal Appeals

Hotz Sentenced 20 to 50 Years for Stabbing Roommate

In January, Attorney General Bruning announced Joseph Hotz was sentenced in the December 2008 stabbing death of his roommate Kenneth Pfeiffer.

Pfeiffer's murder occurred in the off-campus apartment that he and Hotz shared while both were attending Chadron State College. Evidence showed Pfeiffer had been stabbed more than 50 times.



PUTTING CRIMINALS BEHIND BARS

Hotz's attorneys claimed his actions were a result of his being under the influence of hallucinogenic mushrooms. They further argued intoxication caused Hotz to believe Pfeiffer was part of a plot to kill him. The jury rejected the argument and found him guilty.

Hotz received 20 to 50 years in prison for second degree murder in the slaying of 22-year-old Pfeiffer. He also received 10 to 20 years for the attempted 2nd degree murder of another man and one to five years for terroristic threats. Finally, Hotz was given 11 to 32 years on three charges of using a weapon to commit a felony. The three sentences will be served consecutively.



Attorney General Bruning Announces Sentence in Dawes County Murder

Omaha World Herald, 01/20/10

DOMESTIC VIOLENCE/SEXUAL ASSAULT

John Chavez Sentenced for Death of Daughter

In March, Attorney General Jon Bruning announced 35-year-old John Chavez, of Scottsbluff, was sentenced to 40 years in prison for the 2009 death of his 3-month-old daughter. Chavez was convicted of child abuse resulting in death in January.

Chavez told police that he shook his daughter, Aubrey, at least twice to stop her crying, but thought she was sleeping when he put her in an infant seat. Aubrey's mother later returned from work and found the baby unresponsive.

Kansas Man Guilty of Sexually Assaulting 13-Year- Old Nebraskan

In March, Shon Collins, 41, of Leavenworth, Kansas, pleaded guilty to sexual assault charges and possession of child pornography.

Collins contacted his 13-year old female victim online and arranged to visit Nebraska where he sexually assaulted her and photographed the incident. After the meeting, the victim was questioned by her parents who later alerted law enforcement. A search of Collins's computer and cell phone found child pornography.

Collins faces a mandatory minimum 15-year sentence for first-degree sexual assault of a child, a Class IB felony. Possession of child pornography is a Class III felony and carries a minimum of one year in prison.

The offense of first-degree sexual assault of a child was created in 2006 through LB 1199. A mandatory 15-year sentence for the offense was established by LB 97, introduced as part of the 2009 Attorney General's legislative package.



DOMESTIC VIOLENCE/SEXUAL ASSAULT

Eugene Waters Guilty of Strangulation

In October, Eugene Waters, 68, of Table Rock pleaded guilty on charges related to the physical assault of his wife. He pleaded to one count of strangulation, a Class IV felony and one count of third degree domestic assault, a Class I misdemeanor.

Waters was sentenced to 20 to 36 months in prison for the strangulation charge and one year in prison for the assault. The sentences will be served concurrently.

As part of the Attorney General's 2004 legislative package, LB 943 made strangulation a felony offense.

Colfax County Man Sentenced on Multiple Sexual Assault Charges

In July, Robert Matchett, 35, of Howells received 20 to 40 years in prison each for two counts of first-degree sexual assault and five years in prison for one count of sexual assault of a child.

In January, he was found guilty of sexually assaulting his three step-daughters over a period of more than 10 years.

DRIVING UNDER THE INFLUENCE (DUI)

Huff found guilty in DUI death

Clipper Herald, 03/13/10

Huff Sentenced for Motor Vehicle Homicide

In March, Herchel H. Huff, 37, was convicted in Furnas County District Court of motor vehicle homicide in the 2007 death of Kasey Jo Warner.

Kasey Jo was jogging with her three-year-old daughter when she was struck and killed by Huff's vehicle. Before being struck, she was able to push her child out of the way of the oncoming car. Investigators determined Huff was driving while intoxicated at a speed in excess of 70 mph.

Rather than calling for an ambulance after hitting Kasey, Huff stopped a nearby farmer and asked to use a cell phone to call his attorney. Additionally, after the crash, Huff tried to convince his passenger to take the blame for the accident.

In May, Huff was sentenced to a minimum of 51 years, 8 months and a maximum of 55 years in prison for motor-vehicle homicide and witness tampering.



DUI Investigation and Prosecution Training

Assistant Attorney General Ed Vierk is

tasked with prosecuting

DUI, motor vehicle homicide and other traffic-related offenses. In addition, AAG Vierk provides DUI-related training throughout the state.

In 2010, nearly 200 members of law enforcement attended trainings on topics such as probable cause issues, sobriety checkpoints, drug recognition and breath tests.

TIGHTENED THE NET ON ONLINE CHILD ENTICEMENT

Sex Offender Sentenced for Child Enticement

In September, Clyde Loveless III, 24, of Table Rock, was sentenced to 20 to 72 months for one count of child enticement and one count of violation of the Sex Offender Registry Act in Pawnee County. Both crimes are Class IV felonies. Loveless pleaded guilty to child enticement and violation of the Sex Offender Registry Act in July.

The conviction stemmed from an investigation by the Nebraska State Patrol into allegations from the victim's step-mother. The investigation showed Loveless engaged in sexually explicit exchanges with a 14-year-old girl via cell-phone. Loveless repeatedly used his cell phone to send pictures of his genitals to the victim and request sexual intercourse.

As a registered sex offender, he was charged with violation of the Sex Offender Registry Act when it was determined he failed to notify law enforcement with a change of address.

Jay Urbanec Sentenced for Child Porn

In October, Jay Urbanec pleaded no contest to one count of possession of child pornography, a Class III felony.

Urbanec was sentenced to 30 days in jail, 24 months of probation and is required to register as a sex offender.

Nebraska AG hosts Cybercrime conference

Scottsbluff Star Herald, 08/18/10

Rural Cybercrimes Unit

The Unit, consisting of one Assistant Attorney General and two investigators, investigates and prosecutes the possession and distribution of child pornography over the Internet and online sexual enticement of children.

The Unit also provides training to members of law enforcement on the use of cutting-edge technologies and best practices to successfully investigate and prosecute Internet predators that target children in Nebraska.

In 2010, the Unit investigated more than 70 cases and provided training for more than 100 members of law enforcement across the state in areas such as Scottsbluff, North Platte, Kearney, Blair and Omaha.

In addition, the Nebraska Attorney General's Office partnered with the Sarpy County Sheriff's Office, Nebraska State Patrol and Gretna Public Schools to host a "Student Safety Night" educating students on the hazards of the Internet.

The Attorney General's Office Rural Cybercrimes Unit has investigated 86 cases since January 1, 2010. The investigations led to 35 arrests and 17 felony convictions.

EQUAL TREATMENT

Former Ravenna Police Officer Guilty of Sexual Assault of a Child

In September, former Ravenna police officer Larry Williams, 54, was sentenced 6 to 12 years in prison each for 5 counts of first-degree sexual assault to be served consecutively for a total of 30 to 60 years. He was also sentenced 5 years of Intensive Supervised Probation for one count of sexual assault of a child to be served upon his release. In addition, Williams must now register as a sex offender.

In July, Williams was found guilty by a jury for the crimes that occurred while he was a Ravenna police officer.

Nebraska State Patrol and Attorney General's Office investigations determined Williams was sexually involved with a teenage girl between 2001 and 2003, starting when the girl was 14-years-old. Williams resigned from the Ravenna Police Department in January 2005.

Assistant Attorneys General Kim Taylor-Riley and Doug Warner handled this case with the help of investigator Kerry Crosby.

Former Morrill County Assessor Sue Nussbaum Sentenced for Misconduct

In September, former Morrill County Assessor Sue Nussbaum pleaded no contest to one count of official misconduct. She was sentenced to pay a fine of \$750.

Following complaints to the Department of Revenue of incorrect property assessments in Morrill County, the Attorney General's Office requested an investigation by the Nebraska State Patrol. The NSP investigation showed Nussbaum improperly filled out reports and submitted them to the state. This activity caused a number of Morrill County real estate valuations in 2008 and 2009 to be lowered.

Nebraska City Police Officer Lance Bennett Convicted for Peeping

Former Nebraska City Police Officer Lance Bennett was convicted of second-degree trespassing and was sentenced 18 months probation and a \$150 fine. Bennett also resigned from his position as police officer. The conviction stems from an allegation that Bennett was found peeping in a window to observe a woman bathing.

In May, Bennett's law enforcement license was revoked.

Former Gubernatorial Candidate Mark Lakers Guilty of Abuse of Public Records

In September, former gubernatorial candidate Mark Lakers pleaded guilty to one count of abuse of public records. Lakers was sentenced to pay a \$500 fine.

The charges stemmed from an investigation by the Nebraska Accountability and Disclosure Commission (NADC) and the Attorney General's Office. The investigation was initiated after several individuals contacted both agencies disputing pledges attributed to them in Lakers' campaign finance report filed in April 2010. Lakers submitted an amended campaign finance report in June but continued to report thousands of dollars in fraudulent pledges.

Lakers ended his gubernatorial run by withdrawing from the race on July 2.

EDUCATION



In November, Attorney General Bruning addressed the 53rd Basic Recruit Class of the Nebraska State Patrol.

Life Saving Information Given at Law Enforcement Conference

In June, the Attorney General's Office, in conjunction with the Nebraska Chapter of the FBI National Academy, held the Law Enforcement Officers Killed and Assaulted in the Line of Duty Training Conference.

The educational program was designed to give law enforcement officers the experience and education necessary to survive lethal encounters.

Conference participants used direct situation analysis of real-life incidents to fuel frank discussions on tactics and methods of survival. Officers were able to analyze actions of members of law enforcement who had survived attacks and those who did not.

Gang and Street Crimes Conferences

In September, the Attorney General's Office hosted four gang and street crime conferences. Training and educational information was provided for 249 members of law enforcement and community members. Trainings were held in Bellevue, Kearney, Norfolk and Scottsbluff. The conferences offered information on current information technology resources available for conducting online investigations and prosecution best practices.

The trainings provided the necessary tools to help ensure successful investigation and prosecution of gang related crime. The conferences serve as a crucial educational resource for law enforcement and attorneys.



Public Protection

Lynne Fritz, Bureau Chief

*Agriculture, Environment, and Natural Resources
Consumer Protection and Anti-trust Violations
Medicaid Fraud and Health Regulation and Licensing
Tobacco Enforcement and Liquor Control Commission
Nonprofit Corporations and Charitable Trusts
Administrative License Revocations*



Public Protection Bureau Chief Lynne Fritz and Information Technology Manager Tom Stuhr

More than \$1.1 Million Recovered by Mediation Center

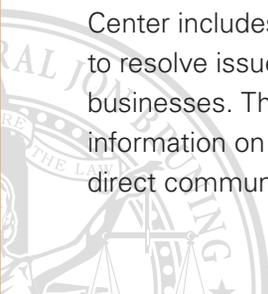
In 2010, the Attorney General's Consumer Mediation Center recoveries topped \$1.1 million after closing more than 4,800 consumer complaints. Since Attorney General Bruning took office in 2003, an annual average of more than \$1 million has been returned to Nebraska consumers through mediation.

The Consumer Protection Division's Mediation Center includes highly-trained volunteers that work to resolve issues between Nebraskans and private businesses. The Division also provides timely information on scams operating in Nebraska through direct community outreach across the state.

Agreement Surrounding Toyota Recall

In March, the Attorney General announced an agreement with Toyota to offer free pickup and return of recalled vehicles as well as provide free rental vehicles or taxi fare for Nebraskans owning affected cars.

More than eight million Toyota and Lexus vehicles were recalled due to concerns including risks associated with acceleration issues. As president of the National Association of Attorneys General, Bruning worked to extend all provisions of a previous New York-based settlement to all those affected throughout the country.



CONSUMER PROTECTION

AGO Consumer Protection Division wins New Cassel Foundation Award

Consumer Protection Division Chief Leslie Levy and Outreach Coordinator Josie Rodriguez accepted the 2010 New Cassel Foundation Distinguished Service Award given to the Consumer Protection Division.

The New Cassel Foundation recognized the Consumer Protection Division for all they do to serve, protect, advocate and care for the aging person in Nebraska.

The New Cassel Foundation provides support for the mission, ministry, programs and services of New Cassel Retirement Center and the Franciscan Centre in Omaha.



Consumer Protection Division Chief Leslie Levy and Outreach Coordinator Josie Rodriguez receive New Cassel Foundation Award.

Don't Rush to Reply Text-Message Smishing Scams

Valentine Midland News, 12/22/10

Consumer Outreach

- *Presentations: 147*
- *Consumers reached face-to-face: 15,399*
- *Counties served: 88*

Top Five Senior Complaints:

1. *Subscriptions and Finance Companies*
2. *Debt Collection*
3. *Sweepstakes*
4. *Telemarketing*
5. *Medical Billing*

Top Five Recovery Areas:

1. *Motor Vehicles: \$172,343.53*
2. *Professional Services: \$114,858.82*
3. *Home Improvement: \$91,889.48*
4. *Credit and Financial Services: \$82,213.98*
5. *Housing: \$80,533.78*

DECEPTIVE TRADE PRACTICES

Largest Food Settlement to Date - Dannon, Inc.

In December, a multi-state settlement was reached with Dannon, Inc. regarding unlawful marketing claims. The multi-state settlement of \$21 million is the largest consumer protection food product settlement to date, with Nebraska receiving \$425,000. The funds were distributed to hunger relief programs across the state.

The settlement resulted from a lawsuit filed by Attorney General Bruning and 38 other Attorneys General. The suit alleged Dannon made unlawful claims in advertising, marketing, packaging and selling Activia yogurts and DanActive dairy drinks. The company made claims regarding digestive benefits that could not be medically substantiated.

As a result of the filing, Dannon paid a total of \$21 million dollars to the states. Additionally, the company is now prohibited from making certain unlawful claims related to diseases and from making claims about the covered products' benefits without adequate substantiation.

State Attorneys Work to Stop Deceptive Gas Station Practices

In 2010, the Attorney General's Office negotiated ten settlements with gas stations accused of engaging in deceptive practices in the sale of ethanol. The settlements resulted from investigations beginning in 2008.

In total, \$276,000 in gas station settlements has been recovered by the Consumer Protection Division. Funds are returned to affected communities through charitable donations.

Agreement With LifeLock over Advertising Claims

In March, Attorney General Bruning announced an agreement with identity theft protection service,

LifeLock, regarding the firm's marketing claims. As part of the agreement, LifeLock agreed to change its advertising practices and to repay an estimated \$11 million nationwide to consumers and \$1 million for the States' legal fees.

An investigation of LifeLock was initiated after allegations surfaced that the company had made deceptive claims that violated consumer protection laws. The deceptive claims included leading consumers to believe that a monthly service was a "proven solution" that would protect consumers against all forms of identity theft.

The company's claims of "guaranteed protection" from all aspects of identity theft were found to be too sweeping and misleading to consumers.

Bruning Leads Initiative; Stops "Pay-to-Police" Policy

In August, Attorney General Bruning led an initiative with Attorneys General from 33 other states and territories to reach an agreement with Internet message board host Topix.com to improve customer protection.

State investigations and consumer complaints regarding the website revealed numerous abusive and derogatory personal postings, often involving minors, which clearly violated the site's terms of service. The system for reporting abusive posts required consumers to pay \$19.99 for priority review.

Topix.com agreed to improve consumer protections and eliminate the priority review fee. Additionally, the company agreed to cooperate with law enforcement agencies in combating unlawful activity on its website, consult on an as-needed basis with the attorneys general to discuss issues of concern and continue to explore new technology and processes for preventing misuse of its site.



CONSUMER OUTREACH

Millions Saved for Nebraska Farmers

In September, the Attorney General's Office joined efforts with state senators Annette Dubas and Kate Sullivan, the Nebraska Department of Agriculture and the Nebraska Corn Board to alert affected Nebraskans to bankruptcy claims of VeraSun Energy.

VeraSun Energy was a producer of renewable fuel ethanol fuel. VeraSun Energy filed for bankruptcy in 2008. Thanks to the combined effort of the agencies, millions of dollars were saved for Nebraska farms.

In a letter sent in late August 2010, affected parties and/or suppliers were notified of the requirement to return 80 percent of what VeraSun paid for corn or other supplies between August 3 and October 31, 2008.

Later that month, VeraSun Energy announced it would not pursue the notice of preference claims sent to Nebraska-based providers of corn and other supplies.

Aggressive Phishing Scam Targets Western Nebraska

In March, AG Bruning reached out to warn Nebraskans against an aggressive phishing scam.

On Monday, March 15, Broken Bow residents began receiving automated telephone calls from scammers claiming to represent their bank. The caller claimed the victim's debit card had been restricted for shopping and ATM usage. The caller then routed victims to a fraudulent security department which requested victims' account number, personal identification number (PIN), 3-digit security code and Social Security Number.

The calls were first targeted to cell phones followed by home phones or landlines, eventually affecting an estimated 5,000 people.

Typically, scammers use personal information to perpetrate identity theft or use it to drain the victim's bank accounts.



Attorney General Bruning joins Governor Dave Heineman to commemorate the signing of the Internet Safety proclamation on March 10, 2010.

Free Shredding Events

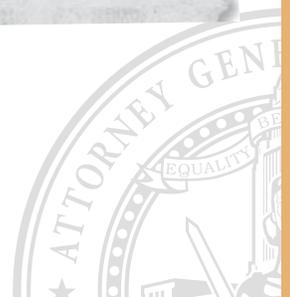
The Attorney General's Office partnered with local groups to offer free shredding events for Nebraskans throughout the year.

In October, the AGO partnered with Shredding Solutions at the National Safety Council's Community, Safety and Wellness Festival in LaVista. Later that month, the AGO partnered with the Better Business Bureau to bring a shredding station to the Old Cheney location of West Gate Bank in Lincoln.

Shredding documents containing personal information can help Nebraskans avoid becoming victims of identity theft.

AG Cautions Nebraska About Aggressive Phishing

Elgin Review, 03/24/10



HEALTH CARE & MEDICAID FRAUD

Medicaid Fraud and Patient Abuse Unit

In 2010, the Attorney General's Office Medicaid Fraud and Patient Abuse Unit recovered more than \$6.4 million and investigated 758 cases. Recovered funds reimburse the Medicaid program for losses and can be applied to legal fees.



Since its inception in 2004, the MFPAU has recovered more than \$35 million from violating service providers and drug companies.

Theft from Elderly Mother Results in Prison Sentence

In March, the Attorney General announced that Annigje (Ann) Perkins was sentenced to 16 to 20 months in prison for stealing \$43,214.40 from her elderly mother. Perkins, of Sacramento, California, pleaded guilty to theft by unlawful taking in December of 2009.

Perkins took money from bank accounts, cashed-in two annuities and sold her mother's trailer home while acting as her mother's power-of-attorney between 2005 and 2008. She kept the proceeds of the sales for herself.

Grandson Penalized for Stealing

In May, Spencer Owen pleaded no contest to one count of theft by unlawful taking, a Class IV felony. Owen was sentenced in Lancaster County District Court to three years probation.

While acting as his grandmother's power-of-attorney between April 1, 2007 and June 30, 2009, Owen stole \$5,171.03 for his own use. At the time of his sentencing, Owen paid full restitution toward his now-deceased grandmother's outstanding bill at an elder facility.

AstraZeneca Pays \$3.2 Million to Nebraska for Improper Marketing

In September, a settlement was reached with pharmaceutical manufacturer AstraZeneca LP. The settlement stemmed from allegations that the company engaged in off-label marketing that improperly promoted the antipsychotic drug, Seroquel. AstraZeneca will pay the Nebraska Medicaid program more than \$3 million.

The agreement is part of a larger settlement between AstraZeneca, state governments, and the federal government which totals \$520 million. The settlement compensates Medicaid and various federal healthcare programs for harm suffered as a result of the company's conduct.

AstraZeneca allegedly promoted Seroquel to psychiatrists, primary care physicians and other health care professionals for unapproved uses to treat aggression, Alzheimer's disorder, anger management, anxiety, attention deficit hyperactivity disorder, dementia and sleeplessness.

AstraZeneca also allegedly made illegal payments to physicians, including paid trips to resort locations to "advise" about marketing messages for unapproved uses. In addition, the physicians allegedly served as authors of articles written by AstraZeneca agents and conducted studies for unapproved uses of Seroquel.

The settlement also resolves claims that AstraZeneca's conduct induced physicians to prescribe Seroquel for children, adolescents and dementia patients in long-term care facilities.

HEALTH CARE & MEDICAID FRAUD



Outreach Coordinator Josie Rodriguez explains the role of the Public Protection Bureau to members of Nebraska Girls' State at the State Capitol.

As part of the settlement, AstraZeneca has entered into a Corporate Integrity Agreement with the United States Department of Health and Human Services, Office of the Inspector General, which will closely monitor the company's future marketing and sales practices.

Bruning's Medicaid Fraud and Patient Abuse Unit, working with other state MFPAUs and the federal government, participated in the investigation.

Attorney General Advice: Protect yourself from charity scams

Grant Tribune-Sentinel, 11/25/10

Settlement Nets Nebraska More Than \$2 Million

In December, Attorney General Bruning announced a settlement agreement with pharmaceutical manufacturer GlaxoSmithKline (GSK). The federal and state civil settlement, totaling \$600 million, resolved allegations of poor manufacturing practices in the GSK facility located in Cidra, Puerto Rico.

Nebraska received more than \$2.2 million in Medicaid reimbursement. GSK also agreed to the terms of a Corporate Integrity Agreement which will require scrutiny of GSK's future manufacturing practices.

The investigation grew out of a false claims action filed in 2004. A whistleblower's complaint alleged that GSK knowingly manufactured, distributed and sold four products – Paxil CR, Avandamet, Kytril and Bactroban – whose strength, purity and/or quality fell below the standards required by the FDA.

Medicaid Reimbursed for Unnecessary Dental Procedures Performed on Children

In January, Bruning announced Nebraska joined the federal government and 22 other states in a settlement against FORBA Holdings, LLC. FORBA is a dental management company that provided management services to Small Smiles dental clinics across the country. Nebraska received more than \$270,000 in Medicaid reimbursement.

Nebraska alleged FORBA-operated clinics submitted claims for procedures that were either medically unnecessary or performed in a manner that failed to meet professionally-recognized standards of patient care.

Under the terms of the settlement, FORBA agreed to pay \$24 million, plus interest, to resolve problems arising from its billing of state Medicaid programs for medically unnecessary dental services performed on children. FORBA will also receive expanded oversight from the U.S. Department of Health and Human Services.



Civil Litigation

Tom Stine, Bureau Chief

*Civil Rights Claims
Inmate Litigation
Workers' Compensation
Tort Claim Lawsuits
Employment Discrimination
Nebraska Equal Opportunity Commission*



Civil Litigation Bureau Chief Tom Stine

Employee's Impairment Posed Risk for Patients and Staff

In September, the Attorney General's Office successfully defended a decision by the Department of Health and Human Services' to terminate former Lincoln Regional Center employee James Petersen who reported to work after smoking marijuana. The termination was upheld by Lancaster County District Court Judge Jodi Nelson who found Petersen's impairment posed a safety risk for patients and staff at the Regional Center.

Former Treasurer Employee Case Dismissed

Former State Treasurer's Office employee, Robert Harrison, brought a case against the State alleging he was wrongfully terminated. The State maintained Harrison voluntarily left his position. At trial, a jury found no wrongdoing on the part of the State or its officials at the Treasurer's Office.

Based on the jury's 10-2 decision in favor of the State, the case was dismissed with prejudice, which prohibits Harrison from re-filing the case based on the same facts.

Assistant Attorney General Stephanie Caldwell argued the case.



CIVIL LITIGATION



State Sen. Tim Gay joined the Legislature in 2006 and his experience was an immediate asset to the Health and Human Services Committee. Throughout his time in the Legislature, Senator Gay worked to eliminate waste from health care. His help was invaluable to our Medicaid Fraud and Patient Abuse Unit. Thanks to his tireless work, in 2009 the False Medicaid Claims Act was passed. He was awarded the 2010 Attorney General's Legislative Leadership award to recognize his dedication to serving the people of the State of Nebraska.

Inmates: Investing Time, Saving Money

Every year the Attorney General's Office fights hundreds of inmate lawsuits. These cases range in scope and can deal with every day inmate issues such as diet preference to outrageous legal claims. Each suit is vigorously defended to protect millions of taxpayer dollars.

In 2010, 113 inmate cases were handled by the expert team of litigators in the Attorney General's Civil Bureau. Due to their efforts, more than \$39 million of state funds were saved.

Former Corrections Employee Termination Upheld

Former Department of Corrections (DCS) employee, Donald Clark, created and donated a computer program to the Nebraska Correctional Youth Facility.

In 2008, Clark requested 400 hours of comp-time in return for his program. In addition, he threatened to make the computer program inoperable if his request was denied. DCS responded by terminating Mr. Clark and stopped using the program. In September, the State successfully defended DCS against Mr. Clark's wrongful termination claim.

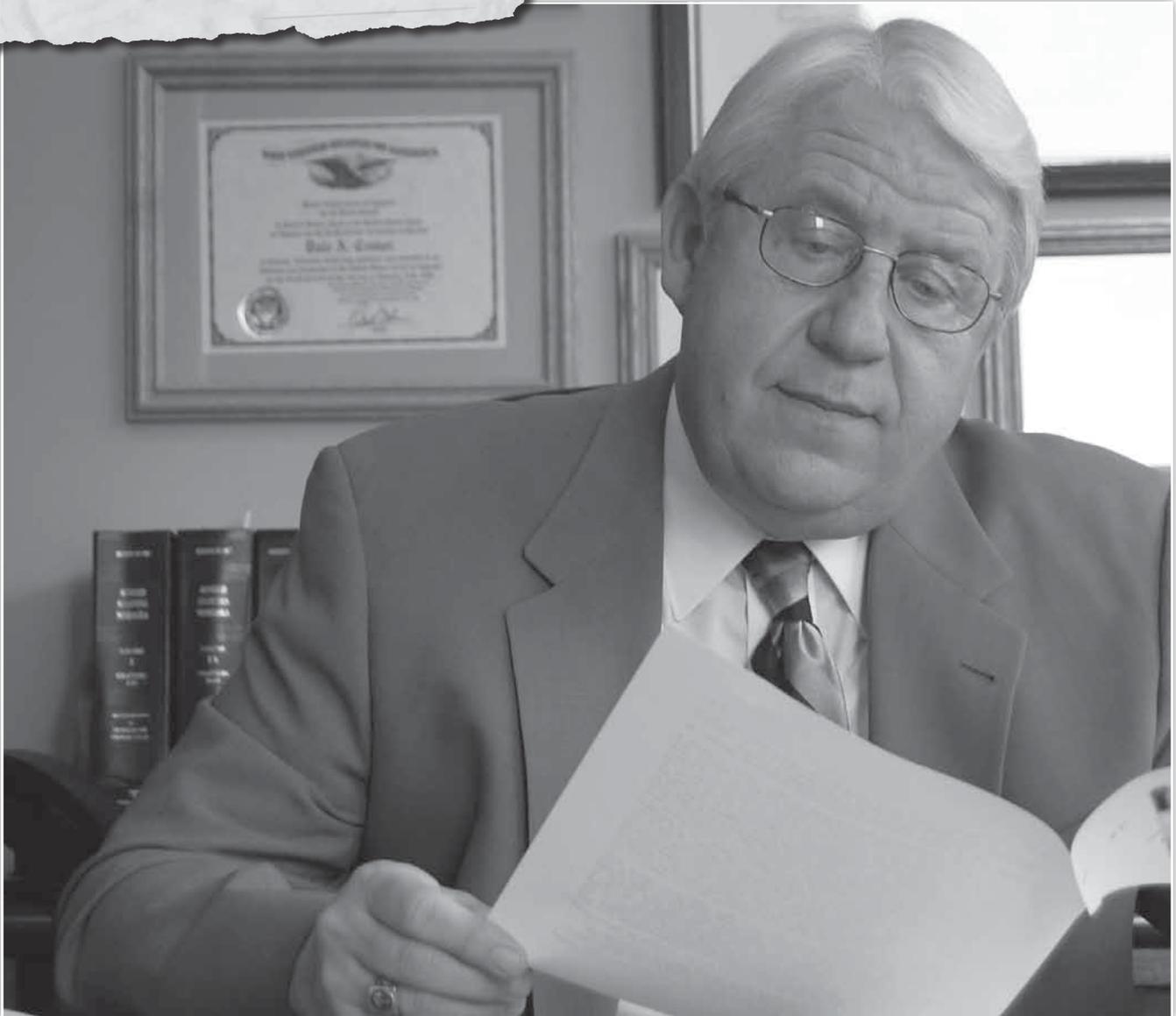
In upholding the termination, Judge Flowers noted that Clark's demand for compensation was not protected by Nebraska employment law. This case saved taxpayers more than \$200,000.



Legal Services

Dale Comer, Bureau Chief

*Attorney General Opinion Requests
Legal Services to State Agencies and State Officers
Civil Litigation Involving State Agencies and
Constitutional Issues
Public Records and Open Meetings Issues*

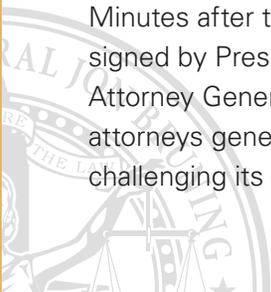


Legal Services Bureau Chief Dale Comer

Attorney General Challenges Constitutionality of Federal Health Care Law

Minutes after the federal health care law was signed by President Barack Obama on March 23, Attorney General Jon Bruning and 12 other state attorneys general filed a lawsuit in federal court challenging its constitutionality.

For the first time in the nation's history, this law requires individual Americans to enter into contracts and purchase services from private companies - or face a penalty. The States are challenging the individual mandate requirement on the grounds that it exceeds Congress' authority under the Commerce Clause and violates the U.S. Constitution.



LEGAL SERVICES

Additionally, the States are challenging provisions of the new law that will impose dramatic Medicaid spending increases on the states – including hundreds of millions of dollars in mandatory spending increases for the State of Nebraska.

In a victory for individual liberty, U.S. District Court Judge Vinson ruled the individual mandate unconstitutional in January 2011. Federal appeal is pending.

Currently, there are 26 state plaintiffs joined by the National Federation of Independent Business (NFIB) as a co-plaintiff on behalf of its members nationwide and two individuals, Mary Brown and Kaj Ahlburg.

Bruning: Health reform violates the Constitution

Holdrege Citizen, 03/22/10

AGRICULTURE, ENVIRONMENT & NATURAL RESOURCES

Attorney General Leads Challenge of EPA Finding

In March, Attorney General Jon Bruning joined with 11 other states in filing a motion to intervene in a challenge to the Environmental Protection Agency's endangerment finding relating to greenhouse gasses.

On December 15, 2009 the EPA released its final endangerment finding, which concluded that atmospheric concentrations of six greenhouse gases are sufficient to constitute air pollution that endangers public health and welfare. The EPA additionally reported that new motor vehicles contribute four green houses gasses (CO₂,

Methane, Nitrous Oxide and HFCs) and exacerbate existing air pollution problems.

The Attorney General stressed the EPA's conclusion would act as a first step in expansive regulation that would ultimately adversely affect state economies. Bruning questioned the science used to justify the regulation and opposed the effort to impose any number of controls to achieve unknown results at the expense of Nebraska industries.

Bruning concluded the effort to enforce the emission regulations without proof of benefit is not only potentially ineffective; it is an unconstitutional expansion of authority of our federal government.



Attorney General Jon Bruning discusses issues in Pleasanton, Nebraska.



AGRICULTURE, ENVIRONMENT & NATURAL RESOURCES

Kawasaki Held Accountable for Waste

In March, Kawasaki agreed to pay \$25,000 in civil penalties and to donate two four-wheel-drive utility vehicles to the Omaha Henry Doorly Zoo and to Lincoln YMCA.

The settlement helped to ensure Kawasaki was held accountable for 27 separate violations of laws governing hazardous waste.

Nebraska Fights for Republican River Basin Interests, Limits Kansas' Damages

In 2009, the Agriculture, Environment and Natural Resources Section successfully defended Nebraska in arbitration brought by Kansas seeking

\$72,000,000 in damages based on allegations that Nebraska overused its share of water from the Republican River. The arbitrator limited damages to a nominal sum of \$10,000, ruled in favor of allowing Nebraska to regulate its own water use and acknowledged critical errors in the water use accounting used by the states.

In May 2010, the clash over Republican River issues escalated when Kansas petitioned the U.S. Supreme Court to exercise its original jurisdiction. At the same time, two additional arbitrations initiated by Colorado and Nebraska came to a close.

In April 2011, the U.S. Supreme Court accepted jurisdiction of the case. The Attorney General's Office will continue to vigorously defend Nebraska's interests in the Republican River Basin before the nation's highest court.



Nebraska's Republican River.



ROADS



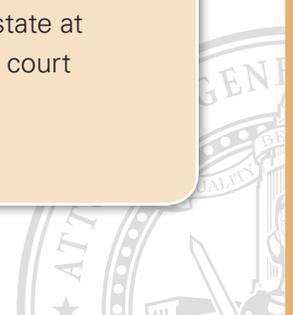
Department of Roads Recovers Millions for Nebraskans

The Roads Section of the Attorney General's Office handled 135 cases in 2010, recovering \$16,639,403.

The Roads Section defends the state in highway tort cases, highway contractor claims, workers' compensation cases, employment law and other matters involving the Nebraska Department of Roads.

Legal Services Bureau by the numbers:

1. Provided legal services to **108** different state officers, state agencies, boards, committees and commissions.
2. Provided legal services to county attorneys and other public officials in **49** Nebraska counties.
3. Prepared **18** formal and informal opinions for state officers, state agencies and county attorneys.
4. Reviewed **47** formal written Open Meetings and Public Records Complaints. The bureau also received **253** phone contacts and emails concerning Open Meetings and Public Records issues. Those complaints and other contacts involved public bodies in **47** different Nebraska counties in addition to state agencies.
5. Reviewed **71** sets of rules and regulations for state agencies, boards and commissions.
6. Reviewed contracts for state agencies, boards and commissions with a total value in excess of **\$30** million.
7. Assisted **190** Nebraska citizens with general questions about the Attorney General's Office or Nebraska law.
8. Commenced **953** separate new legal projects for state agencies and officials, including contract reviews, research projects, administrative cases from state agencies and other matters.
9. Litigated **251** civil cases for the state at all levels of the state and federal court systems.



Solicitor General

J. Kirk Brown

*Provide Appellate Consultation and Training
Defend Death Penalty Cases
Brief and Argue cases before the Appellate Courts
Advise on requests by other states to join Amicus Briefs*



Solicitor General J. Kirk Brown

Nebraska Supreme Court upholds Vela sentence

Grand Island Independent, 01/09/10

Norfolk Bank Robbers Death Sentences Affirmed

In 2010, the Solicitor General briefed, argued and received affirmation of two death sentences before the Nebraska Supreme Court. Jose Sandoval and

Eric Vela are both facing death for their participation in a 2002 Norfolk bank robbery that left five people dead.

Vela and Sandoval were two of three robbers who entered the U.S. Bank in Norfolk in 2002. Inside the bank, Vela, Sandoval and Jorge Galindo shot and killed four bank employees and a customer.

Vela claimed he was exempt from a sentence of death due to mental retardation. That claim was rejected by the district court.

A jury convicted each man of five counts of first-degree murder. All three men received death sentences.

SOLICITOR GENERAL

Death Sentence Appeals

The Solicitor General filed briefs in five other death penalty cases including the mandatory direct appeals of Roy Ellis and Marco Torres, the federal habeas corpus appeals of John Lotter and David Dunster and the postconviction appeal of child murderer Raymond Mata.

Lewis Conviction Affirmed

The Nebraska Supreme Court affirmed the conviction of Eric Lewis for the murder of an on-duty psychiatrist at the Lincoln Regional Center.

In 2007, Lewis attacked Dr. Louis Martin and punched the 78-year-old psychiatrist twice in the head. Dr. Martin suffered severe brain and head trauma after the attack. He died ten days later from the injuries.

Lewis was found guilty of second-degree murder in January 2009.

Constitutional challenges to State Statutes

In a case of first impression before the Nebraska Supreme Court, the Solicitor General successfully defended the Developmental Disabilities Court-Ordered Custody Act.

Under the Act, a Lancaster County resident with mental retardation was committed to the Lincoln Regional Center after being found unfit to stand trial on a charge of first-degree sexual assault. In Lancaster County District Court, the resident appealed the commitment and argued the Act was unconstitutional. The District Court ruled the Act was constitutional. The ruling was affirmed by the Nebraska Supreme Court.

Sentence upheld for leader of Norfolk bank killings

Scottsbluff Star Herald, 07/31/10

By the Numbers

- Made recommendations to the Attorney General on 87 requests to join amicus briefs in state and federal courts.
- Reviewed and approved all briefs filed by the Office in the United States Supreme Court and the 8th Circuit Court of Appeals.
- Conducted 11 moot courts in preparation for appellate arguments before the 8th Circuit Court of Appeals, the Nebraska Supreme Court and the Nebraska Court of Appeals.
- Obtained dismissal of four federal habeas corpus cases and filed a brief in a pending case.
- Participated as a judge of the *We the People* competition where teams of high school students from across the state make presentations and answer questions about constitutional law and government. This is the eighth year Solicitor General Brown was asked to judge the competition.
- Sat as practice judge for the UNL College of Law national moot court team and was a member of the oral argument presentation panel.



Attorney General

Jon Bruning



Senator Scott Lautenbaugh explains the importance of LB 728. Also pictured: Attorney General Bruning and State Senators Tony Fulton and Colby Coash.

2010 Legislative Agenda

For the eighth consecutive year, Attorney General Jon Bruning presented his legislative package for the Nebraska Legislature's annual session. The 2010 package focused on bills designed to support law enforcement and provide additional protections for Nebraskans.

LB 728

In March, the Attorney General applauded the passage of LB 728, otherwise known as the *Exploited Children's Civil Remedy Act*. This important piece of legislation provides civil

Attorney General applauds passage of LB 728

West Point News, 03/31/10

remedy for the victims of Nebraska-based child pornography. Under the law, victims can file a civil action against those who possessed, produced or distributed images of them depicting sexual acts while underage.

ATTORNEY GENERAL

West Holt Students Among Those to Attend 9th Annual AGYAC Conference

The Atkinson Graphic, 03/04/10



West Holt High School student Chelsea Thurlow of Atkinson, Nebraska attended the 2010 Attorney General's Youth Advisory Council.

Att. General Bruning: LB 801 helps crumble pyramid schemes, protect businesses

Arthur Enterprise, 04/15/10

LB 801

In April, the Nebraska Legislature passed LB 801 which improved statutes against pyramid schemes while also providing increased protections for legitimate businesses.

Additionally, LB 801 requires peer-to-peer Internet networks to inform users of the risk of identity theft associated with file-sharing.

Attorney General Honored For Fighting Drunk Driving

Alliance Times Herald, 09/22/10

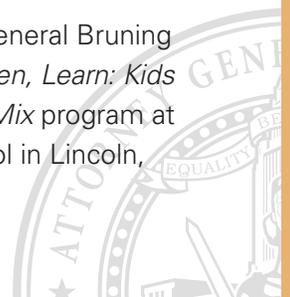


Attorney General Bruning warns school children about dangers of underage drinking.

Bruning Honored for Fight Against Underage Drinking

In September, Bruning was recognized by The Century Council, a national not-for-profit organization whose mission is to stop underage drinking, for his outstanding commitment to fighting drunk driving and underage drinking.

In May, Attorney General Bruning hosted an *Ask, Listen, Learn: Kids and Alcohol Don't Mix* program at Scott Middle School in Lincoln, Nebraska.



HELPFUL TELEPHONE NUMBERS

Attorney General's Consumer Protection Division	1-800-727-6432
Attorney General's Senior Fraud Hotline	1-888-287-0778
Centers for Medicare & Medicaid (Nebraska)	1-877-267-2323
Adult and Child Abuse and Neglect Hotline	1-800-652-1999
Federal Trade Commission Consumer Response Center	1-877-382-4357
Nebraska Medicaid	1-800-642-6092
Social Security Administration	1-800-772-1213
Lancaster County Sheriff's TRIAD	1-402-441-7743



HELPFUL WEBSITES

Attorney General's Office	www.ago.ne.gov
National Do Not Call Registry	www.donotcall.gov
U.S. Postal Inspectors	www.usps.com/postalinspectors
Federal Trade Commission – Consumer Protection	www.ftc.gov/bcp/consumer.shtm
Federal Communications Commission	www.fcc.gov/
Consumer Reports	www.consumerreports.org
Nebraska Better Business Bureau	www.nebraska.bbb.org/
SafeKids	www.safekids.ne.gov/
NetSmartz	www.netsmartz.org



OUR FOCUS

The Office of the Attorney General continues to strive to:

- Uphold and **defend the Constitution** and laws of the state of Nebraska.
- Achieve a higher level of public safety and security by promoting **vigorous prosecution** of murderers, drug dealers, child abusers and other criminals.
- Promote **stronger law enforcement** and reform in criminal procedure and criminal law.
- Provide skilled **assistance to local prosecutors** in fighting illegal drugs and prosecuting child sexual abusers.
- Prevent and **prosecute consumer fraud and deceptive trade practices.**
- **Protect Nebraskans** from fraudulent business activities through consumer education.
- Uphold and **protect the civil rights** of all Nebraskans.
- Defend Nebraska's interests in disputes with other states over **irrigation water and stream flows.**
- **Protect the public health** and safety of Nebraskans by vigorously pursuing disciplinary actions against health care professionals who endanger the public through violations of health regulations or drug laws.
- Provide **professional legal representation** in all civil proceedings on behalf of the state.
- Save taxpayer dollars by **fighting frivolous claims by inmates** of correctional facilities.



FOR MORE INFORMATION, CONTACT:

Nebraska Department of Justice
Attorney General Jon Bruning

2115 State Capitol Building
Lincoln, NE 68509
Phone 402-471-2682
Fax 402-471-3297
www.ago.ne.gov

Consumer Protection Line
toll-free in Nebraska

1-800-727-6432

En Español
llamada gratuita en Nebraska

1-888-850-7555