



KENTUCKY

# General News



January 2014

## Attorney General Conway Announces \$32 Million for Drug Addiction Treatment



More than \$32 million recovered in settlements with two pharmaceutical companies will be used throughout Kentucky to expand substance abuse treatment, including treatment for opiate addictions. General Conway made the announcement Jan. 6 at a press conference with Governor Steve Beshear, First Lady Jane Beshear, and House Speaker Greg Stumbo.

“We’ve done a tremendous job in Kentucky working together to tackle the problem of prescription drug abuse from a law enforcement perspective,” General Conway said. “At the end of the day, we must increase access to treatment if we’re going to stop the cycle of addiction. These settlement funds will expand treatment for youth and adults throughout the Commonwealth.”

According to data from the Substance Abuse and Mental Health Services Administration, Kentucky currently only has one-tenth of the treatment beds it needs. The settlement funds will help create a new treatment center for adults, treatment scholarships, a grant program for new juvenile treatment beds and/or centers, and expanded services for juveniles.

“Attacking prescription drug abuse demands a holistic strategy that includes robust treatment efforts. This expansion of treatment availability will make an incredible impact on individuals, families and communities suffering from the impact of substance abuse and addiction,” Gov. Beshear said. “For thousands of Kentuckians, this expansion will offer an opportunity to restore their health and return to productive lives.”

The settlement will provide \$500,000 to complete the construction of a Recovery Kentucky Center in Boyd County, Ky. Recovery Kentucky utilizes a peer-based model where addicts in different stages of recovery work together to get and stay sober. The Ashland facility will be the 17th center in the state, and it will provide easier access to treatment for families in that region. The plan also provides \$2.52 million in scholarships for individuals who seek treatment at Recovery Kentucky Centers, but who are not subject to the corrections system. Thirty scholarships will be awarded each year for two years for each of the 14 currently operational Recovery Kentucky Centers, making a total of 840 scholarships available over a two-year period.

“As chair of the Recovery Kentucky task force, I am pleased that these settlement funds will allow hundreds of Kentuckians to benefit from newly available scholarships and drug-free housing. Recovering from addiction is a process that intersects every part of a person’s life, and effective treatment provides the tools to help them interact with others, keep a job and keep a roof over their heads,” Mrs. Beshear said. “Through increased treatment options for juveniles, we can prevent these young people from carrying these crippling addictions into adulthood.”

Over the next two years, \$560,000 will be used to help create 14 drug-free homes for people completing and transitioning out of residential substance abuse treatment programs. The money will provide for start-up costs and rental assistance. Residents are required to work and remain drug free.

“This money will go a long way in helping Kentucky’s ongoing efforts to provide treatment options for drug abuse. I am especially pleased that a sizeable portion will be used to help juveniles and to provide needed funding for the KASPER program,” House Speaker Greg Stumbo said.

Approximately \$20 million is being used to start KY Kids Recovery, a grant program that will fund comprehensive juvenile substance abuse treatment programs, both expanding treatment beds at existing facilities and creating new juvenile treatment programs with the full continuum of care, including intensive outpatient and follow-up care centers.

“Far too many parents have been forced to wait at least 90 days to get their children help, or they’ve had to drive four hours away from home to find a treatment bed,” General Conway said. “My goal is to maximize these grants to fund public-private partnerships that will result in expanded treatment for Kentucky teens in every region of Kentucky.”

Gov. Beshear created by Executive Order the Substance Abuse Treatment Advisory Committee to oversee the settlement funding, including the juvenile substance abuse treatment grant program. The committee is chaired by General Conway and also includes First Lady Jane Beshear, Cabinet for Health and Family Services Secretary Audrey Tayse Haynes, Justice and Public Safety Secretary J. Michael Brown, Kentucky Office of Drug Control Policy Director Van Ingram, Kentucky Housing Corporation Executive Director/CEO J. Kathryn Peters and Dr. Allen Brenzel, Clinical Director of the Department for Behavioral Health, Developmental and Intellectual Disabilities. Appointments made by Senate President Robert Stivers and Speaker Greg Stumbo serve as ex-officio members of the committee.

Submissions are now being accepted. The deadline is March 31. To learn more, visit <http://ag.ky.gov/kykidsrecovery>.



**KYKIDSRECOVERY**

The following entities will also receive funds over the next two years from the settlement:

- ▶ \$6 million to administer and upgrade KASPER, Kentucky’s electronic prescription drug monitoring program.
- ▶ \$1 million to support substance abuse treatment for pregnant women by Chrysalis House in Lexington and Independence House in Corbin.
- ▶ \$1.5 million to the University of Kentucky to develop best practices for juvenile substance abuse treatment providers
- ▶ \$1 million to develop a school-based substance abuse screening tool with the Kentucky Department of Education to intervene with at-risk children before they enter judicial or social services systems.
- ▶ \$250,000 to create a database to evaluate outcomes of juvenile treatment.

## **OAG Settlements**

The funds to expand drug treatment programs were made available through settlements with two pharmaceutical companies.

General Conway filed suit against Merck Sharp & Dohme Corporation for failing to disclose to doctors and patients that taking Vioxx significantly raised the risk of heart attack. Meanwhile, it heavily marketed and promoted the drug to consumers and health care professionals. Attorney General Conway recently settled the case for \$25 million.

General Conway also filed suit against GlaxoSmithKline for failing to disclose that patients taking its diabetes drug, Avandia, were at a higher risk for a cardiovascular event. General Conway settled the case for \$15 million.

The court orders filed in both settlements require that the funds be spent on drug treatment programs.

## General Conway Takes Keep Kentucky Kids Safe Program to Campbell County

Attorney General Conway took his Keep Kentucky Kids Safe program to Campbell County on Jan. 16, sharing his message about the dangers of prescription drug abuse and heroin with students at Campbell County High School. Joined by Dr. Karen Shay, a dentist from Morehead, Ky. who lost a daughter to prescription drug overdose, and Van Ingram, executive director of the Kentucky Office of Drug Control Policy, General Conway warned approximately 700 juniors and seniors about an epidemic that is devastating families across the Commonwealth.

“Our medicine cabinets are deadlier than our highways,” General Conway said. “More Kentuckians are dying from overdoses than traffic accidents, and I’m here because I refuse to lose another generation to this addiction.”

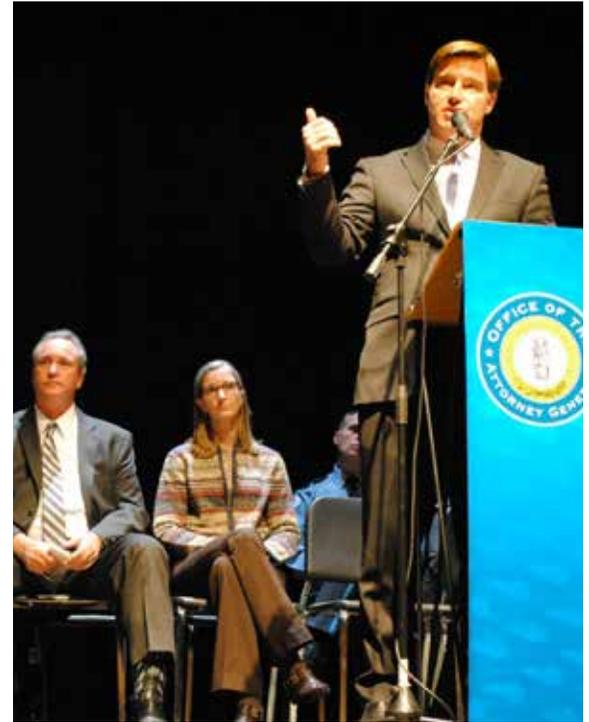
Nationally, prescription painkillers are the leading cause of accidental death in the United States. A report released in October from the nonprofit Trust for America’s Health lists Kentucky as having the third-highest rate of fatal overdoses – the vast majority from prescription pills – in the country. In 2012, there were about 220 million doses of the highly addictive painkiller hydrocodone dispensed in Kentucky. That’s 51 doses of the drug for every man, woman and child in the Commonwealth.

“Losing my daughter to prescription pills has left a hole in my heart that will never heal,” Shay said. “By traveling the state with General Conway and sharing Sarah’s story through the Keep Kentucky Kids Safe program, I hope I can prevent this heartache for other families.”

Heroin is now rapidly replacing prescription painkillers as the drug of choice in many parts of Kentucky because it’s also an opiate, it’s cheaper to get and it mimics the same high people get from crushing and injecting opioid painkillers. In December, General Conway, along with Sen. Katie Stine and Rep. John Tilley, announced bipartisan legislation that was created to stop this disturbing trend. The bill, which was introduced during the 2014 regular session of the Kentucky General Assembly, increases punishment for heroin traffickers, promotes treatment for addicts, and increases public awareness and education.

“In 2012, heroin overdose deaths increased 650 percent across the Commonwealth,” General Conway said. “We’re tackling this issue head on, and our efforts will save lives in Kentucky.”

Since launching the Keep Kentucky Kids Safe program in 2010 with the Kentucky Office of Drug Control Policy, Kentucky Pharmacists Association, National Association of Drug Diversion Investigators (NADDI), Operation UNITE and concerned parents, General Conway and his partners have alerted approximately 40,000 students, teachers and parents to the dangers of abusing prescription drugs and heroin.



“We appreciate General Conway investing in the well-being of our students,” said Renee Boots, principal at Campbell County High School. “The Attorney General’s drug abuse prevention message is a powerful one that must be heard. We know that prescription drug abuse is a serious issue, and students need to understand the consequences.”

Kentucky continues to make progress in its fight against the epidemic of prescription drug abuse. According to the 2012 Kentucky Incentives for Prevention School Survey, the percentage of Kentucky teens misusing prescription drugs has dropped dramatically over the past four years.

Additionally, the latest report from the Substance Abuse and Mental Health Services Administration shows the non-medical use of prescription pain relievers among all age groups in Kentucky is down and for the first time, the state is below the national average for prescription drug abuse.

Watch the Keep Kentucky Kids Safe program presented at Campbell County High School via the Office of the Attorney General’s official YouTube channel: <http://www.youtube.com/kyoag>.

## General Conway Files Complaint Against Propane Provider

Attorney General Conway has filed a complaint in Franklin Circuit Court against a Kentucky propane gas provider for alleged violations of the Kentucky Consumer Protection Act. General Conway also sought, and was granted, a restraining order that allowed customers of United Propane Gas, Inc. (UPG) and its 23 subsidiaries to secure propane from another supplier without permission from UPG until Feb. 3, 2014. A written release by a tank owner/supplier is normally required by Kentucky law before another supplier is allowed to fill the tank. The court's order suspended that requirement in this instance.



The action came after the Office of the Attorney General received complaints from farmers and residential customers of UPG in Western Kentucky who were exhausting their propane supplies. When consumers called the company, they had trouble reaching a representative or could not secure a waiver from the company. The Office of the Attorney General worked with the company to obtain a blanket waiver for customers. The waiver expired at 12:01 a.m. January 28. The Office of the Attorney General demanded that UPG extend the waiver through the week because of frigid temperatures and the company's lack of supply. The company refused, which led to the action.

"The majority of propane companies, while facing shortages, are doing the right thing," General Conway said. "They are working with customers to make partial deliveries or provide waivers. This has not been the case for UPG. It baffles me why a company would not put the needs of its customers first, especially with the recent weather conditions we've been experiencing in Kentucky. I appreciate the judge ruling on behalf of consumers who need access to propane to heat their homes and operate their businesses."

To view Judge Phillip Shepherd's order, visit this link: <http://goo.gl/xrlpWA>.

## General Conway Announces Kentucky's Participation in \$40 Million Settlement with Carefusion Corporation



# CareFusion

On Jan. 9, Kentucky joined with other states and the federal government in a \$40.1 million settlement with CareFusion, a manufacturer of pharmaceutical products. The settlement resolves allegations that the company violated the False Claims Act by paying kickbacks and promoting its product Chloraprep for uses that were not approved by the Food and Drug Administration (FDA).

CareFusion's alleged unlawful conduct caused fraudulent claims to be submitted to government-funded health care programs, including the state Medicaid programs. The Kentucky Medicaid program will receive \$77,486 from the settlement. The federal government will receive \$211,963 for its share of Kentucky-related damages.

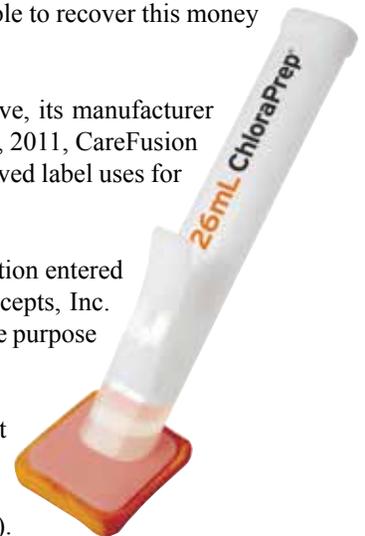
"Defrauding Medicaid will not be tolerated in Kentucky," General Conway said. "I am pleased that we were able to recover this money for the Medicaid program and Kentucky taxpayers."

Chloraprep is a surgical preparation solution. Once the FDA approves a surgical solution as safe and effective, its manufacturer cannot market or promote it for an "off-label" use. The lawsuit alleges that between Sept. 1, 2009 and Aug. 31, 2011, CareFusion promoted Chloraprep for use with intravenous preparation and suture care, which went beyond the FDA-approved label uses for the solution.

The states further contend that during the course of several months in 2008, CareFusion's predecessor corporation entered into agreements, as to which CareFusion assumed legal and financial responsibility, to pay Health Care Concepts, Inc. (HCC). The payments were allegedly made in order to conceal kickbacks to the physician-owner of HCC for the purpose of promoting and influencing providers to use Chloraprep.

The \$40.1 settlement stems from a whistleblower lawsuit filed in the United States District Court for the District of Kansas.

The Kentucky Attorney General's Tip Line for reporting allegations of fraud is 877 ABUSE TIP (877-228-7384).



## General Conway Announces \$16.5 Million Settlement with Saint Joseph London Hospital

Saint Joseph London Hospital has agreed to pay \$16.5 million to resolve civil allegations that it submitted false or fraudulent claims to the Medicare and Kentucky Medicaid programs for a variety of medically unnecessary heart procedures. The agreement represents the second largest health care fraud settlement in the Eastern District of Kentucky

General Conway, along with Kerry B. Harvey, U.S. Attorney for the Eastern District of Kentucky, the Federal Bureau of Investigation (FBI), the U.S. Dept. of Health and Human Services (HHS), and the U.S. Dept. of Justice, jointly made the announcement on Jan. 28. The investigation was handled by General Conway's Medicaid Fraud and Abuse Control Unit, the FBI, HHS-OIG, the Civil Frauds Section of the U.S. Dept. of Justice in Washington, D.C., and the U.S. Attorney's Office.

"I applaud the hard work of my Medicaid Fraud Unit and all of the agencies involved in this case," said General Conway. "I am pleased that we have reached this settlement and are recovering thousands of dollars for a vital state program and for taxpayers."

According to the settlement agreement, from Jan. 1, 2008 until Aug. 31, 2011, several doctors working at the hospital performed numerous invasive cardiac procedures on Medicare and Medicaid patients who did not need them. The hospital then billed the federal programs for these unnecessary procedures, which include coronary stents, pacemakers, coronary artery bypass graft surgeries ("CABGS"), and diagnostic catheterizations. The claims seeking reimbursement allegedly violated the False Claims Act because under federal law, Medicare and Medicaid programs only reimburse health care providers for operations that are deemed medically necessary. Hospitals generally receive between \$10,000 and \$15,000 for medical procedures such as heart stents.



These doctors were affiliated with Cumberland Clinic, a physician group that entered an exclusive arrangement with Saint Joseph in 2008 to provide cardiology services to the hospital's patients.

The settlement also resolves allegations that Saint Joseph violated the federal Stark Law and Anti-Kickback Statute by entering into sham management agreements with doctors at the Cumberland Clinic. These agreements served as an inducement for the doctors to refer patients to Saint Joseph. Therefore, the government contends that Medicare and Medicaid are not responsible to pay claims that resulted from this improper financial relationship between the doctors and the hospital.

The settlement stems from a whistleblower complaint that was filed by three Lexington cardiologists. Prior to the doctors filing their complaint, Saint Joseph voluntarily disclosed to the government that one of its cardiologists, Dr. Sandesh Patil, had performed medically unnecessary coronary stents. Dr. Patil previously pleaded guilty to a federal health care fraud offense and was sentenced to 30 months in prison.

The Commonwealth of Kentucky will receive approximately \$365,851, which represents the state's share of the government's recovery of Medicaid funds. The Medicaid program is funded jointly by the federal and state governments.

## **General Conway Announces Participation in \$15 Million Settlement with BioScrip**

On Jan. 9, General Conway announced Kentucky's participation in a \$15 million state-federal settlement with BioScrip, Inc. The settlement will resolve allegations that BioScrip received kickbacks from Novartis Pharmaceuticals Corporation to promote Novartis' iron chelation drug Exjade directly to patients under the guise of a patient-education program. Kentucky's total share of the settlement is \$23,098 with \$5,830 returning directly to the state Medicaid program. The federal government will receive \$17,268 for its share of Kentucky-related damages.

The kickback scheme began in 2007, at a time when Novartis became concerned that patients were discontinuing use of Exjade because of side effects. The government's investigation found that the kickbacks were designed to induce BioScrip to try to keep patients on the drug as long as possible. As part of the scheme, BioScrip employees made thousands of phone calls to Exjade patients and downplayed the side effects of the drug.



"The payment of kickbacks to promote the use of a drug that might not be appropriate for a particular patient is dangerous and against the law," General Conway said. "This settlement sends a strong message that drug companies that put profits ahead of patient care will not be tolerated."

Until 2012, when it sold most of its pharmacy business, BioScrip operated a specialty pharmacy that shipped prescription drugs to Medicaid patients around the country. Exjade was approved by the FDA in late 2005 for the treatment of chronic iron overload due to blood transfusions. When Novartis launched the drug, it created a closed distribution network in which most Exjade prescriptions in the United States were filled by one of three pharmacies selected by Novartis. BioScrip was one of the pharmacies in this network, which Novartis promoted to doctors and patients as a way to foster patient education. Novartis controlled which pharmacy filled many of the prescriptions for Exjade dispensed through the network.

The government alleged that Novartis used its control of Exjade prescriptions, as well as various rebates and discounts, to pay kickbacks to BioScrip. For instance, Novartis created an "Exjade Scorecard" that measured how long patients took Exjade. Novartis used this "scorecard" to award more new patients to the pharmacy that kept patients on the drug the longest. BioScrip often won this competition and received valuable new patient referrals as a result. A former BioScrip supervisor stated under oath that this competition and the rebates provided by Novartis

“caused (BioScrip) to be focused exclusively on the number of orders and refill rates, rather than on patient care.”

The joint state/federal investigation of this matter was conducted by a team appointed by the National Association of Medicaid Fraud Control Units, the U.S. Attorney’s Office for the Southern District of New York, the U.S. Department of Justice, the Federal Bureau of Investigation, and other federal agencies.

The investigation was triggered by a whistleblower lawsuit, U.S. ex rel. Kester, et al. v. Novartis Pharmaceuticals Corporation, et al., filed under the federal False Claims Act and similar state false claims statutes. The National Association of Medicaid Fraud Control Units team participated in the settlement negotiations with BioScrip on behalf of the settling states.

## **Former Eastern Kentucky Care Center Coordinator Sentenced**

A former regional coordinator for the Mountain Comprehensive Care Center in eastern Kentucky was sentenced Jan. 13 on charges involving forgery and fraud. The sentencing follows 49-year-old Kathy Jo Ryan’s guilty plea to four counts of employee aid to other to defraud an assistance program.

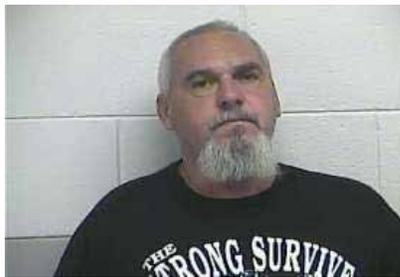
A joint investigation by General Conway’s Public Integrity/Special Investigations Branch and the Kentucky Office of the Inspector General revealed that Ryan forged doctors’ notes and information on applications for the Hart-Supported Living grant in November 2012. The Hart-Supported Living program provides Kentuckians with disabilities the help they need to live successfully in a home of their choice and to participate in their community. According to the investigation, Ryan helped secure funding for renovations to her home.

“Ms. Ryan used her position to take advantage of a state-funded program that many citizens rely on,” General Conway said. “I’m pleased that she is accepting responsibility for her actions and that her sentence includes restitution.”

Ryan was ordered to pay \$64,993 in restitution within 90 days. She received a probated five-year prison sentence. Franklin County Commonwealth’s Attorney Larry Cleveland handled the prosecution of this case.

## **Defendant in Green County Murder Trial Found Guilty**

A Taylor County man charged with complicity to murder has been convicted by a Green County Circuit Court jury. Following its verdict on Jan. 23, the jury recommended 61-year-old David Salyers serve 20 years and six months in prison for the murder of Wendell “Gleason” Pyles.



On Oct. 3, 2012, Kentucky State Police arrested Salyers following an investigation into the death of Mr. Pyles, who was shot and killed in September 2012 while working at Tarter Gate Company in Dunnville, Ky. General Conway’s Office of Special Prosecutions handled the prosecution of this case at the request of the Casey County Commonwealth’s Attorney. In early January, the trial was moved to Green County by Casey Circuit Judge Judy Vance.

“I want to commend my Office of Special Prosecutions for its handling of this case, and I appreciate the jury’s careful consideration on the matter,” General Conway said. “Our thoughts, as always, are with the victim’s family in this case.”

Formal sentencing for David Salyers is scheduled for March 7. The trial for Bobby Rigdon, who is also charged with Pyles’ murder, is expected to begin in September in Casey County. General Conway’s Office of Special Prosecutions will also prosecute Rigdon’s case.

## **Kenton County Man Sentenced on Child Porn Charges**

A Kenton County man has been sentenced on charges involved child pornography. Timothy Johnston, 65, was sentenced Jan. 29 in Kenton Circuit Court after pleading guilty in October 2013 to two counts of possession of matter portraying a sexual performance by a minor.

In March 2013, General Conway’s Cybercrimes Unit conducted a month-long investigation after investigators received a complaint from the National Center for Missing and Exploited Children and AOL that an Internet user had transmitted images of children engaged in sexual acts via email. Cybercrimes investigators executed a search warrant at Johnston’s home and an arrest warrant was issued after a review of computers seized from the residence uncovered suspected child pornographic images.

Additionally, General Conway’s investigators contacted the state Cabinet for Health and Family Services regarding the investigation after learning that Johnston had two foster children in his care.



“To date, the investigative efforts of my Cybercrimes Unit have resulted in a 100 percent conviction rate,” General Conway said. “The Internet is a safer place for Kentucky kids because of my Cybercrimes investigators, who work hard on these types of cases every day.”

Johnston was sentenced to 10 years in prison; however, his sentence was probated for five years. Johnston must also register as a sex offender for life. The prosecution of this case was handled by Kenton County Commonwealth’s Attorney Rob Sanders.

## **Johnson County Man Arrested on Child Porn Charge**

A Johnson County man is facing multiple counts of possessing child pornography. Kevin King, 22, was arrested Jan. 15 by the Johnson County Sheriff’s Department following an indictment obtained by General Conway’s Cybercrimes investigators.

The indictment is the result of an investigation that began in December 2012. Investigators with the Cybercrimes Unit, along with deputies from the Johnson County Sheriff’s Department, executed a search warrant at King’s home, and a forensic exam on computers taken from the home discovered more than 3,000 images depicting the sexual exploitation of children.

King is charged with four counts of possession of matter portraying a sexual performance by a minor, a Class D felony. Each count is punishable by one to five years in prison.

## **Lawrence County Man Indicted on Child Porn Charges**



A Lawrence County grand jury has indicted a man on charges involving child pornography. On Jan. 10, the grand jury indicted 68-year-old Edgar N. Purdom on four counts of distribution of matter portraying a sexual performance by a minor and one count of possession of matter portraying a sexual performance by a minor. Purdom turned himself in at the Lawrence County Sheriff’s Department.

An investigation by General Conway’s Cybercrimes investigators began in February 2013 following an undercover lead. A search warrant was executed at Purdom’s home in October 2013 with the assistance of the Lawrence County Sheriff’s Department.

Distribution of matter portraying a sexual performance by a minor and possession of matter portraying a sexual performance by a minor are Class D felonies. Each count is punishable by one to five years in prison.

## **Christian County Man Pleads Guilty to Possession, Distribution of Child Porn**

A Christian County man has pleaded guilty to possessing and distributing child pornography. Robert Walker, Jr., 47, pleaded guilty in Christian Circuit Court on Jan. 2 to four counts of possession of matter portraying a sexual performance by a minor and eight counts of distribution of matter portraying a sexual performance by a minor. The Commonwealth recommended Walker serve six years in prison without probation and complete a sex offender treatment program. Walker’s sentencing is scheduled for Feb. 11, 2014.

Walker was indicted by a Christian County grand jury in June 2013 following an undercover investigation by General Conway’s Cybercrimes Unit that began in August 2012. A search warrant was executed in January 2013 at Walker’s Hopkinsville residence with assistance from Kentucky State Police.

“I appreciate the hard work of my Cybercrimes investigators and prosecutors who brought this case to a successful close,” General Conway said. “Because of their dedication, the Internet is a safer place for Kentucky children.”

Since its creation in June of 2008, General Conway’s Cybercrimes Unit has launched 375 child pornography investigations and seized more than 422,600 child pornographic images and videos from the Internet. The unit’s investigative efforts have also resulted in a 100 percent conviction rate.



For additional information on General Conway’s efforts to protect Kentuckians from Internet predators, visit the Office of the Attorney General’s “Cybersafety in Kentucky” page at <http://ag.ky.gov/cybersafety/>. To report cyber abuse, visit the CyberTipline or call 1-800-843-5678.

## **2013 OAG Accomplishments**

In 2013, Attorney General Jack Conway and his staff continued working diligently to help make Kentucky a safer place to live, work and raise a family. The Attorney General’s Consumer Protection Division recovered millions of dollars in restitution for Kentuckians who were taken advantage of by banks responsible for the mortgage foreclosure crisis, and General Conway’s ongoing efforts to combat consumer protection abuses within the for-profit college industry resulted in a lawsuit against a third for-profit institution.

Because of the dedication of General Conway's Cybercrimes investigators, more than 59,000 child pornographic images and videos were removed from the Internet last year, bringing the total number seized to 422,639 since 2008. Additionally, through the Attorney General's Keep Kentucky Kids Safe program, General Conway and his partners warned more than 12,600 middle and high school students in 13 counties about the dangers of prescription drug abuse. To date, this important message has been shared with more than 40,000 students, teachers and parents since the initiative was created in late 2010. General Conway and his staff are committed to standing up for Kentucky families and protecting consumers, and they are proud to continue serving the citizens across the Commonwealth.

Read more: <http://goo.gl/FSDTbg>

