



A Year in Review

2015 ANNUAL REPORT

Office of the San Diego City Attorney

A Message from City Attorney

Jan Goldsmith

*It has been an honor to serve as your City Attorney for the past 7 years and to lead the region's largest law firm. The **City Attorney** serves the citizens of **San Diego** as both its Chief Legal Advisor and its misdemeanor prosecutor.*



I am pleased to present the City Attorney's Annual Report for 2015. Our experienced staff works diligently to provide outstanding legal services to our client, the City of San Diego.

This report is published each year to share many of our accomplishments. Here are a few highlights from 2015:

This year the City of San Diego and our Civil Litigation Unit resolved its oldest and most difficult lawsuit, a hard-fought land-use dispute that began in the 1990s and once resulted in an adverse judgment against the City that, had it not been overturned, would have cost taxpayers \$136 million. Instead of suffering a financial blow, however, the City will benefit under the settlement of five lawsuits involving entities owned and controlled by developer Roque de la Fuente II.

To end the 20-year-old litigation, two of the City's former insurance carriers have agreed to pay both sides in the dispute – with \$8.2 million going to the City and \$25 million to De la Fuente's Border Business Park.

Since the San Diego Community Court Program was launched by the City Attorney's Office Criminal Division, its participants – generally young and first-time offenders – have paid their debts to society by planting trees, recycling waste products, painting out graffiti, clearing neighborhoods illegally dumped trash, and helping to provide services to the homeless. In 2015, its first full year in operation, Community Court had 602 participants who performed nearly 10,000 hours of community service through Alpha Project and the Urban Corps of San Diego County. The program will expand its scope in 2016, so that even more low-level and first-time offenders can choose paths that lead them away from further criminal activity. A new Community Justice Initiative, partly funded by a \$415,599 grant from the U.S. Department of Justice, will provide services that help address participants' underlying needs, such as substance abuse, homelessness, mental health counseling and job training. Early intervention is critical to helping young and first-time offenders to get their lives back on track and not become career criminals.

Investigators with the Criminal Division's Consumer and Environmental Protection of the City Attorney's Office were busy this year purchasing advertised "lobster rolls" from various sushi restaurants throughout San Diego, and then sent them to a laboratory where DNA testing confirmed that no lobster was in fact in any of the rolls.

Instead of lobster, the testing revealed the substitution of various types of less expensive seafood such as crawfish or pollack. Follow-up restaurant inspections by the California Department of Fish and Wildlife and the City's investigator found no lobster in any of the businesses.

From lobster rolls to pot shops, the Code Enforcement Unit obtained court orders to close 65 more marijuana dispensaries that were operating in violation of San Diego zoning regulations, bringing the total number of dispensaries closed by court order since 2011 to 268. In addition, a defiant Pacific Beach marijuana dispensary and its operator have been ordered to pay the City \$1,835,000 in civil penalties for operating a pot shop on Garnet Avenue in violation of City zoning laws. The judges are sending a message, and so are we, that marijuana dispensaries can either follow the law or they will pay a high price for their actions. Every business has to comply with zoning laws.

Thank you to our Code Enforcement Unit for their outstanding efforts and hard work in this area.

The California Office of Traffic Safety renewed a \$238,346 grant to the City Attorney's Office that puts highly trained, specialized prosecutors in the courtroom when motorists are arrested in San Diego for driving under the influence of drugs, or drugs in combination with alcohol. With support from this grant, the office prosecuted 150 impaired-driving cases over a 12-month period, the majority of them purely drug DUI cases, with a 99 percent conviction rate. Deputy City Attorney Taylor S. Garrot, the assigned prosecutor for the drug DUI grant, was selected as Mothers Against Drunk Driving's Outstanding Prosecutor of the Year for 2015.

Earlier this year the California Supreme Court issued a CEQA opinion in City of San Diego v. California Board of Trustees (CSU) providing state-wide protection for all cities from environmental degradation when colleges expand by requiring them to make a financial commitment to mitigate environmental affects before approval of the project. This case began ten years ago, in 2005, when the City of San Diego, and other agencies, challenged CSU's campus expansion and environmental impact report (EIR) because CSU claimed it was not required to provide the \$6.5 million dollars to pay for traffic and infrastructure impacts caused by the campus expansion.



The City continues to face its challenges. As I head into my final term of serving eight years, this is my last published annual report. As my mission



statement articulates – Integrity does Matter! Under my leadership, our office has consistently provided high quality legal advice consistent with the highest professional and ethical standards to the City, while remaining accountable to the People of San Diego. I want to thank you for entrusting me to serve as your City Attorney.

Sincerely,

Jan Goldsmith

San Diego City Attorney

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2015 City Attorney's Office



- **Criminal Division:** The prosecutes criminal infractions committed within jurisdiction. The Criminal into five units: Appellate, Domestic Violence and Sex Trial, and Neighborhood

Welcome aboard to our new 2015 class of criminal and civil division deputies!

division is under the direction of Interim Assistant City Attorney John Hemmerling. Mr. Hemmerling has more than 22 years of experience in criminal prosecution, and civil advisory, and is also assigned to the City Attorney's Crisis Response Team that advises key city leaders at the City Emergency Operations Center during critical incidents.

Criminal Division misdemeanors and the City's Division is divided Case Issuance, Crimes, General Prosecution. This

Appellate Unit: The Appellate Unit provides legal support for the Criminal Division. The Unit is led by Chief Deputy City Attorney Jonathan Lapin and is comprised of four deputy city attorneys and two and one-half clerical positions. The Unit handles all pre-trial motions and writs as well as all post-trial appeals for the general misdemeanor unit and the domestic violence unit.

Most appeals are handled in the San Diego Superior Court Appellate Division, but the Unit also had cases in the Fourth District Court of Appeal. The Unit handles cases in the United States District Court, Southern District of California and has a pending case in the Court of Appeals for the Ninth Circuit.

The Unit also provides training, research, legal updates, and other legal support for all units in the Criminal Division. Appellate deputies train new deputy city attorneys and provide research and legal opinions to deputies in the case issuance and trial units. While the core mission of the Unit involves legal research and writing, specific unit responsibilities include the following:

Pre-trial Motions:

The Appellate Unit handles all pre-trial motion of behalf of the General Misdemeanor Unit. Typical motions include defense motions to suppress evidence based on the Fourth Amendment and motions to dismiss based on the Fifth and Sixth Amendments and California Constitution.

Post-Trial Motions:

The Appellate Unit handles all post-trial motions on behalf of the General Misdemeanor Unit as well as the Domestic Violence Unit. Typical motions include motions for new trial, motions to withdraw guilty pleas, motions to vacate convictions due to immigration consequences, and motions to seal arrest records.

Appeals:

The Appellate Unit handles all appeal matters on behalf of the General Misdemeanor Unit as well as the Domestic Violence Unit. Most appeals are filed by defendants after convictions, but the Appellate Unit also files appeals to correct judicial errors.

Training:

The Appellate Unit takes part in training each new class of deputy city attorneys. The Unit provides training on such topics as trial procedures, appellate issues, and Constitutional issues.

Legal Advice:

The Appellate Unit serves as a resource for deputies who have questions on criminal law and procedure. Trial deputies, case issuance deputies, and arraignment court deputies seek legal advice on a daily basis.

2015 Highlights:

The Appellate Unit handled more than 94 appeals and pre-trial writs. The Unit practiced primarily in the Appellate Division of the Superior Court but also handled cases in the Fourth District Court of Appeal.

For instance, in *People v. Carioscia*, M186438, Deputy City Attorneys Han Hershman and Kathleen McManus successfully briefed and argued a Fourth Amendment issue before the Appellate Division of the Superior Court and the Fourth District Court of Appeal.

The Appellate Unit also successfully argued against a petition for habeas corpus relief in the United States District Court, Southern Division of California in the case of *People v. Steven Kassab*, M002119/13cv1162. Senior Deputy City Attorney Shelley Webb and Chief Deputy Steve Hansen (retired) submitted written briefing on the issues involving this 2008 trial. The petition was denied by the United States Magistrate.

The Appellate Unit also litigated more than 112 motions during 2015. These included the following: quash subpoenas, recuse the City Attorney's office as prosecutor, withdraw plea, dismiss, diversions, and vacating judgments based on immigration consequences. The Unit also responded to demurrers and petitions to seal and destroy arrest warrants.

Case Issuing Unit:

The Case Issuing Unit operates within the Criminal Division of the San Diego City Attorney's Office. The Case Issuing Unit is responsible for receiving, processing, and reviewing all reports submitted by local law enforcement agencies. Attorneys in the Unit review all misdemeanor and infraction violations occurring within the City of San Diego, the City of Poway, and the unincorporated area of 4S Ranch.

The Case Issuing Unit is headed by Chief Deputy City Attorney Heily Hernandez and supported by ten deputy city attorneys, one paralegal and twenty-two staff members. The staff members within the Unit are divided into three groups: Case Intake,



Custody, and Complaints/Data Entry. Each group is tasked with a unique set of responsibilities within the case issuing process.

The Case Issuing Unit files three types of charges:

1. Felony Wobblers: Crimes that may be prosecuted either as misdemeanors or felonies at the discretion of the prosecutor. The District Attorney's Office elects to send certain felony cases to the City Attorney's Office for misdemeanor review.
2. Misdemeanors: Crimes punishable by a fine and one year or less in the county jail.
3. Infractions: Crimes punishable only by a fine.

Over 1,600 cases are received and processed each month of which an estimated 1,300 complaints are filed. Each case is reviewed by an attorney who decides whether charges should be filed. Once criminal charges are filed, the case is prepared for arraignment. The Unit is jointly responsible with the Trial Unit for ensuring the arraignment is in accord with the procedures of the court, rights of victims and the rights of the persons accused.

The supervisors within the Unit are responsible for the training and development of new attorneys and staff members. Attorneys are trained in the legal and technical requirements of reviewing cases and issuing appropriate charges against an individual. Staff members are trained on office and court procedures for filing cases in court. Some staff members are also trained to work in the Misdemeanor Arraignment Department as vital assistants to the attorneys, judges, and court personnel.

Cooperation with Law Enforcement Agencies

The Case Issuing Unit receives cases from a variety of law enforcement and government agencies. Attorneys and staff work closely with each agency to ensure successful prosecution of each charged case. These agencies include: San Diego Police; San Diego County Sheriff; California Highway Patrol; San Diego Harbor Police; San Diego State University Police; University of California – San Diego Police; San Diego Community College Police; San Diego City School Police; Department of Animal Services; The Humane Society; Department of Health Services; Department of Fish and Wildlife; San Diego Park Rangers; San Diego Lifeguards; Metropolitan Transit District and the Department of Alcoholic Beverage Control.

Attorneys from the Case Issuing Unit work with our partner law enforcement agencies to facilitate open communication, free flow of necessary information and an ongoing dialogue regarding the prosecution of misdemeanor cases. The chief and senior deputies frequently attend law enforcement meetings in an effort to address questions and maintain consistency throughout the law enforcement community.

Case Issuing Statistical Information

In 2015, the Case Issuing Unit reviewed approximately 19,454 cases from law enforcement agencies, government, and the District Attorney's Office, including cases submitted in late 2014. This represents approximately 87 percent of the criminal cases submitted to the City Attorney's Office as a whole. The Unit transfers some cases to other units for vertical prosecution and often receives cases from other vertical units for our review. In 2015, complaints were filed in 15,424 cases which amounts to 79 percent of the total cases reviewed.

Issuing attorneys must be well versed in many areas of criminal law. The types of offenses reviewed and filed include: driving under the influence of alcohol or drugs (DUI); petty theft; resisting arrest; prostitution; drug possession; vehicular "hit and run"; assault with a deadly weapon; battery with serious bodily injury; furnishing alcohol to a minor; unlawful possession of a firearm; restraining order violations; harassing telephone calls; credit card/check fraud and identify theft.



In 2015, Case Issuing filed approximately:

- 3,880 (approximately) driving under the influence of alcohol or drugs cases (DUI)
 - 20 of these cases were 'felony wobbler' DUIs with injury cases
- 3,030 (approximately) drug related offenses which include:
 - possession of methamphetamine pursuant to HS11377(a)
 - possession of cocaine and heroin pursuant to HS11350(a)
 - possession of concentrated cannabis pursuant to HS11357(a)
 - possession of 28.5 grams of marijuana or more pursuant to HS11357(c)
 - possession of drug paraphernalia pursuant to HS11364(a)
 - possession of other controlled substances such as diazepam, lorazepam and alprazolam pursuant to HS 11375(b)
- 1300 under the influence of a controlled substance cases
- 331 vehicular 'hit and run' cases
- 2,558 (approximately) theft-related offenses

The unit also reviews other types of weapons cases, drug cases, suspended driver license cases, municipal code violations, environmental violations, trespass violations, and many more.

San Diego Traffic Offenders Program (S.T.O.P)

The Case Issuing Unit assigns a deputy city attorney to the San Diego Police Department as part of the San Diego Traffic Offenders Program (S.T.O.P). In 2015, the S.T.O.P. position was filled by Deputy City Attorney Howard Guess. The S.T.O.P. deputy appears in court on vehicle

impound and forfeiture hearings generated by the unlicensed driver enforcement component of the San Diego Police. The assigned deputy reviews most driver license citations and reckless driving cases submitted by law enforcement.

In addition to prosecutorial duties, in 2015, the S.T.O.P. deputy conducted six civil vehicle impound hearings and seven vehicle forfeiture hearings pursuant to various procedures in the California Vehicle Code. Depending on the nature of the case, the proceeds from the sales of forfeited vehicles are either split evenly between the state and the city or are donated to the San Diego Youth & Community Services, Mid-City Community Center.

Additionally, the S.T.O.P. deputy prepared and filed one civil forfeiture hearing for a vehicle without the proper serial numbers. A destruction order for either the entire vehicle or the component part missing the serial number was granted.

Overall, the S.T.O.P. deputy acts as a liaison between the City Attorney's office and the San Diego Police Department's Traffic Division. The assigned deputy handles matters that arise from the Tow Administration Unit and the Auto Theft Unit. Finally, the S.T.O.P. deputy serves as a great resource to other deputy city attorneys on DMV, traffic, and other vehicle related matters.

Highlights of 2015

In 2015, the Case Issuing Unit utilized new technology and effectively implemented new E-Discovery procedures to provide discovery to defense counsel for in-custody cases. The Unit welcomed two new supervisors for the In-Custody and Complaint/Data Entry units. The Case Intake unit was responsible for accepting approximately 35,000 Body Worn Camera (BWC) videos submitted to us by the San Diego Police Department.

Additionally, the Case Intake unit was tasked with mailing out pre-filing Restitution letters to victims of crimes submitted to our office. The unit was responsible for sending out over 2,900 letters notifying victims of their right to receive restitution. As a result, victims were able to submit restitution requests for out-of-pocket expenses incurred prior to the case being reviewed by an attorney. Once the request was submitted an attorney was able to review it and incorporate the request into the disposition of the case.

For the first time in several years, the Case Issuing Unit has two Senior Deputies who were selected following a thorough interview process with many excellent and qualified candidates. Additionally, the Unit now has Trial attorneys rotating through the Unit for six months at a time.

E-Discovery

The Custody Unit, under the leadership of its new supervisor, Antoinette Jackson and with the guidance of the Chief Deputy, implemented the unit's new E-Discovery procedures for all in-custody cases handled by the Case Issuing Unit.



The old procedures required a staff member to make a paper copy of the discoverable reports of every case file to prepare it for discovery *before an issuing decision was made*. This procedure was designed to save copier time after the case was issued given the short deadlines for in-custody cases. After a number of cases were issued, a runner physically delivered the discovery packets to defense counsel inside the jail.

After nearly eight months of work and collaboration with IT personnel, staff, attorneys and the Public Defender's office, the Custody Unit went "live" with the new E-Discovery procedures on December 21, 2015. With the new procedure, discovery is scanned to a predefined address *after an issuing decision is made*. The discovery is immediately uploaded, making it available to the Deputy Public Defenders on an FTP server for 30 days, and to the employees of the Criminal Division on our shared drive. The short time required to scan the discovery subsequent to filing is offset by the timing of the immediate upload and extended availability of the disclosure.

The implementation of the new E-Discovery procedures will provide a more efficient way of doing business which will result in overall cost-savings. Additionally, the amount of time that a clerk will save by not having to physically provide the discovery to the jail will be better utilized for more productive law enforcement related activities.

Drug Matrix

The Drug Matrix is a detailed summary of the California Health and Safety Code drug schedules, including the changes created by Proposition 47 and 2015 legislation. It provides assistance to all California law enforcement and prosecuting agencies in determining a drug's designation as a controlled substance, common AKAs, as well as the proper charging sections for criminal prosecution.

Deputy City Attorney Ann Marie Council and Senior Deputy City Attorney Kristen Fossler, two attorneys in the Case Issuing Unit, updated the Drug Matrix to reflect the changes in the law. As a result of their hard work, the 2015 Drug Matrix was published through the California District Attorneys Association. Since the Drug Matrix was published our office has received positive feedback about the Matrix from other prosecutorial agencies within the state.

Notable Case

DUI w/Injury

On July 22, 2015, a DUI driver was on State Route 94 near the 30th Street exit driving at an unsafe speed. The Suspect rear-ended a Victim who was merging into the Suspect's lane with her signal on. The crash caused the Victim to strike the guard rail. Both the Victim and the Suspect's passenger were transported to the emergency room. The Suspect's blood alcohol content was more than twice the legal limit. The case was submitted to the District Attorney's office for review of felony DUI with injury charges because the Suspect's passenger sustained injuries. The amount of injuries were not significant enough to warrant felony prosecution and the case was redirected to our office for misdemeanor prosecution. Our Case Issuing Unit attorney reviewed the case and realized that the Victim driver whom had been rear-ended was never contacted. The attorney promptly reached out to the Victim and found out she had sustained grave, life-threatening injuries including internal bleeding and emergency removal of her spleen. The case was re-directed back to the District Attorney's office for felony DUI prosecution. The District Attorney's Office filed felony charges and the suspect pled guilty, received 90 days actual custody and was sentenced to felony probation.

Community Court

The City Attorney's its Community Court end of 2014. an innovative approach misdemeanor offenses. attorneys continue to determine whether a Community Court diversion.



Office continues with project launched at the Community Court is to handling low-level The Case Issuing Unit evaluate each case to case is eligible for

The deputies select from one of two service providers based on the type of offense and the particular needs of the offender. An offer to divert an eligible case to Community Court is made by the Case Issuing Unit deputies and made available to the offenders at their initial Court Appearance. The Case Issuing deputies made 1566 Community Court offers that were heard in court during this year.

Proposition 47

Since the passage of Proposition 47, our office now handles misdemeanor theft-related, forgery and drug possession crimes previously prosecutable as felonies.

Training and Law Enforcement Outreach

Training and outreach is an important part of the Case Issuing Unit. In 2015, the Unit provided training for new criminal deputy city attorneys on the different types of weapons offenses, which included a weapons demonstration by a City Attorney investigator.

In October 2015, the Case Issuing Unit was invited to provide training for the new Animal Control Officers. The training focused on report writing, case submission and drafting affidavits in support of arrest warrants.

In December 2015, an Issuing attorney attended the Health and Safety Code section 11550(a) training course taught by San Diego Police Officer Travis Easter. The training course provided education on how to recognize the signs and symptomology of someone who might be under the influence of a controlled substance. A second Issuing attorney is scheduled to attend the training in February 2016.

We continue to collaborate with the San Diego Police Department to implement the procedures and protocols that were created to ensure that San Diego Police officers properly submit cases involving body worn cameras to the Case Issuing Unit.

Collaboration with the District Attorney

This year also brought a continued partnership with the District Attorney's office. Approximately 180 cases were referred to the District Attorney's office by Issuing attorneys for felony review. In addition to case referrals, issuing attorneys maintained relationships within all the county branches of the District Attorney's Office in order to exchange information on cases and defendants of mutual interest.

Our continued partnership and collaboration with the District Attorney's office led to the filing of felony DUI charges against an individual who picked up a 4th DUI offense in November 2015 in the Sacramento area. At the time of the 4th offense, the suspect had been at warrant on his 3rd DUI for approximately five months for an incident that occurred in October 2014. On December 2, 2015, the suspect pled guilty to his Sacramento DUI. Throughout this time, the suspect has continued to drive with a suspended license. The suspect's continued disregard for human life made it imperative that felony charges be filed in order to protect the public. The Vehicle Code allows for felony DUI charges to be filed by alleging three prior DUI convictions. After substantial communication with the District Attorney's office, the case was redirected to their

office for felony prosecution. Felony DUI charges were filed against this suspect in January 2016.

Collaboration with the San Diego Superior Court

The Case Issuing Unit proposed changes to the San Diego Superior Court Misdemeanor Bail Schedule. The changes included updating the Bail Schedule to include crimes commonly charged by our office that were not previously part of the Bail Schedule. We attended the annual meeting of the San Diego Superior Court Judges Bail and Jail Committee where our proposal was unanimously adopted.

Outlook for 2016

The Case Issuing Unit will be fully staffed in 2016. A terrific team of attorneys and staff members will continue to work in harmony to produce quality work product and improved public safety for the citizens of San Diego, Poway, and 4S Ranch.

The Case Issuing Unit looks forward to having a victim services coordinator in the unit who will contact victims and be a resource to the attorneys. The Unit will continue to foster relationships with local justice partners and diligently work to put forth strong cases for prosecution. Case Issuing will continue to work with the other units in the Criminal Division to effectively handle the cases that are issued by the Unit, resulting in effective and efficient prosecution.

Domestic Violence & Sex Crimes Unit:

The San Diego City Attorney's office dedicates extensive resources to the prosecution of Domestic Violence (DV) cases. The DV Unit reviews, issues, and tries all misdemeanor domestic violence, child abuse, elder abuse, stalking, and sex crimes which occur in the City of San Diego, Poway, and 4S Ranch. These cases present unique challenges, as the victims of these crimes are particularly vulnerable – either because they live with their abuser, are financially dependent on the perpetrator, or still harbor sentimental feelings for the defendant due to their close interpersonal relationships. Prosecutors in this unit vertically prosecute their cases, from pre-issuing to jury trial. Our attorneys are specially trained to communicate with victims of these traumatic crimes, meet the unique challenges these cases often present, and work closely with law enforcement and victim advocates to ensure there is a just outcome.

The DV Unit, comprised of 11 full time attorneys, 3 investigators, 2 victim advocates, 4 legal secretaries, and 5 court support clerks, is led by Chief Deputy City Attorney Nicole Crosby. Chief Deputy Crosby was a prosecutor specializing in domestic violence and stalking in San Francisco for several years before joining the San Diego City Attorney's Office in 2014. Senior Deputy City Attorneys Jeffrey Brooker and Mary K. Strickland, both former deputy district

attorneys, assist Chief Deputy Crosby in managing attorneys, staff, training, and coordinating with law enforcement to ensure that justice is done in each and every case.

This year, the DV unit broke new legal ground and was featured in news and media outlets around the world for our work on the case of *People v. Thomas Guerra*. Deputy City Attorney Jill Cristich prosecuted the first case in San Diego County for knowingly transmitting HIV to an intimate partner, in violation of the Health and Safety Code. On the day of trial, Defendant pleaded no contest to the charge and was sentenced to the maximum penalty allowed by law. He was ordered to pay restitution to the victim in the amount of \$234,183.12.

The DV Unit is actively involved in the High Risk Team, which brings law enforcement, community services, and victim advocates together to ensure that our most at-risk victims receive the services they need to escape life-threatening situations at home. The goal of the High Risk Team is to create an environment where the City Attorney, District Attorney, SDPD, SDSO, and community partners can easily work together with the goal of preventing DV homicides in San Diego County.

The DV Unit also represents the City Attorney's Office on the Executive Board of the Domestic Violence Council. The mission of the Domestic Violence Council is to bring our community together to end domestic violence and promote healthy relationships in San Diego County.

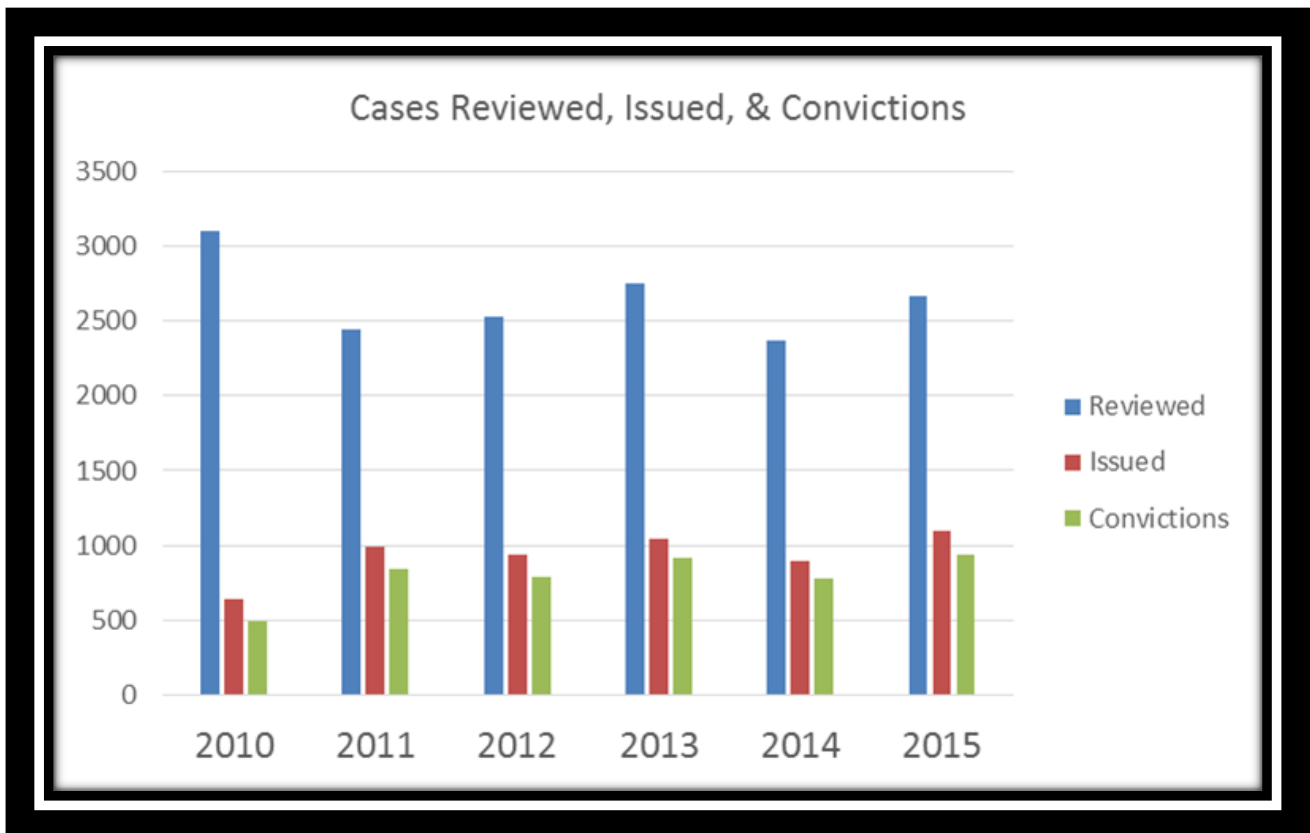
In 2015, the DV attorneys reviewed 2,660 police reports involving DV and Sex Crimes, and issued 1,097 of them. This is an increase of 12% and 22% from 2014 respectively. A total of 933 Defendants pled or were found guilty this year. This is a 19% increase from 2014 and the most convictions in a single year since 2010.

On Friday, November 6, 2015, the City Attorney learned that some domestic violence cases had not been properly handled during a four year period. An audit was conducted. Of some 10,000 domestic violence cases handled by the office during the relevant four-year time period, 9,981 were handled properly.

Nineteen cases which were provable had not been filed within the required statute of limitations. When those files were returned to the office, immediate steps were taken to get to the bottom of what happened, save some cases for prosecution, determine any re-offenses and make contact with the victims.

These events occurred prior to Chief Deputy City Attorney Nicole Crosby's leadership of the Domestic Violence Unit. Chief Deputy Crosby was instrumental in addressing the matter and taking steps to ensure such a situation does not occur again.

Achieving these significant review, issuing, and conviction increases comes with a tremendous amount of teamwork, good judgement, and efficiency.



How does a case make its way to court?

First, the reports are delivered to our office by various law enforcement agencies in the City and County. Once at the City Attorney’s Office, the cases pass through the hands of many DV Unit team members.

Initially, all police reports are funneled through the court support clerk team. They create a case file for each report submitted to our office, whether a DV complaint is drafted or not. The files include various police reports, “RAP” sheets for suspects, victims, and witnesses, as well as a suspects booking history. The cases may also include photographs, audio, and video evidence that the police gathered. Individual case files are necessary for the prosecutors to evaluate the DV and Sex Crimes, the suspect’s general criminality, and specific recidivism issues inherent in DV and Sex Crime cases. Prior acts of DV and Sex conduct is admissible in court, so preserving the records is imperative.

After the court support clerks create case files, the DV Unit and Sex cases are assigned to individual DV Deputy City Attorneys in order for an issuing decision to be made. Deputies are selected to handle these sensitive cases based on their specific training and experience. Each

class of crime has different proof requirements, specific legal standards, and defenses that must be evaluated carefully. The Deputies must also review Body Worn Camera footage from the police officers, photographs, witness statements, jail calls, 911 audio recordings, and any other evidence that is available, before the case is filed in court.

Once an attorney decides what charges to file, they make contact with the victim, so they are apprised of the case status. After contact is made, the case is returned to the DV clerks.

The DV clerks prepare complaints, file them in court, and deliver the case files to the legal secretaries. The legal secretaries' work includes the format and preparation of all the DV Unit's motions, briefs, petitions, subpoenas, and a variety of protective orders. The legal secretaries are also tasked with the detailed work of transcribing 911 calls, interviews with victims, witnesses, and defendants, the Body Worn Camera footage, jail calls, and any other audio or video file that will be used in court.

Before court, the Victim Service Coordinators ("Advocates") personally contact the victims of crime to let them know the DV Unit has filed a complaint against the perpetrator. The Advocates explain the court process, City and State services available, and a comforting voice.

Meanwhile, the City Attorney Investigators ("Investigators") assist the DV Unit members by developing information and gathering evidence to support prosecution. On a daily basis, the Investigators are out in the field locating hard-to-find victims, witnesses, and evidence that was unknown to the prosecution previously. They make contact with the victims' family, take witness statements, photographs, and obtain medical and court records from around the county.

Featured Case: People v. Sanchez

When Defendant Sanchez discovered that his wife planned to donate a vehicle to charity, he continually threatened to use his firearm to shoot and kill her. The victim, in fear for her life, called 911, and the 911 dispatcher heard Sanchez yelling, "I have a gun!" Sanchez's adult son was forced to physically restrain Sanchez to prevent him from carrying out his threat. Police arrived and arrested Sanchez.

Deputy City Attorney Nicholas Thomo presented evidence that Sanchez verbally, psychologically, and physically abused his wife and children for decades. The jury heard testimony that years prior to this incident, Sanchez held the barrel of a gun to his daughter's head. After an hour of deliberation, the jury found Sanchez guilty of making criminal threats.

Child Abuse

Child abuse prosecution is particularly difficult due to the challenged inherent in obtaining testimony from a child, in court, in front of his or her abuser. DV Unit prosecutors are charged

with filing petitions for judicial permission to gather confidential evidence from juvenile courts, family courts, and Child Welfare Services. DV Unit prosecutors vigilantly require convicted child abusers to attend rehabilitation cases and petition the court for protective orders to shield these defenseless victims from further harm.

Featured Case: People v. Godbey

Defendant Godbey was a day care teacher at a Navy school who physically abused two children who were three years old at the time of the crime. When the two victims did not want to cooperate during the daily nap time, Godbey flung one of the children face-down onto a cot and pressed her knee on his back and spine. She then pressed her knee into the other victim's back as he lay on his cot, and pushed his face and shoulders down, possibly causing him to be unable to breathe. Witnesses heard the child crying, saying, "Ow, it hurts."

Deputy City Attorney Jonathan Fraenkel presented video footage of the incident, as well as expert testimony from a doctor, as the victims in the case were too young to testify. A jury convicted Godbey of child abuse likely to cause great bodily injury or death.

Elder Abuse

Perpetrators of elder abuse exploit the advanced age of their victims to physically, mentally, or financially abuse elders. Prosecuting elder abuse cases requires prosecutors to creatively investigate cases, as many times the victims are afraid to testify and may have memory issues related to declining health.

Featured Case: People v. Martin

Defendant Martin continually abused his elderly mother, by physically assaulting her and stealing her money. A neighbor called 911 one day when she overheard Martin screaming at the victim, demanding her ATM card, and threatening to kill her. The caller asked police to respond because she feared Martin would carry through on his threats to murder his mother. When police responded, the Victim told them that Martin had been abusing her for over a decade.

Chief Deputy Nicole Crosby conducted the jury trial, coaxing the weeping Victim through her testimony, and played the multiple 911 calls the victim had made in the past year when Martin had repeatedly abused her. The jury convicted Martin of three counts of elder abuse and vandalism.

Sex Crimes

Senior Deputy City Attorneys Mary K. Strickland and Jeff Brooker are specially assigned to prosecute sex crimes cases, which includes prosecuting individuals who commit sexual batteries, masturbate in public for lewd purposes, and sex offenders who deliberately fail to update their registration. Because these defendants represent a pernicious danger to public safety – particularly those offenders who target children – the City Attorney's Office dedicates extensive

resources to ensuring that these individuals are properly punished for their crimes. At the end of 2015, due to the coordinate efforts of every member on the SAFE and SOMC team, San Diego County boasted one of the lowest rates of unregistered sex offenders in the state of California.

Chief Deputy Crosby and Senior Deputy Strickland personally attend twice-monthly SAFE (San Diego County Sexual Assault Felony Enforcement) and SOMC (Sex Offender Management Council) meetings with local, state, and federal law enforcement to ensure that registered sex offenders who attempt to escape monitoring are brought to justice.

Featured Case: People v. Chapman

Defendant Chapman lurked in the restroom of a local high school, cornered a 14 year-old boy, and exposed his genitals to him. The victim fled, and Defendant was charged with child molestation and indecent exposure.

Senior Deputy City Attorney Mary K. Strickland conducted the trial and ensured that the victim, who was still traumatized by the incident, was prepared to testify. The Defendant exercised his right to represent himself, and engaged in a lengthy cross-examination of the victim in court. The jury convicted Chapman on all counts. Defendant was sentenced to 6 months in custody, was required register as a sex offender for the rest of his life, and must stay 100 yards away from the Victim and his school for the next ten years. Chapman is currently in custody and pending trial for his second charge of failing to register as a sex offender.

General Trial Unit:



The General Trial Unit of the Criminal Division (Trial Unit) prosecutes misdemeanor criminal cases in the City Attorney's Office, including driving under the influence, theft, and drug cases. As the largest unit in the Criminal Division, the Trial Unit handles over 90% of the issued criminal cases in the City Attorney's

Office and the vast majority of misdemeanor crimes in the City of San Diego.

In 2015, the Trial Unit was led by Chief Deputy City Attorney Eric Pooch. The Trial Unit consisted of 18 full-time trial attorneys, 1 paralegal, 2 legal secretaries, 2 investigators, 3 trial support assistants, and 19 clerical staff and supervisors in the Discovery and Records and Information Units.

Deputy City Attorneys in the Trial Unit prosecute many serious cases that affect the daily lives of the residents of San Diego. They handle all proceedings on criminal cases after they are issued, including: arraignment, negotiating offers, preparing evidence for trial, writing and arguing all pre-trial motions, trying the case, arguing the appropriate sentences. They also appear on many post-conviction court events, including restitution hearings and probation violations. In addition, they appear in felony departments, mental competency hearings, and drug court. Through their interactions with the court, law enforcement, victims and witnesses, these attorneys serve as the face of Trial Unit.

Effective prosecution of these misdemeanor cases is vital to the quality of life in San Diego. Cases that made up the work of the Trial Unit in 2015 included:

- Driving under the influence of alcohol and/or drugs;
- Resisting arrest;
- Shoplifting and other forms of theft;
- Fraud and forgery;
- Assaults and batteries;
- Crimes against Police Officers;
- Brandishing or possessing illegal weapons;
- Vandalism;
- Being under the influence of controlled substances;
- Possessing illegal drugs;
- Prostitution;
- Hate crimes;
- Municipal Code violations;
- Driver's license-related offenses;
- Drunk in public;
- Trespass;
- Harassment and Violations of Court Orders;
- Hit-and-run;
- Reckless driving; and
- Vehicular manslaughter.

HIGHLIGHTS

Trial Statistics

Most of the cases handled by the Trial Unit result in a criminal conviction based upon a guilty plea before trial. Trial deputies appear at the plea and sentencing hearings to make sure the correct plea is entered and to argue for appropriate sentencing terms based upon the defendant's conduct. The Trial Unit has continued the effort to argue for additional sentencing terms in cases that warrant punishment beyond the standard sentencing guidelines.

For cases that do not reach a disposition, each case set for jury trial was reviewed by a supervising prosecutor and prepared for trial. The process of trial preparation includes interviewing witnesses, sending subpoenas to witnesses, preparing exhibits, obtaining police reports, ordering documentation from several crime laboratories, and securing physical evidence such as photographs, 911 recordings, maps, videos weapons, and drug paraphernalia. Once this process is completed, many cases still resolve with a guilty plea to all charges on the day of trial. In 2015, 5,870 defendants pled not guilty at arraignment and their cases required additional work by the Trial Unit. In addition, 687 cases did not reach a disposition until the day of trial, which required a significant effort by the attorneys and staff to prepare each case to take before a jury. 132 defendants proceeded to trial. Of the 114 cases where a verdict was rendered, 100 cases (87.8%) resulted in a guilty verdict on at least one count of the complaint and 14 cases (12.2%) resulted in an acquittal or dismissal by the court. The remaining 18 cases resulted in a hung jury and mistrial. Those cases were subsequently resolved by a plea bargain or a dismissal. These outstanding trial statistics are a testament to the training and skill of the deputies of the Trial Unit. In addition, the Trial Unit prosecuted significantly more jury trials than in 2014 (14%) with only a slightly lower trial conviction rate and maintained an over-all misdemeanor conviction rate of 87.7%.

Body Worn Cameras

In 2015, the San Diego Police Department (SDPD) deployed over 900 Body Worn Cameras to their officers. While the primary purpose of the deployment was to reduce civil liability, these cameras have generated videos of incredible evidentiary value. All SDPD divisions now have Body Worn Cameras on all patrol officers.

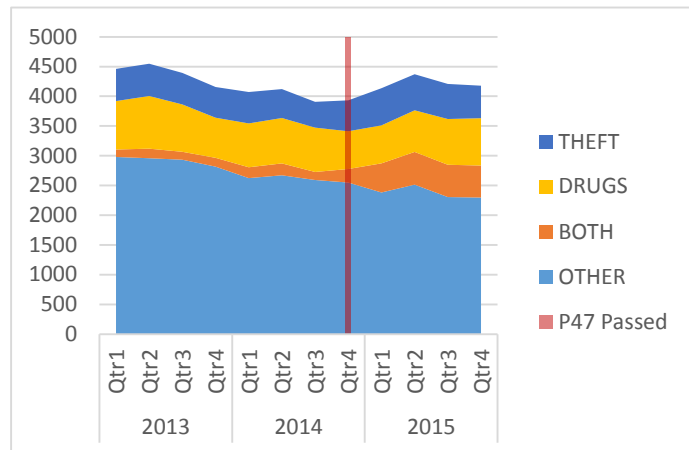
In 2015, the San Diego City Attorney's Office worked with engineers at Evidence.com and provided input on product features, tested new features, and ultimately created a Partnership Agency website and Prosecution License for our office. During the year, the office received 35,000 videos constituting 6 Terabytes of data.

Providing videos to the defense via this cloud-based service represents a completely new model of evidence disclosure for Trial Unit staff and attorneys. Our office currently works with the District Attorney's office to maintain a uniform BWC policy throughout the county. Despite the potential obstacles, and with the assistance of the defense bar, there have been few problems with the new procedures. However, creating transcripts of the audio for trial has placed a significant new burden on the Trial Unit.

The evidentiary power of these videos was evident in *People v. Chapman* (M186584), one of the first cases we tried using the new body cameras. After viewing the video, the Judge convicted the defendant on Resisting or Delaying a Peace Officer charges and he was sentenced to 120 days of custody with no probation.

Proposition 47

Proposition 47, passed by California voters on November 4, 2014, and reduced certain theft and drug possession charges from felonies to misdemeanors. As the vast majority of these misdemeanor cases are now handled by the Trial Unit rather than the San Diego District Attorney's Office, the potential impact on the Unit was significant. However, San Diego Community Court, changes in enforcement, and reductions in other



types of crimes have all mitigated the impact of these changes. While charged cases with only theft or only drugs have not seen substantial changes, cases with *both* theft and drugs have seen a very significant increase, accounting for 160% of the increase in cases filed between 2014 and 2015. This significant increase indicates the close correlation of drugs with other crimes, especially theft. These defendants would previously have received felony sentences and likely received additional court supervision.

Driving Under the Influence of Alcohol and/or Drugs

In October 2014, the Trial Unit was the proud recipient of a \$263,000 grant from the Office of Traffic Safety to establish an Alcohol and Drug Impaired Driver Vertical Prosecution Program. This grant was renewed for 2015. By vertically prosecuting these cases and sharing information with peers and law enforcement personnel, the Trial Unit continues to educate the public on the dangers of drug impaired driving and establish protocols to hold these dangerous drivers accountable for their impact on public-safety.

The deputies in the Trial Unit continue to receive highly-specialized training on DUI cases, learning how to properly review the police reports, order necessary documentation from various crime laboratories, and interview police officers, civilian witnesses, and criminalists. Many of these cases involve collisions with other vehicles or property, and some include injuries sustained by drivers, passengers, and pedestrians. Adding to the difficulty are cases with low blood alcohol concentrations, and no apparent poor driving. Despite these obstacles, the Trial Unit continues to have success with DUI prosecutions, with a 96.7% conviction rate at trial.

Notable cases in 2015 included:

People v. Monsell, (M176610)- In this case, the defendant swerved from the far right lane into the center divider, striking a guard rail and then veering back to the right on the freeway shoulder. From there, it swung back into traffic and sideswiped a truck, eventually coming to a rest on the freeway shoulder. The driver was so impaired by heroin and methamphetamine that he did not realize his vehicle was not drivable. After the jury returned guilty verdicts, he was

sentenced to 30 days in custody (stayed), 10 days of public work service, five years' probation, and fined \$2,133.



In *People v. Richards* (M181690), the defendant committed 3 Hit-and-Run violations in the Pacific Beach area, leaving his license plate at the scene. He attempted to hide his vehicle, but was followed by witnesses. After his blood results came back showing Clonazepam and Methamphetamine, he pleaded guilty to Driving under the Influence of Drugs, and was

ordered to pay restitution to all of his victims.

In *People v. Stewart* (M200782), the defendant, a San Diego Airport employee, drove his refueling truck up to an awaiting Delta passenger jet. After seeing the defendant stumbling around his truck, a supervisor contacted the defendant. He observed 5 beer cans inside of defendant's refueling truck. Defendant pleaded guilty to Driving under the Influence, and to Driving with a Blood Alcohol Content of .08%, or Greater. The judge sentenced him to 20 days of public work service, in addition to the standard terms.



Battery

People v. Carter (M199241), was a serious Battery case at a local bar. The trial deputy re-evaluated the extent of the victim's injuries, and amended a count of Battery with Serious Bodily Injury. Despite four defense witnesses, including the defendant, the trial deputy convinced the jury that this was not a typical 'bar fight,' but rather an unprovoked attack. The jury returned guilty verdicts and the defendant was ordered to pay \$2188.18 in restitution in addition to custody and public work service.



People v. Wolling (M202960), was a complicated battery with no witnesses to the start of the fight and multiple claims of self-defense. A Good Samaritan who assisted the victim in the altercation could not be found for trial. Some of the fight was caught on SDPD ABLE helicopter video. After the jury found the defendant guilty, he was sentenced to 180 days of

custody and no probation.

In *People v. Martin* (M202985), the defendant claimed at trial that he was not the person who spat on one person and punched two people, without provocation, at a Mission Valley Trolley

stop. The witnesses all identified the defendant, he was found guilty, and sentenced to 18 months in jail with consecutive sentences on his offenses.

Miscellaneous Crimes

The Trial Unit often prosecutes cases of unique concern to the residents of the City of San Diego. For instance, theft of recyclables costs the taxpayers money due to the unique city-paid trash collection. Also, our local marine habitat is a tourist attraction and is part of what makes San



Diego “America's Finest City.” In *People v. Do* (M198543), the defendant had been cited for numerous violations of California Fish and Game Ordinances over the last eight years. In this case, a Warden found him with a live Spotted Sand Bass that was just half an inch too short. After our attempts to resolve the case were rejected, the jury found the defendant guilty of taking an Undersized Bass. He was sentenced to probation and was ordered to stay away from the entire

Mission Bay area due to his history of repeated violations.

Electronic Data Management

The Trial Unit has proactively implemented new technologies to improve attorney access to evidence and police reports and to aid in promptly disclosing evidence, as required by law. In late 2015, the Trial Unit, in cooperation with the Issuing Unit and the San Diego County Office of the Public Defender, established procedures to electronically disclose evidence *before* an in-custody defendant is arraigned. This procedure allows the Public Defenders to get the information they need to quickly and accurately arraign their clients. The procedure is expected to save the City Attorney’s office over 35 cartons of paper and approximately 360 hours of staff time in 2016. Our process of pre-arraignment electronic discovery is believed to be the first of its kind in the State of California.

The attorneys and staff members in the Trial Unit demonstrated their commitment as advocates for the People by vigorously prosecuting criminal cases in San Diego and achieving outstanding results in 2015. In March of 2015, Deputy City Attorney Nicholas Thomo was named Mothers Against Drunk Driving’s Outstanding Prosecutor of the Year for 2014 for his exceptional accomplishments prosecuting DUI cases. The Trial Unit will continue to make informed and proper decisions at each stage of the criminal process in order to achieve our primary goals of enhancing public safety and maintaining the citizens’ quality of life through the thoughtful prosecution of misdemeanants.



Neighborhood Prosecution Unit:

Under the direction of Chief Deputy City Attorney Jamie Ledezma, the Neighborhood Prosecution Unit (NPU) has three prosecutors whose primary responsibility is to work in

partnership with local law enforcement agencies including the San Diego Police Department, the community, and external stakeholders to creatively address and aggressively prosecute crimes that impact the quality of life such as trespassing, prostitution, alcohol and drug offenses, and illegal lodging. With misdemeanors being the majority of the crimes committed within the City of San Diego, these types of offenses impact residents and business owners on a daily basis. The NPU's goals are to improve the quality of life in targeted neighborhoods and hold offenders accountable to both the criminal justice system and the community.

The Neighborhood Prosecutors are assigned to work alongside SDPD officers in the command divisions of Central, Eastern, Mid-City, Northern, Southeastern, and Western¹. These prosecutors work closely with law enforcement by assisting with the screening of cases and reviewing evidence submitted by SDPD at their assigned police division. Their focus is to review cases involving chronic offenders in their assigned communities and/or cases that need special attention or alternative sentencing options. Additionally, they are frequently on hand to provide training to officers and answer questions at line-up briefings.

- In 2015, the three Neighborhood Prosecutors screened 7,663 cases submitted by SDPD at their assigned police divisions.

Neighborhood Prosecutors are a big part of the communities they serve, attending various community meetings, from Town Councils to Planning Groups, which helps them keep abreast of community concerns and priorities.

- In 2015, the NPU attended more than 400 community meetings.

Additionally, the NPU serves as liaisons to the City of San Diego's Serial Inebriate Program (SIP) and SDPD's Homeless Outreach Team (HOT).

Collaborative Courts:

The NPU provides City Attorney representation to the collaborative courts of the San Diego Superior Court which includes Behavioral Health Court, Veteran's Treatment Court, and Homeless Court.

¹ Neighborhood Prosecutors serve as liaisons to SDPD's Northeastern and Northwestern Divisions as necessary. Southern Division misdemeanors are primarily handled by the District Attorney's Office.

Behavioral Health Court (BHC): A post-filing court dedicated to address problems presented by offenders with serious, diagnosed mental illnesses. It combines the resources and expertise of the mental health and criminal justice communities to hold accountable, stabilize and reduce recidivism in the target population.

- In 2015, 60 defendants were screened by Telecare, the program service provider.
- Throughout the 23 court sessions, 22 of the 60 screened candidates were accepted into program.
- BHC currently has 31 candidates participating in the 18-month program.

Veterans Treatment Court (VTC): VTC is a collaborative court for former and current U.S. military members convicted of criminal offenses that are eligible for probation under Penal Code section 1170.9. To be considered for VTC defendants must be able to show some type of medical or mental health issue related to their service such as post-traumatic stress disorder, traumatic brain injury, and military sexual trauma. While trauma from combat is not always required, there must be a connection between the criminal offense and a military related mental health issue. The VTC team is comprised of mental health providers, substance abuse counselors, program mentors and criminal justice professionals. Participants undergo extensive personalized treatment programs which teach and encourage substance-free and crime-free life coping skills. The VTC team closely monitors every participant's progress at weekly organizational meetings and review hearings.

- At the end of 2015, there were 41 active participants in the program including 9 active City Attorney cases.

Homeless Court (HC): The NPU partners with various agencies to clear warrants and efficiently process cases for homeless individuals with low-level misdemeanor and infraction offenses. HC is held monthly at two local homeless shelters. The NPU does the same for homeless veterans at the annual Stand Down event in July.

- In 2015, HC addressed approximately 568 defendants with approximately 1,031 City Attorney cases.



- This year, 209 homeless veterans registered to participate in the Stand Down court proceedings in July. As a result, 1,009 cases were addressed.

Alternative Sentencing Options and Restorative Justice Programs

The NPU is also charged with leading the efforts to integrate restorative justice principles through alternative sentencing programs. These programs include San Diego Community Court, Beach Area Community Court, the Prostitution Impact Panel, and Survivors of the Streets.

San Diego Community Court (SDCC): Launched in November, 2014, SDCC is a post-plea alternative sentencing option for eligible low-level misdemeanor offenders. SDCC partners include the San Diego Sheriff's Department, the Office of the Public Defender, the San Diego Association of Governments (SANDAG), the American Civil Liberties Union, and two service providers, Alpha Project and the Urban Corps of San Diego County.

Eligible defendants have the opportunity to avoid a criminal record by completing conditions that include 16 hours of service with Alpha Project or Urban Corps of San Diego County. These organizations are experienced at linking participants with resources and services appropriate to their situation, including alcohol and drug

addiction programs, mental-health services, and job training.

- During its first year in operation, 1,043 of the 1,566 offers made have been accepted, which is a 66.6 percent acceptance rate.
- Through the end of the year, 690 of the 841 participants, or 82 percent, successfully completed the terms of the offer, thereby earning a dismissal of their case and the conviction is removed from the participant's record.
- Participants have completed more than 11,040 hours of work by doing things like planting trees, recycling waste products, helping provide services to the homeless, painting out graffiti, and clearing neighborhoods of illegally dumped trash in the City of San Diego. This is approximately \$99,360 of taxpayer savings based on the current minimum wage.

Building on a highly successful first year, the program will expand its scope in 2016 so that more low-level and first-time offenders can choose paths that lead them away from further criminal activity. The expansion, which is partly funded by a \$415,599 grant from the U.S. Department of Justice's Smart Prosecution Initiative, will provide services that help address participants' underlying needs. The Smart Prosecution Initiative furthers the Department of Justice's mission by assisting state and local jurisdictions in preventing and reducing crime. Its goal is to develop a body of knowledge about data driven strategies -- innovative, best-practice, or evidenced-base -- as they are implemented by prosecutors.

Key program enhancements will include:

- Screening of program participants to assess individual needs (such as housing, education, job training and treatment programs) that may put them at risk of committing additional crimes.
- A dedicated case manager to provide participants with personal counseling and direction in accessing to service providers and enrolling in treatment programs.
- SANDAG will analyze participant information and program operations to give ongoing feedback on its effectiveness. Armed with this "action research," the program partners can make in-progress adjustments that help deliver the best outcomes for participants.

Critical to the expansion is conducting a risk-needs assessment after a participant pleads guilty and accepts a Community Court offer. This formal screening will distinguish high-risk from low-risk participants, and assess participants who may benefit from individualized approaches to prevention and intervention. Those individuals will be connected with a case manager at Alpha Project and offered services to address their underlying needs.

Beach Area Community Court (BACC): BACC is a pre-filing restorative justice program for eligible infraction offenders in the beach area communities. This program is a collaborative effort between the City Attorney's Office, SDPD, Park & Recreation Department, and Discover Pacific Beach. Eligible offenders have the option to have their citation diverted by participating in a community impact panel and work service to restore

the effected community. Additionally, BACC hosted Instant Justice following the July 4th weekend allowing people who received eligible citations to immediately complete community service and resolve their citation.

- In 2015, BACC addressed 199 participants and facilitated 796 hours of community service in the beach area communities.
- This year, 41 participants completed 246 hours of community service through Instant Justice.

Prostitution Impact Panel (PIP): PIP is an educational community-based victim impact panel designed to inform first-time sex buyer offenders who solicit or agree to engage in prostitution activity about the far-reaching impact of prostitution on a community. The panel consists of former prostitutes, former offenders, a health practitioner, a SDPD Vice Officer, and community members. Participants are asked to consider these various perspectives, to reconsider their choices, and to contemplate whether prostitution is a “victimless” crime. Family Health Centers of San Diego is also on-site to offer HIV testing and counseling to offenders.

- In 2015, five PIP sessions were conducted addressing 82 defendants.

Survivors of the Streets (SOS): SOS is an alternative sentencing option for first-time prostitution offenders to participate in individual or no-cost group counseling for a reduction in their criminal charge.

Human Trafficking and Child Exploitation: The San Diego Human Trafficking Task Force (HTTF) is a newly formed task force of various local, state and federal law enforcement and prosecution agencies. Although the City Attorney’s Office is not responsible for the prosecution of human trafficking (a felony crime), deputies frequently need to assess whether defendants in prostitution cases may be victims of human trafficking. The NPU Unit has dedicated an experienced prosecutor, Mark Robertson, to serve as a liaison to the HTTF and SDPD’s Vice Unit. The goal of the HTTF is to create a coordinated law enforcement system to investigate and prosecute human trafficking and related crimes, as well as identify, rescue, and provide support to victims through social and legal networks. Deputy City Attorney Mark Robertson worked with the SDPD Vice Unit to coordinate a human trafficking awareness training for approximately 50 Code Enforcement Officers.

In 2015, the NPU also participated in the San Diego Regional Human Trafficking and Commercial Sexual Exploitation of Children Advisory Council. Chief Deputy City Attorney Jamie Ledezma served as the Co-Chair of the Prosecution Committee. As an active participant, the NPU has a heightened awareness of the many challenges facing trafficking victims. Our collaboration with law enforcement, victim services, child welfare services, and professionals from the education and research sector, continues to provide opportunities to identify best anti-human trafficking practices.

Serial Inebriate Program (SIP): SIP is an initiative created to attempt to stop the revolving door of serial inebriates entering the criminal justice system. When a chronic offender is charged with violating Penal Code 647(f), they are given the option of choosing treatment in lieu of custody. The SIP team provides transport from jail, extensive case management, job training, housing, and education. Neighborhood Prosecutors serve as liaisons to the SIP team and provide training to SDPD with the support of the SIP team. Neighborhood Prosecutors review cases and make recommendations to encourage SIP defendants to accept treatment as an alternative to custody in jail.

Crime-Free Multi Housing Management Training: This Unit continues to provide training to multi housing property managers on the topic of quality of life crimes in support of Social Advocates for Youth (SAY) San Diego and SDPD's crime prevention and intervention efforts.

New Strategies and Developments

The NPU worked collaboratively with our justice partners to implement Proposition 47, an initiative that, among other things, reduced various theft-related, forgery and drug offenses previously prosecutable as felonies to misdemeanors. That included education within our own office and outside agencies, and to responding to the influx of misdemeanor offenders with lengthy criminal histories.

This Unit also staffs the multi-disciplinary team meeting for the county's implementation of best solutions to protect public safety while addressing the treatment needs of offenders. Working with our partner agencies and community organizations, this unit is responsible for the restorative justice efforts of the City Attorney's Office and has been heavily involved in the planning of the San Diego Restorative Justice Summit scheduled for early 2016.

Looking ahead to 2016, the NPU welcomes additional prosecutors to the Unit to support the development and implementation of innovative, evidence-based strategies to address chronic quality of life offenders.

Special Prosecutions Unit:

In November 2015, a new unit was created to prosecute complex criminal cases, including all vehicular manslaughter offenses. The Special Prosecutions Unit is staffed by Chief Deputy City Attorney Mark Skeels, one Senior Paralegal, one Trial Support Assistant, two investigators, and one law clerk. The Unit vertically prosecutes all vehicular manslaughter cases, from initial case review to trial to sentencing. The Special Prosecutions Unit is referred cases for review of misdemeanor vehicular manslaughter charges when the driver of a vehicle or vessel commits a misdemeanor or infraction or otherwise lawful act with ordinary negligence, causing the death of another person.

The Special Prosecutions Unit will also handle cases that garner heightened public interest, including offenses such as base jumping off of local landmarks, resisting arrest, and trespassing.

A few noteworthy cases from 2015 include:

People v. Gloria Hernandez (M197173)

The defendant was prosecuted and convicted of vehicular manslaughter for driving recklessly on Interstate 805 and causing a traffic accident that claimed the life of a female victim. Prosecutors worked to hold the defendant accountable and obtain restitution for the victim's family.

People v. Sharif Ali (M199731)

The defendant was convicted of vehicular manslaughter for killing a female pedestrian when he struck her with his vehicle as she walked in a marked crosswalk in Mira Mesa.

People v. Mary O'Neill (M204725)

The defendant struck and killed a female victim as she stood next to her car in La Jolla. This case is still pending a disposition.

- **Community Justice Division:** The Community Justice Division prosecutes cases that the community has identified as important to quality of life. Prosecutors work with the community, police, and other law enforcement agencies to establish and maintain security, ensure fair business dealing, and promote justice. The Community Justice Division is divided into two units: Code Enforcement and Consumer & Environmental Protection. This division is also under the direction of Interim Assistant City Attorney John Hemmerling.

Consumer & Environmental Protection Unit:

Overview

In 2015, the Consumer & Environmental Protection Unit (CEPU) attorneys resolved more than twice the number of cases on behalf of the People of the State of California than in 2014. The 93 cases (84 criminal and 9 civil), involved unlawful business practices affecting consumers or environmental crimes. The five Deputy City Attorneys in CEPU handle all aspects of prosecution whether in civil or criminal courts, including law and motion, trial and appellate arguments. The attorneys are supported by two investigators, two paralegals and two secretaries who also answer the consumer hotline (619-533-5600).

The civil cases resulted in business defendants paying penalties and cost of prosecution and investigation and restitution totaling over \$34 million. In criminal cases, offenders were ordered to pay fines, serve time in jail or to do work service in the community. The criminal cases

resulted in restitution orders for \$135,670 and fines of \$43,700. The CEPU accomplished the following in 2014:

- Investigated and prosecuted cases of misleading advertising, false or misleading packaging, and scanner overcharges;
- Enforced laws regulating tow companies;
- Prosecuted individuals for a variety of unlicensed and unpermitted professional activities;
- Investigated and prosecuted businesses violating laws that deplete or endanger marine resources;
- Worked with prosecutors throughout California to resolve large civil cases against retailers for unlawful disposal of household hazardous wastes;
- Trained law enforcement and regulatory agencies;
- Maintained relationships with law enforcement and regulatory agencies through attendance at county-wide task force meetings;
- Provided information to the public through media outlets, speeches, and the publication of monthly newsletters on various consumer and environmental protection topics.

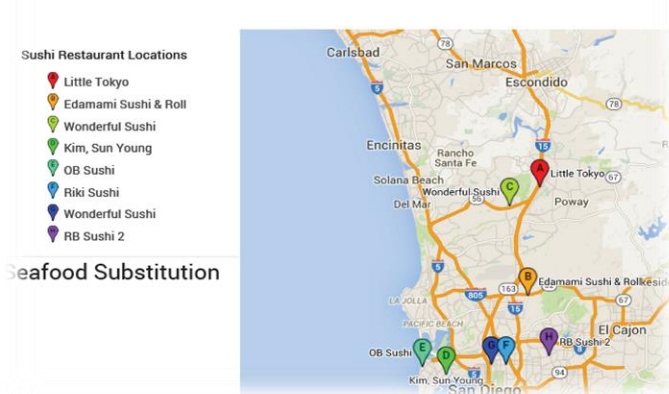
Consumer Protection

The mission of our Unit is to protect consumers and commerce by ensuring a fair marketplace. In 2015 we highlight the following prosecutions in false advertising, predatory towing, unlicensed and regulated activities and tax evasion.

False Advertising

The Consumer & Environmental Protection Unit resolved cases through criminal or civil court filings involving various forms of false or misleading advertising by businesses and individuals selling goods or services. The majority of the cases in 2015 revolved around necessity items such as food, household goods and tires.

Sushi Restaurant Locations



The “truth-in-menu” investigation by CEPU of local sushi restaurants netted eight criminal convictions for false advertising related to lobster rolls. Instead of lobster, DNA testing revealed the restaurants substituted cheaper seafood such as crawfish or Pollock. The restaurants changed the menus and paid \$20,000 in

finances and investigative costs.

<http://www.sandiego.gov/cityattorney/pdf/news/2015/nr151207a.pdf>



Luberski, Inc., which sells packaged eggs in grocery store outlets under the brand name Hidden Villa Ranch, was accused of misleading California

consumers into thinking the eggs in its cartons were from California when they were not. The company immediately changed its packaging labels after being notified by CEPU and in a novel settlement resolution donated 201,000 eggs to local food banks, a value of \$50,000, and paid an additional \$53,517 in penalties and costs.

<http://www.sandiego.gov/cityattorney/pdf/news/2015/nr150623.pdf>

The District Attorneys in Tulare and Yolo counties joined CEPU in alleging misrepresentation of treadwear warranties on Wal-Mart tires. Wal-Mart settled the accusations for \$820,000 and promised to better train its Auto Care Center employees about tire warranties.

<http://www.sandiego.gov/cityattorney/pdf/news/2015/nr150521-2.pdf>

Major retailers who advertise one price on store shelves or in printed ads and charge a higher price at the time of checkout are prosecuted under the California False Advertising and Unfair Competition Laws. These cases are referred to as “scanner overcharge” cases and are investigated by the County of San Diego’s Department of Agriculture, Weights and Measures. The District Attorneys in Contra Costa, Sonoma, Marin, Santa Cruz and Fresno counties joined CEPU in the prosecution of Target, a repeat offender, for scanner and other packaging violations. Target agreed to pay \$3.9 million to settle the matter with promises to implement additional price accuracy procedures in its California stores.

<http://www.sandiego.gov/cityattorney/pdf/news/2015/nr150210.pdf>

Predatory Towing

The Office of the San Diego complains each year from unlawfully towed. A parking subjected to predatory unauthorized towing from accomplice, NK Towing, motorists who had been



City Attorney receives numerous drivers who feel their vehicles have been lot on Convoy Street was indeed towing. Elvin Vega pleaded guilty to the Convoy Street lot and his alleged refunded over \$34,000 to more than 100 illegally towed.

<http://www.sandiego.gov/cityattorney/pdf/news/2015/nr150929.pdf>

Unlicensed and Regulated Activities

The Consumer & Environmental Protection Unit works with state and local agencies that license and regulate various professions. CEPU obtained convictions in cases involving different unlicensed professionals including residential contracting, automobile sales and repair, and charter party or livery services. Businesses in San Diego ran afoul of regulations involving commercial fishing and liquor licenses and police regulations involving tobacco sellers, second hand dealers and entertainment venues.

Tax Evasion

The Consumer & Environmental Protection Unit prosecutes cases involving individuals selling untaxed cigarettes. These cases are investigated and referred for prosecution by law enforcement or the California Board of Equalization.

Protecting the Environment

The Consumer & Environmental Protection Unit obtained convictions and settlements in cases involving individuals or businesses that violated state and local environmental laws. The business violators were of every size and the violations included natural resource regulations, failing to obtain environmental permits or the unlawful disposal of solid or hazardous waste.

Water Pollution

Water Pollution cases may be prosecuted through criminal or civil court enforcement actions. A mobile auto repair mechanic, Moshe Sasson, was criminally prosecuted for violating the City's environmental regulations related to the storm water conveyance system. Sasson was caught allowing automobile fluids to spill onto the streets and into the gutters multiple times by City Storm Water investigators. The curbs and gutters drain into the storm water conveyance system and out into our ocean, rivers, creeks and bay.



BAE Systems San Diego Ship Repair settled a civil law enforcement action arising out of a discharge of thousands of gallons of diesel fuel in the San Diego Bay. BAE paid over \$54,000 in penalties and costs of investigation and prosecution.

<http://www.sandiego.gov/cityattorney/pdf/news/2015/nr150217.pdf>

Disposing of Hazardous Materials

CEPU joined prosecutors other California District Attorney and City Attorney Offices in several law enforcement actions against major retailers alleging unlawful handling and disposal of hazardous wastes and materials. Settlements were reached with Dollar Tree, 99 Cents Only, Vons grocery stores for a total of \$14.9 million in civil penalties, cost of investigations prosecutions and other monetary relief. Also included in each settlement was injunctive relief requiring defendants to adopt and implement policies and procedures designed to eliminate the unlawful disposal of hazardous waste products in California.



<http://www.sandiego.gov/cityattorney/media/releases/>

Unlawful Fishing in Marine Protected Areas

The Marine Protected Areas off the coast of San Diego were designated as off-limits to most fishing by the State of California in 2012 and yet in 2015 CEPU prosecuted 25 individuals for fishing in these areas, specifically the South La Jolla State Marine Reserve and State Marine Conservation Area. Criminal prosecutions against repeat environmental offenders like Hoa T. Nguyen and Binh Chaun resulted in court orders to completely stay away from these Pacific Ocean sanctuaries.

Community Outreach and Public Education

One of the goals of CEPU is to reduce incidences of fraud by educating the public to recognize fraud before becoming a victim. To meet this goal, CEPU provides information through media outlets, public speeches, and newsletters located at:

<http://www.sandiego.gov/cityattorney/media/newsletters.shtml#cepu>

- Dec "2016 New Laws"
- [Nov](#) "Student Loan Consolidation Scams, Service Problems"
- [Oct](#) "Scary Scams – don't fall for these tricks!"
- [Sep](#) "Towing From Private Property"
- [Aug](#) "Food Labels and Your Family Organic v. Natural Food Labels"
- [Jul](#) "Contratistas sin Licencia"
- [Jun](#) "Unlicensed Contractors Must Disgorge"
- [May](#) "Beware Synthetic Drugs"
- [April](#) "Fraude De Inmigración"
- [March](#) "Immigration Fraud and Scams"
- [February](#) "Environmental Agencies"
- [January](#) "2015 New Laws"

Code Enforcement Unit:

The Code Enforcement Unit (CEU) works in close partnership with the San Diego Police Department (SDPD), City code inspectors, and the community to address a variety of code enforcement and public nuisance cases throughout the City. The unit is run by Senior Chief Deputy Diane Silva-Martinez, who has over 25 years' experience in code case work. She has a staff of seven attorneys that work closely with the unit's paralegals, investigators and secretaries.

Violations addressed in 2015 included nuisance properties negatively affecting neighborhoods, substandard housing, illegal construction, fire and safety violations, destruction of environmental and historical resources, and numerous zoning and land use violations. Public nuisance cases with drug or prostitution activity were aggressively prosecuted by CEU using specialized enforcement statutes. At the same time, code deputies worked closely with community members, police officers, and inspectors to achieve a long term solution to these problem properties which attracted nuisance activity and jeopardized the safety of surrounding neighborhoods. CEU investigators and staff assisted code enforcement inspectors with investigations, provided trainings, and obtained inspection warrants as necessary. Some of the cases resolved by CEU in 2015 are highlighted below:

SUBSTANDARD HOUSING CASES:

An important function of CEU is to ensure that citizens are living in safe decent housing and that landlords are held accountable to keep their rental units in compliance with the requirements of the California Health and Safety Code and local regulations. When tenants are found to be living in deplorable conditions, code inspectors and CEU prosecutors work quickly to relocate tenants to safe housing and ensure that the substandard housing violations are

corrected. In some cases, the structure is so unsafe, that demolition is the only remedy. One such case is highlighted below:

3067 Chamoune Street – the entire roof of this single family residence was dilapidated, rotting and was so structurally unsound it was in danger of caving in, endangering any occupants. The structure itself had extensive cracking, broken windows, and was separated from the foundation. The gas had been shut off due to a gas leak, the plumbing did not function, and serious electrical violations existed. Other violations included a rodent infestation, significantly overgrown vegetation, missing drain lines, and a nonfunctioning water heater. The tenant residing in these inhabitable conditions was disabled and confined to a wheelchair.

A CEU Investigator dedicated significant time and effort to work with the tenant to obtain resources and information on where she could find housing. Pursuant to the Health and Safety Code the City required the owner to pay \$2,821 in relocation costs. Due to the City's enforcement action, the property was immediately sold and is in the process of being demolished.

VACANT PROPERTIES:

CEU prosecutors also worked closely this past year with code inspectors, police, and neighborhoods to quickly address crime and nuisance activity occurring at abandoned vacant structures throughout San Diego. These properties present fire hazards to the community and are often frequented by transients. Police regularly respond to incidents of prostitution, drug activity, and alcohol use on the premises. It is not enough to ensure that the vacant structures are properly secured, rather, it is imperative that they be rehabilitated and put to productive use as quickly as possible. Abandoned properties which CEU assisted with enforcement actions or filed court actions include:

People v. Demers - This abandoned apartment complex at 3926 Mississippi had such a long history of vacancy accompanied with constant graffiti, trash, broken windows, and trespassers, that it was the subject of a media article. CEU filed a criminal action against the trustee of the property alleging violations of the Abandoned Properties Ordinance. The trustee pled guilty to 2 misdemeanors and entered into a plea bargain requiring him to immediately remove all graffiti, waste, junk and overgrown vegetation, and properly board and secure the structure. The trustee was also required to file the required forms under the Abandoned Properties Ordinance and a Letter of Agency with the Police Department. Most importantly, he was required to elect to restore, demolish, or sell the property in accordance with strict deadlines.

2547 Violet St – this property in the Mid-City area of San Diego had a history of narcotics arrests and nuisance activity. Before code inspectors could address the substandard conditions at the property, a fire occurred. The structures were deemed unsafe and dangerous. CEU assisted building inspectors with using provisions under the Health and Safety Code to require the demolition of the structures. A CEU Deputy represented the Department at an administrative hearing in which the City was granted the authority to abate the structures and public nuisance.

PERENNIAL REMODELS:

Properties which are “under remodel” but are never finished can be as frustrating to a community as the abandoned properties described above. This is especially true when the properties have been in a “remodel” or unfinished state for 5 years or more. CEU has actively assisted the community and code inspectors with these properties using the same strategies as with abandoned properties. Examples of these cases in 2015 are 2 properties in Point Loma:

People v. Mendiola - community members filed numerous petitions complaining of this huge remodel which has been in limbo for years at 1676 Plum Street. Unbelievably, the owner had even put a fence around the stop sign and sidewalk. The property owner pled guilty to Municipal Code and public nuisance violations filed by CEU and entered into a plea bargain which required him to elect to demolish the structure, finish the remodel, or sell the property under strict timelines. The owner sold the property and the new owner is actively completing the project under permit.

People v. Grondona – the owner of this property had been attempting to finish a castle he was building at 3307 Valemont Street, but where no construction had taken place for years. In October 2015, the owner entered into a plea bargain as a result of criminal action filed by CEU and agreed to finish the structure under the supervision of the City’s Development Services Department and in accordance with reasonable timeframes.

MARIJUANA DISPENSARY LITIGATION:

In 2015 the City Attorney continued to aggressively shut down marijuana dispensaries operating in violation of the City's zoning laws. CEU deputies filed 65 civil complaints in 2015 resulting in immediate shut down orders and civil injunctions against property owners and dispensary operators. Similar to the previous



two years, the dispensary cases prosecuted by CEU typically had crime occurring at the property due to the large amounts of cash at the dispensary and large amounts of high grade marijuana (with values from \$3,000 to \$4,000 per pound). Many of the cases had incidents of violent crimes such as assaults, robberies and burglaries. In one case, a security guard actually robbed the dispensary employees and in another the security guard seriously injured himself with his gun. Citizens regularly complain to the police and the City Attorney's Office about the negative effects caused by marijuana dispensaries in their neighborhoods, especially those that are located near schools. Typical complaints are that school children witness drug sales in parking lots, the smoking of marijuana in public, and foot traffic or loitering. Another legitimate concern of law enforcement is the manufacturing of hashish oil which involves the use of heat and highly flammable solvents which can result in explosions, injuries, and death.

In 2015 CEU entered into 81 stipulated settlements in dispensary cases in which owners and operators are now permanently enjoined from operating or maintaining illegal dispensaries. A total of \$615,280 in civil penalties and \$67,617 in investigative costs was ordered to be paid by property owners and dispensary operators from these settlements, default judgments, and summary judgments.

In addition to filing numerous civil complaints, CEU worked with the Police Department to ensure that those violating court orders were held accountable. To that end, CEU filed 6 criminal contempt actions against employees and security guards who had been served by the Police Department with shut down orders, yet continued to operate.

DRUG ABATEMENT RESPONSE

TEAM:

CEU is an important member of the City's Drug Abatement Response Team (DART) which consists of the City Attorney's Office, San Diego Police DART detectives, narcotics teams, and code inspectors. The team focuses on problem properties with ongoing narcotic activity; develops an appropriate long term strategy to abate the nuisance activity; and ensures that all code violations are corrected. When a property owner fails to address narcotic activity at the property, CEU's DART deputy regularly files a civil action under California Health and Safety Code Sections 11570-11587, a specialized public nuisance statute designed to make property owners and managers civilly liable for illegal drug activity conducted on their premises. A few of the problem properties resolved by the Drug Abatement Response Team in 2015 include:



People and City v. Lackey, et al. – SDPD's Western Division worked closely with CEU's DART deputy to abate the narcotic and public nuisance activity at 6556 Comly Street. There had been multiple narcotic arrests of the property owner's son and grandson who was indicted in federal court on conspiracy charges for selling meth from the property. CEU filed a drug abatement action under the California Health and Safety Code. The case settled with the owner agreeing to vacate the property and pay civil penalties if the drug activity were to reoccur. In addition, specific individuals with known drug history were prohibited from coming to the property.

People and City v. Logan, et al. – the settlement reached in this DART action actually required the property owners who lived at the property to vacate it within 30 days and immediately evict any occupant who refuses to vacate. The injunction also required the owners to list the property for sale with a licensed real estate agent within 15 days and pay \$11,000 in investigative costs to the City. The order also prohibited 21 specified individuals with criminal history from coming to the property. The criminal history at this property at 3322 Curtis Street in Point Loma was particularly egregious. The property owner had been arrested several times for possession of methamphetamine for sales and allowed parolees and drug users to live in unpermitted sheds in the backyard. In addition to constant drug activity, there was extensive trash, junk, and debris throughout the yard.

People and City v. Bertagna - this property at 6990 Glidden Street in Linda Vista had a known reputation in the community as a location for narcotic activity and a place for narcotic users to live. The police had made at least 20 arrests in a 3 year period for possession of a controlled substance and several wanted felons had been arrested there. There were also 26 people contacted at the property for narcotics violations, over 40 calls for service, and over 214 hours of police time invested. The property was owned by a trust and the beneficiary lived at the property. After tenants were once again arrested for possession of methamphetamine and nuisance activity, CEU filed a DART action and the beneficiary entered into a stipulated injunction, agreeing to move out if another narcotic arrest made and to sell the property. The injunction also required the correction of numerous building violations throughout the property.

ZONING VIOLATIONS:

The enforcement of zoning violations is critical to neighborhoods to prevent incompatible uses or over-density from interfering with the quality of life of neighborhoods, especially in residential zones. Cases prosecuted by CEU with significant zoning violations include:

City v. Puijy Development LLC, et.al. – This case at 151 W. Kalmia Street was referred to CEU for outstanding building and zoning violations, specifically the property owner was maintaining and leasing 6 units at the property where only 2 units were allowed, according to City inspectors. A civil complaint was filed and a settlement was reached and the owner agreed to develop the property under the supervision of Development Services Department with proper reviews and permit and in accordance with zoning laws. He also agreed to pay \$10,000 in civil penalties with \$65,000 stayed, pending full compliance with the stipulated judgment and \$1800 in investigative costs.

People v. Gerson – a common complaint received by zoning inspectors is the use of a residential home in the College Area as a “mini-dorm”. CEU filed a criminal complaint in 2015 against the property manager and the property owners of 4942 Tierra Baja, 5231 Remington Road, 5201 Prosperity Road and 5138 Rincon Street. The manager was believed to be leasing to as many students he could fit into these single family homes in the College area without obtaining the required Residential High Occupancy Permits. The manager was caught on video directing and participating in the removal of mattresses from two of the properties just prior to code enforcement inspections, and then observed returning them to the properties after the code inspector left. Plea bargains were reached with all the defendants. The terms of probation required the property owners to correct all code violations at their properties and to disassociate

themselves from the property manager. The court additionally ordered Gerson, the property manager to perform 120 hours of volunteer work service, complete a property management ethics course, pay over \$5,000 in investigative costs, and a pay a court fine. Prior to each plea the Defendants provided proof that each respective property was fully compliant with the San Diego Municipal Code.

TRAININGS AND PRESENTATIONS:

CEU regularly attends community meetings and provides training on specific topics to law enforcement, code inspectors, and community groups. Some presentations provided by CEU in 2015 are:

- Training to zoning, building, housing, code and fire inspectors on Enforcement Remedies; Investigation Techniques; Case Preparation; Courtroom Testimony;
- Training to zoning, building, housing, code and fire inspectors on Abandoned Properties;
- Training by DART on the use of the Drug Abatement Act and nuisance laws to combat drugs and crime at problem properties. The training was for property owners and property managers as part of the Crime Free Multi Housing Training series;
- Trainings for SDPD narcotics detectives and code enforcement inspectors to educate them about the DART team and appropriate cases for referral;
- Training for code inspectors on the enforcement of substandard housing laws under the California Health and Safety Code;
- Training for County Animal Control Supervisors and officers on code enforcement, substandard housing, and how to effectively handle hoarding cases.
- Training to narcotics teams on enforcement against illegal marijuana dispensaries





- **Civil Litigation Division**

The Civil Litigation Division prosecutes or defends civil lawsuits in which the City is a party. The Civil Litigation Division is divided into five units: Civil Prosecution, Workers' Compensation, Land Use Litigation, General Litigation and Special Litigation. Assistant City Attorney Dan Bamberg is head of this division. Mr. Bamberg has over 40 years in plaintiffs' civil actions, at trial and on appeal.

Civil Prosecution Unit:

The City Attorney's Civil Prosecution Unit (CPU) represents the City in several capacities: as a plaintiff, claimant or intervenor when the City seeks to recover money damages or seeks other affirmative relief in court; as plaintiff or defendant in disputes over construction projects or contracts; as plaintiff in collection matters referred to the City Attorney's office by the City Treasurer's Delinquent Accounts Program ("Collections"); and, when City Departments need assistance resolving legal disputes with outside parties. Deputy City Attorneys assigned to the CPU include Erin Dillon, Molly Hoot, Paul Prather and Jon Taylor and the unit is supervised by Chief Deputy City Attorney R. Clayton Welch. In the calendar year ending December 31, 2015, the CPU had a total cash recovery of \$5,408,281.55.

Deputy City Attorney Erin Dillon, who started with the office in July 2014, primarily handles cases referred to the City Attorney by the City Treasurer's Delinquent Accounts Program and pursues recovery of amounts owed on invoices referred to the City Treasurer for collection by other City departments, including the Public Utilities Department, the Metropolitan Wastewater Department and the Code Enforcement Division. In addition to collections litigation, Erin also works with the City Treasurer and other City departments to implement new procedures for handling accounts that are affected by bankruptcy filings and facilitates the City's participation in bankruptcy proceedings when necessary. She also continues to collect civil penalties owed by a number of banks and mortgage servicing companies for violation of the City's Property Value Protection Ordinance (PVPO), which requires properties in foreclosure to be registered with the City, recovering over \$250,000 this calendar year, and has assisted Development Services' Code Enforcement Division in refining the process to invoice and collect PVPO fees.

Named Public Justice's 2014 Trial Lawyer of the Year, Deputy City Attorney Paul Prather started with the City Attorney's office in 2006. His over twenty-five years of experience

includes over sixteen years as a municipal attorney and eight years in private practice. After achieving a successful result in the City's lead paint lawsuit, Paul is now working with a national team of lawyers seeking to recover money for the City from Monsanto Corporation to be used to pay for remediation of the public nuisance caused by Monsanto's marketing and sale of PCBs. While Paul handles routine collection cases, involving things like unpaid water bills and damage to City property, Paul also works closely with senior management in the City's Financial Management Department, representing the City before the Board of Equalization to insure that the City is receiving its proper share of sales tax allocations. Paul also resolved a decade old code enforcement matter with the responsible party ultimately stipulating to administrative fines immediately payable in the sum of \$10,930.65 and agreeing to bring the property up to code within a specified time or pay an additional \$156,000 of Administrative Penalties with Interest.

While he handles some cases referred by Collections related to money owed to the City on unpaid invoices and also defends, as necessary, general liability cases that involve injury or damage claims asserted against the City, Deputy City Attorney Jon Taylor primarily handles construction litigation cases, initiating and defending lawsuits related to City construction projects/contracts. One of the larger cases Jon is handling is a claim against a contractor for defective construction of a road that was built by the defendants, with potential cost of repair of the road exceeding \$?? Million. Besides these kinds of cases, Jon also handles transient occupancy tax appeal hearings for the City Treasurer, as well as other TOT matters, and does foreclosure work for Debt Management where property owners have failed to pay Mello-Roos or other assessments owed the City. Jon's recovery of delinquent or contested taxes and delinquent assessments on behalf of the City in 2015 totaled approximately \$1.7 million. Additionally, Jon is representing the City in a contractual dispute with an energy company related to the extraction of landfill gas at the Miramar Landfill and the sale of cogeneration electricity.

Deputy City Attorney Molly Hoot handles a wide variety of matters, including cases referred by Collections, construction litigation cases, and general liability claims asserted against the City. Besides these kinds of cases, Molly also litigates most of the worker's compensation subrogation claims referred to the City Attorney's office by Risk Management and is very successful in recovering money paid to employees from the responsible third-party tortfeasors. In addition to all of her litigation matters, Molly assists Assistant City Attorney Dan Bamberg with implementing court-ordered policies and procedures arising from litigation brought against the City in the U.S. District Court related to disposal of abandoned property and illegal lodging by the homeless.

In addition to supervising the CPU and working with the City Treasurer, Chief Deputy Clayton Welch works with other departments to assist with pre-litigation or with litigation related to matters and claims not usually referred to Collections. One of the larger cases he is handling is a "qui tam" case involving claims asserted against J-M Manufacturing Co. and Formosa Plastics

related to the sale of a substantial quantity of allegedly defective PVC pipe to governmental entities, such as the City, for use in potable water distribution and pressurized sewage collection systems. In late 2015 the City received \$1,627,179.59 as its share of the \$22.5 million dollar settlement between plaintiffs and Formosa Plastics (the total amount paid to all plaintiffs separate of any attorney's fees owed).

Attorney	Debtor/Payee	Comment(s)	Collected	Referring Department	Type of Case
Chief Deputy City Attorney Clay Welch	Amir Bahador	monthly payments being made pursuant to Ch. 11 bankruptcy plan – final payment received 12/21/15	\$5,932.00	City Treasurer	civil penalties case referred to collections by NCCD – PAID IN FULL as of 12/21/15
	Juan Banuelos	\$550/month payments made pursuant to stipulated settlement agreement	\$5,150.00	City Treasurer	Debt owed on invoices from Metro WasteWater for waste disposal
	Daily Disposal	\$17,642.64/month payments made pursuant to stip settlement agreement; total of payments over FY = \$105,855.84	\$231,118.58	Environmental Services	Breach of franchise agreement; referred to CAO by department via advisory atty.
	Scott Kaiser	\$350/month payments made per stip settlement agreement	\$4,200.00	City Treasurer	civil penalties case; claim referred to collections by NCCD
	Latif/Ikhlass Zoura	partial payment on recorded Abstract of Judgment (pd 2/18)	\$11,500.00	City Treasurer	civil penalties case; claim referred to collections by NCCD
	Laith Asper	partial payment on recorded Abstract of Judgment (judgment entered 4/26/12)	\$750.00	City Treasurer	civil penalties case; claim referred to collections by NCCD
	Brenda Soto	monthly payments per stip settlement (after suit was filed – approved by the court)	\$700.00	City Treasurer	property damage claim – PD to City vehicle in accident caused by Soto

Roy R. Coss, Jr.	monthly payments per stip settlement (after suit was filed – approved by the court)	\$8,120.00	City Treasurer	for civil penalties imposed as a result of Code violations identified on property owned by Coss	
Adolfo Sanchez	monthly payments on judgment entered per stip settlement agreement (after Sanchez initially failed to make the promised payments)	\$600.00	City Treasurer	property damage claim – PD to City vehicle in accident caused by Soto	
Maria Montoy	partial payment at JDX on judgment for unpaid sewer service	\$2,500.00	City Treasurer	unpaid billing for sewer service provided to Montoy by Public Utilities/MWWD	
Linh Huynh	compromise settlement of civil penalties case	\$6,543.83	City Treasurer	civil penalties case; disputed claim referred to collections by NCCD	
Formosa Plastics USA	payment of City's allocation of Formosa Plastic's \$22.5 million settlement of False Claims Act claims	\$1,627,179.59	Public Utilities	City joined other intervenor plaintiff's in a whistleblower lawsuit that asserted claims under the False Claims Act alleging manufacture/sale of defective PVC pipe	
Evgenia Gavriyuk & Marcelo de Oliveira	compromise settlement of City claim for property damage	\$5,839.87	City Treasurer	property damage claim – PD to City vehicle in accident caused by Gavriyuk (driving vehicle owned by de Oliveira)	
PAR Electrical Corp. and SDG&E	compromise payment of claim for damage to sewer line and related cleanup costs	\$42,000.00	City Treasurer	City invoiced PAR Electrical and SDG&E for damage to sewerline and related cleanup that was caused by work done by PAR Electrical removing utility poles	

Renee/Joseph Crowe	partial payment on recorded Abstract of Judgment (pd 1/29)	\$150.00	City Treasurer	property damage claim – PD to City property in accident caused by Joseph Michael Crowe
Rocelia Castro and Ronald Rivera	lump sum payment on recorded Abstract of Judgment related to property damage claim	\$10,000.00	City Treasurer	property damage claim – PD to City property in accident caused by Rivera (driving vehicle owned by Castro)
Jeffrey Krinsk	payment on judgment for costs	\$1,100.00	Risk Management	post-judgment costs awarded by court after Krinsk lost to City in lawsuit
Laura Zahn	agreement to pay costs awarded after suit	\$200.00	Risk Management	post-judgment costs awarded by court after Zahn lost to City in lawsuit
Maxine Sherard	payment on judgment for costs	\$10.60	Risk Management	post-judgment costs awarded by court after Sherard lost to City in lawsuit
Seyed Ahmadi	payment on sanctions awarded during litigation	\$2,800.00	Risk Management	Sanctions imposed by the court after Ahmadi failed to comply with discovery requests propounded by the City
Carolyn Smith/Dante Dayacap	payment on restitution order in criminal case against both parties (co-defendants)	\$1,100.00	Risk Management City Treasurer	Smith and Dayacap were executives at SEDC who misappropriated SEDC funds and were criminally prosecuted
Jason Williams	partial payment of court-ordered restitution	\$2,500.00	Public Utilities	Williams was accused of theft of City property and ordered to pay restitution of \$161,686.05
Henry Mondestin	reimbursement of Long Term Disability benefits paid to City employee	\$2,083.00	City Treasurer	Mondestin settled with third-party tortfeasor and agreed to reimburse the City for LTD benefits paid prior to settlement

Sadeer Edward Battah	payments per stip settlement of claim for money collected for Public Utilities but not turned over to the City	\$54,971.06	City Treasurer	Mullens Market collected money from Public Utility customers for water bills, not turned over to the City as required per written agreement
Juan/Min dy Tello	payment of FBA fees owed on Otay Mesa property owned by Juan Tello and spouse	\$432,049.00	Planning Department	Juan Tello failed to pay FBA fees per terms of a deferral agreement w/ the Planning Department
San Diego Chargers	payment on audit invoice for 2004 rent at Qualcomm Stadium	\$16,978.64	City Treasurer	the Chargers took a rent credit against their 2004 stadium rent; the credit was disallowed and an invoice issued
Christal Clippinger	payment on recorded Abstract of Judgment for unpaid parking citations	\$1,000.00	City Treasurer	delinquent parking citations
Kevin Zagar	payment on recorded Abstract of Judgment for unpaid parking citations	\$1,356.72	City Treasurer	delinquent parking citations
Tahoe Law Center/ David Mittlestadt	payment of invoices for amounts paid to SDPD officers for appearing at noticed depositions	\$392.93	San Diego Police	reimbursement of amounts SDPD paid to two officers who were deposed by Mittlestadt's attorney in a child custody matter
Gregory Bell and David Martz	payment of invoices for amounts paid to SDPD officer for appearing as a witness in a criminal matter involving Martz as defendant	\$139.10	San Diego Police	reimbursement of amounts SDPD paid to officer who appeared as a witness in a criminal matter
Javier Ramirez-Oleguin	payment of emergency response costs billed by San Diego Police Department	\$442.70	San Diego Police	emergency response costs related to police response to accident caused by Ramirez-Oleguin while DUI

	Theresa Donnelly	payment of emergency response costs related to SDPD response to DUI-related accident	\$328.17	San Diego Police	reimbursement of amounts SDPD paid to officers who responded to accident caused by negligence of Donnelly while DUI
	Kathryn Farr	payment of emergency response costs related to SDPD response to DUI-related accident	\$942.15	San Diego Police	reimbursement of amounts SDPD paid to officers who responded to accident caused by negligence of Farr while DUI
	County of San Diego (crime lab)	payment per stip settlement of claim by the City that the County crime lab over-charged for forensic services	\$20,000.00	San Diego Police	reimbursement of amounts SDPD paid to the County crime lab for forensic services related to criminal investigations
		SUB-TOTAL = \$2,500,677.94			

Deputy City Attorney Jon Taylor	Debtor/Payee	Comment(s)	Collected	Referring Department	Type of Case
	Confidential tax payer information	Recovery of TOT due the City following appeal before independent hearing officer	\$31,914.96	City Treasurer	Annual payment for TOT settlement entered into in 2013
	Various property owners	recovery of unpaid Mello-Roos or other property tax assessments due the City	\$60,472.16	Debt Management	statutory assessments against real property situated in the City of San Diego
	Confidential tax payer information	Recovery of TOT and TMD following demand for payment (\$1.56M =TOT: \$82k = TMD)	\$1,650,345	City Treasurer	unpaid/underpaid TOT
	Confidential tax payer information	Recovery of TOT due the City following appeal before independent hearing officer	\$3,895.82	City Treasurer	TOT appeal
		SUB-TOTAL = \$1,746,627.94	0.00		

Deputy City Attorney Paul Prather	Debtor/Payee	Comment(s)	Amt. Collected	Referring Department	Type of Case
	Burtech Pipeline	lump sum payment re claim for 12" water main that failed – installed by Burtech Pipeline	\$40,000.00	City Treasurer	property damage claim re water damage resulting from ruptured water main (improperly installed)
	AT&T, RBF Consulting & Cox Cable	global settlement of City claims against parties for delay of CIP project	\$185,000.00	Public Utilities	delay of construction claim based on a failure of one/all named parties to move utility lines in area of project in a timely manner
	Cathode Ray Tube Manufacturing et al.	City's share of settlement in whistleblower suit	\$126,872.00	City Attorney	City was a party in a False Claims Act action brought by a whistleblower
	Confidential tax payer information	payment of TOT/TMD funds owed by two hotels operated by LLC	\$10,577.28	City Treasurer	hotels owned by owner/operator found (per audit) to have under-paid TOT/TMD owed the City
	American Tower Corporation	payment of deficiency (rent) owed on City lease	\$102,730.92	City Treasurer/Real Estate Assets	ATC leased a tower used for transmittal of phone, internet and other services and owed rent – audited and found to have underpaid rent over several years
	Confidential tax payer information	payment of TOT/TMD funds owed by two hotels operated by LLC and amounts owed on NSF checks issued to the City	\$147,920.27	City Treasurer	hotels owned by owner/operator found (per audit) to have under-paid TOT/TMD owed the City; some of the amounts owed were paid with NSF checks
	Thanh Nguyen	lump sum payment re duplicative/overpaid long term disability paid to employee	\$41,025.94	City Treasurer	Nguyen applied for/received LTD but then go disability retirement (double dipped) and

					would not reimburse LTD he received
	American Tower Corp.	payment on judgment for costs	\$84,001.39	Risk Management City Attorney	post-judgment costs awarded by court after American Tower lost to City in lawsuit
	Santiago and Juana Elias	lump sum payment to cover unpaid water bill	\$8,119.00	City Treasurer	Mr./Ms. Elias failed to pay water bills for water supplied by Public Utilities
	Heleena Marie McGlone	lump sum payment to cover property damage caused in traffic accident	\$10,000.00	City Treasurer	McGlone caused an accident, running off the road and colliding with a fence owned by the City – billed for cost of repair
		SUB-TOTAL = \$756,246.80			

**Deputy City
Attorney
Molly Hoot**

Debtor/Payee	Comment(s)	Amt. Collected	Referring Department	Type of Case
George Gelastopoulos	lump sum payment on past due water bill	\$8,360.84	City Treasurer	book account for water service referred to collections by Public Utilities
EDCO/Miguel Gonzalez	lump sum compromise payment on work comp lien (City employee – Reggie Johnson)	\$28,000.00	City Treasurer/ Risk Management	lien for work comp benefits paid to City employee Reggie Johnson as a result of injuries sustained in accident caused by EDCO employee
Family Gym	payment for sewer service billing	\$12,874.50		unpaid billing for sewer service provided to Family Gym by Public Utilities/MWWD
Thomas Clinton Davis	full payment reimbursing LTD benefits paid to City employee David West (paid by West’s attorney after settlement with Davis’s insurer)	\$9,598.05	Risk Management	City asked employee to reimburse LTD benefits paid for injury suffered in accident caused by 3 rd party after employee settled with that party
Amswede Corp.	compromise settlement of penalty for dumping waste at Miramar landfill after mis-identifying type of waste	\$2,000.00	City Treasurer	ESD code enforcement officer cited an Amswede driver for mis-identifying construction demo waste as regular waste (dumping fee lower for the latter)
Rafael Vanegas	compromise settlement of subrogation claim for work comp benefits paid to City employee (Stephens)	\$3,000.00	Risk Management	City police officer was injured attempting to arrest Vanegas and received work comp benefits as a result of his injuries
Jason Winklepleck	full payment reimbursing work comp benefits paid to City employee (Saulog) paid by insurer	\$8,792.00	Risk Management	City asked 3 rd party tortfeasor’s insurer to reimburse work comp benefits paid as a result of injury suffered by employee

		for responsible party after settlement of claims			in accident caused by Winklepleck
	Jane/Kathy Morlino	compromise settlement of subrogation claim for work comp benefits paid to City employee (Puente)	\$7,750.00	Risk Management	City employee was injured after being bitten by a dog owned by the Morlino's and received work comp benefits as a result of his injuries
	Curtis Ware	monthly payment per stip settlement of work comp subrogation claim	\$159.00	Risk Management City Treasurer	City police officer was injured by Ware and received work comp benefits as a result of his injuries
		SUB-TOTAL = \$80,534.39			

Deputy
City
Attorney
Erin
Dillon

	Debtor/Payee	Comment(s)	Amt. Collected	Referring Department	Type of Case
	Ramona Septic and Mares Septic	Payments on past due invoices for disposal of waste at Metro WasteWater facility (per stip settlement agreement)	\$1,300.00	City Treasurer	unpaid waste disposal invoices, referred to collections by Metro WasteWater
	Voula Caparell	Payments on past due billing for water service	\$25,041.34	City Treasurer	billing for water service to premises that were owned by Caparell but transferred to one of her sons w/out changing the name of the customer
	Laith Asper	Payment on civil penalty owed per stip settlement agreement	\$7,500.00	City Treasurer/ Code Enforcement	penalty owed after Asper breached a settlement agreement reached in a Writ of Mandate case filed by Asper following a 2 nd civil penalties case related to violation of a Conditional Use Permit
	Phillip/Wylene Saccio	Payment on civil penalty	\$12,554.87	City Treasurer	penalty owed after civil penalties hearing initiated by Code Compliance/DSD for unpermitted construction
	Capoeira, Inc. (Paulo Lima)	special event fees owed for annual event in Pacific Beach	\$7,643.10	City Treasurer	Capoeira/Lima put on an annual event in Pacific Beach under a permit and failed to pay invoiced police and other costs
	Kim Ciniello	payment on judgment for unpaid water service	\$1,712.12	City Treasurer	judgment entered after de novo appeal of award in small claims court for amount owed for water service to business

	PHH Mortgage Corporation	recovery of civil penalties owed for failure to register defaulted properties with DSD	\$43,931.68	City Treasurer	Property Value Protection Ordinance required defaulted properties to be registered w/ DSD – mortgagor failed to register properties and was assessed civil penalties
	Suntrust Mortgage	payment of fees and penalties owed under PVPO provisions of Municipal Code	\$25,255.59	City Treasurer	Suntrust Mortgage failed to register defaulted properties w/ the City as required by the PVPO ordinance and was invoiced for unpaid fees and civil penalties
	Continental Cleaners	recovery from sale of dry cleaning/ laundry equipment owned by Continental – sold and proceeds applied to judgment entered per breached settlement agreement	\$8,075.00	City Treasurer/ Economic Development	judgment secured per stip settlement agreement (breached by Continental and its owners) related to unpaid loan to Continental by City's Economic Development department
		SUB-TOTAL = \$133,013.70			

Deputy City Attorneys		COLLECTION SUMMARY –	Totals		
R. Clayton Welch			\$2,500,677.94		
Jon Taylor			\$1,746,627.94		
Paul Prather			\$756,246.80		
Molly Hoot			\$80,534.39		
Erin Dillon			\$133,013.70		
		TOTAL RECOVERIES (including pending and/or anticipated recoveries)	\$5,217,100.77		

General Litigation Unit:

The San Diego City Attorney's General Litigation Unit consists of Chief Deputy City Attorney John Riley, Deputy City Attorneys Jane Boardman, Pamela Chalk, Bonny Hsu, Kelly McGeehan, Christina Milligan, Stacy Plotkin-Wolff, Beverly Roxas, Rayna Stephan and Catherine Turner. The General Litigation Unit handles a large volume of cases. Each attorney handles a heavy case load defending the City of San Diego, the agencies within the City, and its agents. The types of cases handled by the General Litigation Unit include, but are not limited to, police excessive force cases, state common law torts, constitutional issues, dangerous condition cases, motor vehicle accidents, and an assortment of other tort and personal injury cases. The attorneys in the General Litigation Unit were



highly successful in resolving a variety of lawsuits favorable to the City. Numerous lawsuits were terminated by way of summary judgment motions, motions to dismiss, and demurrers.

During the past year, the General Litigation Unit received 102 new cases, in addition to the carry-over of cases from 2014. One hundred ten (110) cases were disposed of through trials, motion practice, tender letters, and settlement negotiations. In addition to resolving cases which monetarily benefit the City, the General Litigation Unit obtained legally significant rulings. Several examples include:

Pannell v. COSD, et al.

Plaintiff alleged that she tripped and fell on uneven sidewalk at the Fenton Trolley Station and sustained injuries. Plaintiff filed a complaint for dangerous condition of public property against the City. The City filed a demurrer because the land at the trolley stop at issue was not built on land owned by the City of San Diego. The co-defendants were responsible for the maintenance and repair of the property. Plaintiff dismissed the City from the case prior to the demurrer hearing.

Wade, et al. v. COSD, et al.

Plaintiffs Linda and Glen Wade served a complaint for damages arising from a trip and fall at 3325 Neosho Place. Linda Wade sought money for medical injuries and Glenn Wade sought damages for loss of consortium. After discovery and negotiations, in addition to the risk of costs against Plaintiffs, Plaintiffs dismissed their case against the City.



Claire Rowland v. City of San Diego

Miss Rowland, a 10 year-old girl, slipped and severely cut her leg on a piece of rebar attached to a sprinkler head on a City-owned hillside in Scripps Ranch. The City successfully tendered this matter to the insurance company for the

landscaping company responsible for maintaining the area per City contract.

Peter Bridge v. City of San Diego

Mr. Bridge was hiking in the Tierrasanta (Shepard Canyon) area, and slipped on some paint covering graffiti on a City-owned concrete spillway. Continued efforts by this office lead to an acceptance of the tender for defense and indemnity by the insurance company for the responsible landscaping company.

Steven Greenwald v. City of San Diego

Mr. Greenwald tripped and fell on a raised section of sidewalk in the Uptown area, and severely lacerated his hand. The City successfully opposed Mr. Greenwald's petition to file a late claim, and his lawsuit against the City was dismissed.

Kassab v. Hernandez, et al.

This was a lawsuit arising out of an arrest of Plaintiff. Plaintiff filed suit, alleging five causes of action including violation of Civil Code section 51, false arrest; assault/threat & intimidation/retaliation in violation of 42 USC 1983; intentional infliction of emotional distress; improper search of his business; and an alleged improper seizure from the business. The City successfully moved for summary judgment on all counts in 2009 excepting the claim for excessive force claim. That claim was tried and the jury returned a defense verdict.

Diaz v. COSD

This was a car accident that occurred when a suspect driver in a police pursuit struck the plaintiffs' vehicle. Investigation and discovery demonstrated that SDPD had terminated the pursuit prior to the crash. Plaintiffs ultimately dismissed City.

Foran v. COSD

This trip and fall on public sidewalk focused on a lack of notice to the City. The City prevailed upon the adjacent property owner that they shared responsibility for failing to maintain the sidewalk. The matter resolved with contribution from the adjacent property owner.

Pre-litigation, three inverse condemnation matters:

Time delays and improbable environmental regulations created a difficult situation for the City to maintain its storm water channel in the Beaver Lake area of San Diego. As a result, three houses were flooded on February 28, 2014 and November 1, 2014. The City Attorney's office successfully resolved these three inverse condemnation cases, saving the City hundreds of thousands of dollars.

Fletes v. City of San Diego, et. al.

On January 12, 2013, a San Diego police officer attempted to stop a silver-colored 1998 Acura Integra. Unknown at the time, the vehicle was stolen. The vehicle fled, eventually turning into a dead end lot. When the officer approached the car, the driver tried to run over the officer. The officer fell less than five feet in front of the car. That officer and two responding officers fired their weapons at the driver of the car to end this threat of deadly force. The driver of the car died at the scene. A passenger struck by 3 bullets filed suit for violation of her civil rights. The City filed a motion for summary judgment providing the Court with a video recording of the shooting. The Federal District Court agreed that the use of deadly force was reasonable, dismissing all claims against the officers and the City.

Plank v. COSD

Plaintiff tripped and fell, caused by a sign near Belmont Park. Plaintiff sustained 2 fractures to her right shoulder. The City tendered its defense to the organizer of the special event at Belmont

Park. This office jointly pursued a defense and also pressed Plaintiff for a dismissal. The City obtained a dismissal prior to filing any responsive pleadings in the case.

Rangel v. COSD

Plaintiff filed an action against the City of San Diego alleging that an open water meter compartment created a dangerous condition. Plaintiff claimed special damages in excess of \$95,000 along with claims of future loss of earnings. This office served Plaintiff's attorney with a C.C.P 1038 frivolous action letter, indicating a pending motion for summary judgment. Plaintiff dismissed her action with prejudice against the City without any payment.

Carlyle v. City of San Diego, et. al.

Plaintiff brought this action for professional negligence relative to the emergency response to Plaintiff's seizure. Plaintiff alleged that his stomach staples in place from a prior surgery were negligently dislodged by the emergency responders. Other injuries alleged were dislocated shoulders, broken left clavicle, fractured ribs and arms, anxiety, and depression. Plaintiff claimed special damages in excess of \$42,000, future medical specials of \$30,000, loss of future earnings of \$40,000 per year, and general damages of \$215,000.00. Plaintiff reached a settlement with Co-Defendant. The action was dismissed without any payment by the City.

Genel vs. City of San Diego

This wrongful death action was brought by the parents of a 16-year old girl. Plaintiffs alleged that their daughter fell to her death from the Upper Otay Dam as a result of a dangerous condition of public property. This office filed a motion for summary judgment as no dangerous condition existed and that governmental immunities applied. Applicable immunities included trail immunity and hazardous recreational activity immunity. Plaintiffs' settlement demand was in the amount of \$950,000. This office resolved the case for one dollar (\$1.00).

McCaffrey vs. San Diego Police Dept.

This wrongful death action was brought by the wife and 3 adult children of the deceased. It arose out of a fatal collision between a San Diego Police Department patrol vehicle and a motorcyclist. At trial, the City stipulated to liability as well as economic losses of \$1,075,601. The case was tried on the issue of non-economic damages only. Plaintiffs demanded from the jury a minimum verdict of \$40,000,000. The jury returned a unanimous verdict in the amount of \$4,750,000 in non-economic damages.

Lily Mata v. City of San Diego, et. al.

Plaintiff tripped and fell on an uneven sidewalk around the grounds of Kit Carson Elementary School. The height difference between the sidewalk panels where she fell was approximately one

inch. Plaintiff suffered two broken shoulders, a head laceration that required seven stitches to close, rib, and jaw injuries. Plaintiff filed a complaint against the City of San Diego and San Diego Unified School District.

At trial, Plaintiff requested \$1.5 million from the jury. The jury returned a defense verdict. The court ruled the City was entitled to costs against Plaintiff in the amount of \$11,795.84.

Brenda Hamilton v. City of San Diego, et. al.

While Plaintiff was walking her dog, an errant golf ball from the Balboa Park Driving Range struck her in the head. Plaintiff contended that the City and the driving range did not have adequate fencing to prevent balls from coming into the adjoining dog park. Plaintiff claimed cervical strain, persistent headaches, temporal mandibular joint (TMJ) syndrome, blurred vision, light flashes and post-traumatic stress disorder. The City was dismissed after Plaintiff settled with a co-defendant.

Diaz v. City of San Diego, et. al.

Plaintiff was walking on the sidewalk near Eastgate Mall, San Diego where she tripped and fell on a 1.5 inch height difference in the sidewalk panels. The height difference was caused by the abutting property owner's trees. Plaintiff suffered injuries to her face, requiring dental intervention. After litigation began, the complaint was dismissed against the City.

Greene v. City of San Diego, et. al.

Mr. Greene claimed he tripped and fell over metal plates placed in the street, striking his right knee and the left side of his face when he fell. Plaintiff alleged injury to his leg, knee, and ankle, and also hearing loss. Plaintiff filed a complaint against the City of San Diego and San Diego Gas and Electric. The City tendered the lawsuit to San Diego Gas & Electric Company for a defense and indemnity. SDG&E accepted the City's request to defend and indemnify the City of San Diego - with a reservation of rights. Plaintiff settled with SDG&E and dismissed the City.

Land Use Litigation Unit:

The Land Use Litigation Unit prepares and defends civil actions on behalf of the City in state and federal court, including challenges based on the California Environmental Quality Act (CEQA), eminent domain, constitutional issues related to the use of land, real estate development, failure to comply with the Municipal Code or City procedures, and land use-related decisions by the City Council or City staff. The Land Use Litigation Unit employs five

seasoned and proven litigators to navigate the complex and unique issues raised in land use cases. Last year, this Unit handled approximately 90 cases. In addition, the attorneys proactively advised the City Council and City Departments about potential litigation risks and settlement of claims involving land use matters, to help protect the City and taxpayers from adverse judgments. The Unit is supervised by Senior Chief Deputy City Attorney Leslie FitzGerald. Deputy City Attorneys Carmen Brock, Jenny Goodman, M. Travis Phelps, Glenn Spitzer, and Jana Mickova Will have all contributed to the Unit's success.

Highlights for 2015

City of San Diego, et al. v. Board of Trustees of the California State University

The City challenged the Environmental Impact Report for the San Diego State University 2007 Campus Master Plan for its failure to adequately mitigate the impacts associated with the expansion of both the student population and campus facilities. In a unanimous decision, the California Supreme Court agreed with the City and held that California State University failed to comply with CEQA when it found that mitigation for the off-campus environmental impacts of its Master Plan would be infeasible absent an explicit appropriation from the Legislature to fund its fair share of the mitigation. This was a groundbreaking case with statewide significance. Deputy City Attorney Christine Leone represented the City.

Union of Medical Marijuana Patients v. City of San Diego

This case challenged the City's Medical Marijuana Ordinance, which allows a fixed number of medical marijuana consumer cooperatives to operate in certain areas of San Diego. The Petitioner alleged that adoption of the ordinance would cause effects on the environment that should have been analyzed under CEQA – namely that medical marijuana patients would have to drive greater distances to the dispensaries and would be forced to grow more marijuana in their homes. The trial court rejected these arguments, and found that the City complied with CEQA before adopting the ordinance. The case is on appeal.

Citizens for Odor Nuisance Abatement v. City of San Diego

The plaintiffs alleged that the City is legally responsible for the smell caused by sea lions and birds who inhabit the cliffs at La Jolla Cove. The City tried several methods to remove the smell, but the plaintiffs allege that the problem still exists. The trial court entered summary judgment in favor of the City. As a matter of law, the judge found that numerous animals at La Jolla Cove are

protected by federal law, and the City is not legally liable for the natural behavior of wild animals on its property. The case is on appeal.

Core Residential Mission Gorge Project Owner, LP, v. City of San Diego

The developer of a residential development project challenged the City’s calculation of school fees required for new development, which are paid to the school district for neighborhood schools. The trial court ruled in the City’s favor, finding that the City calculated the fees correctly, and the amount of fees was appropriate.



Bankers Hill v. City of San Diego

This case alleged that the City’s implementation of the downtown loop of the Bicycle Master Plan and its 2013 Update failed to comply with CEQA. The Bicycle Master Plan is a citywide policy document to guide the development and maintenance of San Diego’s bicycle network over the next 20 years, including roadways, support facilities, and non-infrastructure programs. The Petitioner dismissed the case before trial.

City of San Diego v. Fashion Valley Mall (163/Friars Road)

The City filed an eminent domain case to acquire property necessary for the Friars Road/SR-163 Interchange

Improvement Project. The Project is a major right-of-way and traffic improvement project

involving multiple roads, freeways, and properties located at or near the Friars Road/SR-163 intersection in Mission Valley, and is designed to lessen the significant traffic congestion in that area. Pursuant to law, the property owners will be paid fair market value for their property interests needed for the Project.

City of San Diego v. SoCal Holistic Health

The City brought an enforcement action against an illegal medical marijuana dispensary. The dispensary was ordered to close, but refused to do so. A judge awarded the City \$1,835,000 in civil penalties, along with the City's costs. This is by far the largest award the City has received in this type of case.

Etta Keeler v. City of San Diego

The plaintiff obtained a \$171,000 judgment lien against a City tenant and secured it against the tenant's building, which became City property upon expiration of the tenant's lease. Plaintiff unsuccessfully contended that because she could no longer enforce her lien against the building once it became City property, the City had unlawfully taken her lien without just compensation in violation of the U.S. Constitution. The trial court dismissed the case.

North Park Preservation Coalition v. City of San Diego

The plaintiff challenged the City's approval of a remodel of a drive-thru restaurant in North Park. The City prevailed at trial, and was awarded more than \$13,000 in costs required to defend the action. The matter is currently on appeal.

Save Our Heritage Organisation v. City of San Diego

Petitioners filed a Writ of Mandate under the City's Municipal Code and CEQA challenging proposed improvements to Balboa Park, including eliminating vehicles from the central plazas by reconfiguring roadways and constructing the Centennial Bridge. The Court of Appeal overturned the trial court's decision, and found that the City properly approved the project.

Coalition for Fair Employment in Construction v. City of San Diego

Petitioner filed a Writ of Mandate alleging that the City failed to produce documents in response to a Public Records Act request regarding the potential expansion of the San Diego Convention Center. The trial judge ruled that the City properly produced all required documents and denied Petitioner's request for attorney's fees (alleged to be in excess of \$370,000). Petitioner appealed and the Court of Appeal confirmed the trial court decision.

CREED 21 v. City of San Diego (Via Rialto - CEQA)

Petitioner challenged the City's approval of emergency-related storm drain repairs, and the trial court granted judgment in the Petitioner's favor. The City appealed and the Court of Appeal reversed, upholding the City's approval of the project. In a published decision, the Court of Appeal found that the City properly applied the emergency exemption under CEQA, which will help municipalities across the state expeditiously perform emergency repair work.

Special Litigation Unit:

The City Attorney's Special Litigation Unit is for defending the City of San Diego, its affiliated entities, employees, officials and departments in a variety of civil actions that do not fall under the General Litigation category. Each attorney in the Special Litigation Unit handles a broad variety of cases such as: (a) employment-related lawsuits against the City alleging claims such as discrimination, retaliation, harassment or unpaid wages; (b) class action lawsuits against the City relating to City fees and charges or employment issues; (c) lawsuits challenging the constitutionality or legality of City ordinances, resolutions, actions and policies; (d) any lawsuit designated as complex by a court; (e) proceedings before the Civil Service Commission or CalOSHA; (f) appeals to state and federal courts; (g) lawsuits relating to the city's compliance with the Brown Act and the California Public Records Act; and (h) lawsuits relating to elections.

Deputy City Attorneys assigned to the Special Litigation Unit include Charles E. Bell, Jr., Laura M. DePoister, Michael McGowan, Angela Mullins, Danna W. Nicholas, Keith Phillips, Catherine Richardson, Kathy J. Steinman and Kristen Zlotnik and the unit is supervised by Chief Deputy City Attorney Meghan Ashley Wharton. Additionally, Chief Deputy City Attorney David J. Karlin and Lead Attorneys George Schaefer, Walter C. Chung and Joe Cordileone successfully handled several Special Litigation Unit cases during 2015.

Employment Cases

The City was successful in the defense of several employment matters during the year. The City's employment litigators conduct an early assessment of all employment claims, determine if there is any validity to the claim and offer a fair and reasonable offer early on with a goal of saving both sides the expense and inconvenience of protracted litigation. However, in instances where an attorney determines that an employment claim lacks merit, the attorney vigorously defends the City.

Daniels v. City of San Diego

Lead Litigation Attorney Joe Cordileone investigated a discrimination claim made by an employee. Mr. Cordileone met with the employee and her attorney and shared the evidence proving that no discrimination occurred. After the meeting, the employee decided to drop the claim against the City. Mr. Cordileone's early efforts to resolve this case allowed the City to avoid the expense of litigation and to retain a valuable employee.

Kutzke v. City of San Diego

In a writ proceeding before the Superior Court, Deputy City Attorney Laura M. DePoister successfully defended a decision by the San Diego Civil Service Commission imposing a 60-hour suspension of a firefighter after an investigation demonstrated that the firefighter became intoxicated and disruptive during a department-sponsored training event.

Sviridov v. City of San Diego

Lead Litigation Attorney Joe Cordileone successfully brought to an end a 2008 employment case brought by a police officer. Over seven and a half years of work went into the case which involved five different versions of his complaint, thirty-four different claims against the City, a separate lawsuit against the Civil Service Commission, three trips to the Court of Appeal and three petitions to the California Supreme Court. Mr. Cordileone defeated plaintiff's claims at all levels because each court ruled that the plaintiff had no right to bring the claims against the City. Ultimately, the Court awarded the City more than \$90,000 in legal costs incurred by the City – an amount that does not include attorney's fees.

Complex and Multi-Party Cases Involving the City of San Diego

Litigation Relating to De Anza Cove

The City has been in litigation to close the De Anza Mobilehome Park since 2003 when the 1981 State legislation keeping the mobilehome park open expired. After years of litigation, the City is in the process of closing the park and returning the land to its proper uses. Chief Deputy City Attorney John Riley worked throughout 2015 to ensure that the City will be able to close the

mobilehome park in 2016. At the same time, Mr. Riley handled litigation involving the City's insurance companies. As a result, during the course of the De Anza litigation, the City's insurance companies made payments of \$3.6 million to settle De Anza related litigation and paid over \$8 million toward the City's defense cost relating to De Anza. Finally, Mr. Riley convinced the insurance companies to pay another \$2.7 million to resolve the City's claim that the companies were required to defend the City for all of the claims arising from closing the De Anza mobilehome park.

Litigation Involving Roque de la Fuente II

Chief Deputy City Attorney David J. Karlin represented the City in multi-party negotiations that finally brought an end to twenty years of litigation between the City and entities owned and controlled by developer Roque de la Fuente II regarding a 312-acre area that Mr. De la Fuente sought to develop. The hard-fought land dispute once resulted in an adverse judgment against the City – now overturned – that would have cost taxpayers \$136 million. As part of the settlement, two of the City's former insurance companies have agreed to pay both sides in the dispute – with \$8.2 million going to the City. The settlement includes a pathway for the property to become a hub for commerce and jobs.

Litigation Involving Bob Filner

Throughout 2015, Lead Litigation Attorney George Schaefer and Deputy City Attorney Kristin Zlotnik worked to resolve the claims against the City arising from Bob Filner's time as Mayor. For example, Mr. Schaefer and Ms. Zlotnik negotiated a favorable settlement with two Filner accusers that likely saved the City thousands of dollars in legal expenses. Mr. Schaefer and Ms. Zlotnik spent the latter part of 2015 preparing for three different trials involving claims by Filner accusers that are scheduled to take place in the first three months of 2016.

Finally, in *Dines v. City of San Diego*, a Filner accuser sought damages from the City and Filner regarding an incident for which Filner later pled guilty to misdemeanor battery. However, Plaintiff failed to file a claim with the City within the 6 month time period. The trial court granted plaintiff relief from the claims presentation requirement. Ms. Zlotnik filed a writ of mandate asking the appellate to reverse the trial court's decision to allow the case to proceed. The appellate court – in a published decision – adopted Ms. Zlotnik's arguments and reversed the trial court. Deputy City Attorney Kristin Zlotnik's hard work in this case allowed the City to avoid paying any money to one Filner accuser.

Litigation involving Sexual Misconduct Allegations against Police Officers

Deputy City Attorney Keith Phillips defended the City against claims alleging sexual misconduct by San Diego Police Officer Christopher Hayes. Mr. Phillips' professional approach and excellent work in the early stages of these cases allowed the City to limit its liability and defense

costs by coming to settlement terms with the plaintiffs shortly after Officer Hayes' conduct came to light.

San Diegans for Open Government – Actions Challenging the City's Bond Issuances

In 2014, Attorney Cory Briggs' client San Diegans for Open Government filed two actions to halt issues of lease revenue bonds intended to finance much-needed capital improvement projects (libraries, fire station) and infrastructure projects (sidewalks, streets and storm drains). Chief Deputy City Attorney Meghan Ashley Wharton defeated the first action in late 2014 after a three-day trial. In 2015, Ms. Wharton successfully defended the trial court victory and obtained a published opinion from the Fourth District Court of Appeal affirming the legality of the financing structure used by the City. In 2015, the group made the exact same legal arguments in a lawsuit challenging a proposed bond issuance that would have allowed the City to recognize millions of dollars in interest savings by refunding and refinancing the debt for Petco Park. Mr. Briggs' group claimed that the voters must approve the bond issuance despite the fact that the voters approved the debt years ago. In November 2015, Ms. Wharton obtained a trial court victory that will allow ballpark refunding bonds are expected to issue in early 2016. However, because the City was unable to refund the bonds while the litigation was pending, the City likely lost out on as much as \$770,000 in interest savings.

Cases Defending the Legality of City Actions

Center for Local Government Accountability v. City of San Diego

Plaintiff Center for Local Government Accountability filed a lawsuit against the City claiming that its practice of not allowing non-agenda public comment on the City Council's Monday agenda (when the Council meets on Mondays and Tuesdays) violates the Brown Act. Lead Litigation Attorney Walter C. Chung handled the litigation. This Office investigated the issue and advised the City Council to amend its policy on non-agenda public comment to allow non-agenda public comment on both Mondays and Tuesdays. At the same time, Mr. Chung was able to get the lawsuit dismissed on demurrer. Mr. Chung's work to have the case dismissed saved the City from potentially having to pay Plaintiff's attorney fees.

Johnson, et al. v. State of California

Plaintiffs sought over \$2 million in compensation from the City for a fire that destroyed their home. Plaintiffs alleged that the City was liable because the City failed to install a fence around the property after obtaining a judgment in abatement proceedings in 2010. Lead Litigation Attorney George Schaefer represented the City in a two week trial. The jury returned a defense verdict. Subsequently, the Court awarded the City costs against the plaintiffs of just under \$35,000.

Pulido, et al v. City of San Diego

Plaintiffs owned landlocked parcels of property in an undeveloped subdivision of Otay Mesa. After the construction of a school caused the plaintiffs property to become landlocked, the landowners trespassed across private property to access their lots. At the same time, others routinely trespassed across private property to access plaintiffs' property to dump trash and unwanted items, including boats, tires, hazardous materials, etc. In an effort to get the area cleaned up in 2012-2013, the SDPD Community Service Officer for the area asked the private property owner to install a gate on his property to prevent the trespassing to access plaintiffs' property. Plaintiffs then sued the City for inverse condemnation for blocking access to their properties. After attempts to convince Plaintiffs that they had no claim against the City and that they should have sued the school or the private property owner failed. Deputy City Attorney Kathy J. Steinman filed a convincing motion for summary judgment. In the end, Plaintiffs dismissed their claims against the City before ever filing an opposition to the motion for summary judgment.

Taxi Deregulation

Deputy City Attorney Jenny Goodman from the Land Use Litigation Unit and Chief Deputy City Attorney Meghan Ashley Wharton from the Special Litigation Unit successfully defended the City's decision to lift the cap on the number of taxi permits available in the City. The case presented complicated CEQA, separation of powers and policy issues that Ms. Goodman and Ms. Wharton sensibly presented to the Court. The City's policy decision and the court victory have allowed hundreds of individuals to start small businesses and work for themselves.

Welch v. City of San Diego

The Plaintiff, a person with a disability, alleged that the City's street sweeping regulations violated the ADA and that the City's street sweeping signs did not comply with state law. After removing the case to federal court, Deputy City Attorney Kathy J. Steinman successfully moved to dismiss the case in its entirety, without leave to amend and judgment was entered in favor of the City.

West Coast General Corp. v. City of San Diego

Deputy City Attorney Michael McGowan successfully defended the City in a bid protest initiated by West Coast General Corporation. West Coast alleged that the City erred by allowing the winning bidder to submit missing subcontractor information 24 hours after the winning bid was announced. Mr. McGowan defeated West Coast in the writ proceeding by arguing that a key

section of the California Public Contract Code allowed the winning bidder to submit the missing information under these circumstances.

Whitney v. La Jolla Community Planning Association

Chief Deputy City Attorney David J. Karlin successfully defended the La Jolla Community Planning Association against claims challenging the outcome of its March 2014 trustee election. The petitioners sought to invalidate the election and place its preferred members on the board. Mr. Karlin prevailed in the writ action after he convinced the Court that some of petitioners' claims were moot and the remaining claims lacked any support in the law.

Wild v. City of San Diego

Six individuals who claimed to be persons with disabilities and medical marijuana users challenged the City's zoning laws regulating medical marijuana dispensaries as violating the state and federal laws protecting disabled persons. After removing the case to federal court, Deputy City Attorney Kathy J. Steinman prevailed on a motion to dismiss the federal claims. The federal court then remanded the case back to state court, and we filed a demurrer. On Feb. 20, the Court granted our demurrer, with leave to amend. Plaintiffs failed to oppose both the motion to dismiss and the demurrer. The Plaintiffs failed to amend the Complaint and the Court dismissed the matter.



Civil Service Commission Appeals

Deputy City Attorneys defend the City's employment actions in employee appeals of such actions to the Civil Service Commission. In these appeals, Deputy City Attorney Michael McGowan successfully defended City decisions to terminate an employee who engaged in misconduct in the workplace.

Property Damage Cases

Basile v. City of San Diego

Deputy City Attorney Charles E. Bell, Jr. successfully negotiated a favorable settlement in a case where a City contractor sought extra compensation because the contractor claimed the subsurface conditions at the project site were not properly disclosed by the City at the time of contracting.

Hartford Casualty Ins. v. City of San Diego

Deputy City Attorney Charles Bell, Jr. successfully negotiated a favorable settlement for the City in an inverse condemnation lawsuit arising from damage to a business caused by a broken sewer line. In the action, Mr. Bell rebuffed the attempts by the business owners' insurance company to force the City to pay for unproven and undocumented damages to the business after the insurance company over-compensated the insured for those unproven damages. Mr. Bell's representation ensured that the City did not have to pay for the insurance company's failure to investigate the claim.

Workers' Compensation Unit:

The Workers' Compensation Unit has five attorneys, Diana Adams, Linda Godinez, Michael Herrin, Thomas Griffin and Daniel Horlick, whose primary responsibility is to work closely with the Risk Management Department by providing timely, accurate and high quality legal advice. The attorneys provide legal advice to 18 claims adjusters on a multitude of workers' compensation issues.

The goal of the Unit's attorneys is to ensure that every City employee that is injured on the job receives all legally entitled benefits, while preventing fraudulent claims and abuses. Accomplishing these seemingly conflicting objectives requires a strong emphasis on personal integrity and professional independence.

The Unit's worth is immeasurable, since its contributions to cost savings occur on a daily basis while guiding the handling of Workers' Compensation claims. Due to continual reformation in the workers compensation system, the attorneys are charged with providing advice to the Risk Management Department on a wide range of issues, from interpretation of wholesale legislative changes such as those of 2004 and 2012, to day to day operational decisions regarding benefits and medical care.

In its advisory role, the Unit's attorneys provide savings of hundreds of thousands of dollars, by preventing over payment of benefits, redirecting medical expenditures, and limiting exposure to penalties.

In addition to its advisory role, the Unit's attorneys defend the City against fraudulent and abusive workers' compensation claims by handling all aspects of litigation at the Workers' Compensation Appeals Board including trials, mandatory settlement conferences, expedited hearings, appeals, medical liens, death benefits, discovery, motions and other petitions.

In 2015 the unit had over 1,352 open, active cases, resulting in 292 hearings, 68 depositions, 3 appeals, and 20 trials at the Workers' Compensation Appeals Board. These actions resulted in cost savings of more than \$6,038,838 for the City of San Diego.

Advisory Division:

The Advisory Division provides advice to the City and each of its departments, including the City Council and Mayor. The Advisory Division is divided into six sections:



Economic Development Section:

The six attorneys in the Economic Development Section provide legal advice to the City and the Successor Agency to the former Redevelopment

Agency of the City of San Diego on a variety of legal issues related to local economic development programs and post-redevelopment matters. The lawyers prepare legal memoranda, reports, and resolutions, and draft, negotiate, and review sophisticated contracts and documents.

The Economic Development attorneys advise City staff on post-redevelopment issues arising from the complex, evolving statutory scheme that dissolved redevelopment agencies as of February 2012. The attorneys advise the City as Successor Agency and the City as Housing Successor, attend meetings of the Oversight Board, and work with staff to protect and preserve public assets and projects, such as the North Embarcadero Visionary Plan, the development of an urban park for community-serving uses adjacent to the Horton Plaza Retail Center, and numerous affordable housing projects.

The Economic Development attorneys also assist staff with the creation and funding of assessment districts, including Maintenance Assessment Districts (MADs), Business Improvement Districts (BIDs), and the Tourism Marketing District (TMD). Further, they assist City staff with issues and agreements involving Community Development Block Grant (CDBG) and Transient Occupancy Tax (TOT) funds and Community Parking Districts. The attorneys advise staff regarding the San Diego Workforce Partnership, the International Affairs Board, the City's Storefront Improvement Program, the Small Business Enhancement Program, the San Diego Regional Enterprise Zone, and the Foreign-Trade Zone, in support of the City's goal of increasing economic development.

The following is a summary of many highlights related to projects and issues handled by the Economic Development attorneys during 2015:

Assessment Districts, Parking Districts, and Related Programs

- Assisted with the ongoing operation of 63 MADs and 18 BIDs throughout the City, including the annual renewal process in which the City Council authorizes the continued levying of assessments within the districts for the purpose of providing services that offer special benefits to the assessed communities.
- Drafted, reviewed, and approved agreements to provide services within the City's MADs and BIDs, and advised City staff regarding compliance with federal, state, and local laws in addition to the City's internal policies and procedures.
- Began drafting a complete overhaul of the City's procedural ordinance for MADs to provide more clarity and legal protections regarding the formation of MADs and the collection and use of property-based assessments.
- Assisted with legal issues and agreements related to the City Council's ten-year renewal, through June 2025, of the Downtown Property and Business Improvement District, which is expected to assess approximately \$93 million for the provision of special benefits to the downtown business community.
- Assisted with legal issues related to the ongoing operation of the TMD, which levies assessments that finance marketing and promotional services for San Diego. In 2012, the City Council authorized the renewal of the TMD for 39.5 years until 2053. The TMD is expected to raise approximately \$30 million per year for tourism development, including coordinated joint marketing and promotion of San Diego, in order to retain and expand the tourism industry – one of the largest revenue generators for the San Diego economy and a key employment sector.
- Drafted numerous documents and provided legal advice in obtaining approval of the FY 2016 annual plans and budgets for the City's six Community Parking Districts.
- Continued to assist City staff in responding to legal issues addressed in the City Auditor's performance audit of the Community Parking District Program released in November 2014 and provided advice regarding the revision of Council Policy 100-18 and the permissible scope of expenditures using parking meter revenues.

- Prepared detailed amendments to the San Diego Municipal Code for the purpose of establishing parking regulations related to car share vehicles and electric vehicles, including, but not limited to, exempting car share vehicles from parking time limits of two hours or more, establishing Electric Vehicle Charging Station Zones, and Car Share Parking Zones, and exempting car share vehicles from immediately purchasing time at parking meters.

Incentive and Financial Subsidy Programs

- Provided legal advice related to contracting and administration of the City's various incentive programs, such as the Business and Industry Incentive Program, Small Business Enhancement Program, Storefront Improvement Program, San Diego Regional Loan Fund, and Small Business Micro Revolving Loan Fund, which offer benefits such as permit assistance, tax incentives, fee reductions, and financing to qualifying local businesses.
- Drafted, reviewed, and approved agreements to facilitate execution of the City's Economic Development and Tourism Support Program, which promotes the City as a visitor destination and advances the City's economy by increasing tourism and attracting industry.
- Provided legal advice related to the City's ongoing implementation of the FY 2014-2016 Economic Development Strategy.
- Provided legal advice related to the City's ongoing implementation of the FY 2015-2019 Consolidated Plan for CDBG and other federal funding sources, and drafted numerous agreements for projects and programs that achieve the goals of the Consolidated Plan.
- Coordinated with the Office of County Counsel and assisted City staff on legal issues regarding the amended Workforce Innovation and Opportunity Act (WIOA) that included organizational restructuring of the Workforce Development Board and certain other revisions regarding administration of WIOA.

Post-Redevelopment Activities

- Assisted the City, as Successor Agency, in complying with State laws, including Assembly Bills x1 26 and 1484, related to the winding down of redevelopment operations and the fulfillment of existing contractual and financial obligations.
- Coordinated closely with the City's lobbying team with respect to new State legislation affecting the dissolution process for redevelopment agencies. This effort culminated in the enactment of Senate Bill 107, which included various provisions favorable to the City and allowed the City to revive agreements valued at a total of approximately \$238 million that previously had been invalidated by the State. The revival of these agreements will result in substantial benefits to the local community, including additional revenue to the Low and Moderate Income Housing Asset Fund and the Community Development Block Grant Program.
- Provided legal advice and prepared and evaluated numerous documents with respect to the Long-Range Property Management Plan, which describes the intended use or disposition of each real property asset owned by the Successor Agency, including the disposition of many properties to the City for governmental use and future redevelopment. The State approved this plan in October 2015, and the Successor Agency is now starting to implement the plan.

- Provided extensive legal advice and assistance to the Successor Agency’s financial team with respect to the refunding (i.e., refinancing at a more favorable interest rate) of 22 series of redevelopment bonds, which is anticipated to close in early 2016 and will result in substantial cost savings to the Successor Agency on bond debt service obligations.
- Negotiated transactional documents and provided legal advice regarding the fulfillment of obligations under the Ballpark Village Owner Participation Agreement, including the remediation of known environmental contamination in the public rights-of-way surrounding Ballpark Village near Petco Park and the granting of a perpetual easement for construction and operation of an underground parking facility.
- Provided legal advice and facilitated the completion of numerous documents related to the anticipated construction of the Bayside Fire Station project in the Little Italy neighborhood, which will include a three-story fire station, below-grade parking, and sustainability features, such as a green roof and a photovoltaic system.
- Facilitated the completion of numerous documents and the resolution of complex issues related to the future development of an urban park that will feature community-serving uses and retail pavilions at a prominent downtown location on Broadway Avenue next to the Horton Plaza Retail Center.
- Advised staff regarding the transactional and operational documents associated with the construction and opening of Fault Line Park adjacent to the Pinnacle Bayside residential project in downtown San Diego.
- Drafted agreements and applications for regulatory approvals, and provided legal advice, in connection with the Park Boulevard At-Grade Crossing Project, which involves the \$13.8 million extension of Park Boulevard to Harbor Drive across six existing railroad tracks and will improve traffic flow in the East Village area surrounding Petco Park and provide a more direct link to Balboa Park.
- Provided legal advice and transactional support related to the continued redevelopment of the former Naval Training Center, now known as Liberty Station, including transactions related to rehabilitation of an old theatre for use as a new cinema and future construction of three new hotels near Harbor Drive.

Affordable Housing

- Provided legal advice in connection with updates to the Council-approved Affordable Housing Master Plan, which outlines priorities and strategies for effective use of the City’s housing assets toward production of affordable housing.
- Coordinated with City staff to ensure compliance with complex affordable housing requirements in Senate Bill 341 and other legislation affecting the City as Housing Successor to the former Redevelopment Agency, including the City’s completion of its first detailed annual audit report.
- Negotiated and drafted documents related to the finance closing for the Atmosphere affordable housing project, which will feature a 12-story apartment building with approximately 202 affordable rental units (43 of which will be supportive housing for the homeless and special needs population), ground floor retail space, and underground parking.

- Provided legal advice, negotiated, and drafted documents related to the Ouchi Courtyards affordable housing project, which will include approximately 44 affordable rental units (seven of which will be supportive housing for the homeless and special needs population) and ground floor retail space.
- Assisted staff in implementing an Owner Participation Agreement with a nonprofit affiliate of the San Diego Housing Commission, providing a City loan of \$3 million to help finance the substantial rehabilitation of the historic Single Room Occupancy hotel known as Hotel Churchill, which had been in a substandard condition. All rehabilitated dwelling units will be supportive housing units available for the special-needs population who are homeless or at risk of homelessness.
- Negotiated and drafted numerous documents and provided legal advice related to the sale of Market Street Square, a residential development including affordable housing located in downtown San Diego. The sale is anticipated to close in early 2016 and will result in nearly \$16 million in proceeds to be used toward the future production of affordable housing.
- Assisted City staff in implementing the Fourth Implementation Agreement to the Disposition and Development Agreement with Vietnam Veterans of San Diego (VVSD), which allowed the City to loan approximately \$1.7 million for construction of the Veterans Village Phase V Project, a 16,300 square foot building with 20 transitional beds and community facilities (female counseling center, dental clinic, storage, commercial laundry, and weight room). The Fourth Implementation Agreement facilitates the final build-out of the master plan for the VVSD campus.
- Drafted the exclusive negotiation agreements and evaluated complex legal issues related to two proposed mixed-use affordable housing projects, to be located at Park and Market and Seventh and Market in downtown San Diego, both of which will involve a significant affordable housing component and will generate substantial property sale revenue to be used for the future production of affordable housing.

Government Affairs and Finance Section:

The section consists of seven full-time attorneys providing advice and legal support to the Council, Mayor’s Office, City Clerk, Independent Budget Analyst, City Auditor, City Treasurer, Financial Management, Library, Commission on Arts and Culture, Redistricting Commission, Funds Commission, Civil Service Commission, Salary Setting Commission, Council Charter Review Committee, Council Committee on Rules, Council Committee on Budget and Government Efficiency, Audit Committee, and the Ethics Commission. Supervised by Chief Deputy City Attorney Prescilla Dugard, the section provides legal opinions and analysis concerning core municipal functions relating to the City Charter, San Diego Municipal Code, Mayor-Council form of governance, open meeting laws, public records, record retention, ethics and conflicts of interest, boards and commissions, taxes, special events, municipal finance, debt management, corporate partnerships, contracts, and elections.

The sections Public Finance, Securities and Disclosure unit, under Deputy City Attorney Brant Will, advises the City's Chief Financial Officer and reporting departments, including Debt Management, Financial Management and the City Comptroller. The unit provides legal advice to the City and its related entities regarding disclosure obligations with respect to state and federal securities laws. The attorneys also provide advice to the Council Committee on Budget and Government Efficiency and the Budget Review Committee.



Highlights of 2015

Charter Review: During 2015, the section provided legal support to the Council Charter Committee as it engaged in a comprehensive review of proposals to amend the City Charter. The section has provided legal advice and support on proposed amendments, including substantial revision to Article VII on Finance and amendments on redistricting laws, now being considered for the June 2016 ballot.

Elections and Campaign Laws: Working with the City Clerk and Council District 3, Deputy City Attorney Sharon Spivak drafted ordinances approved by Council providing for sweeping and comprehensive amendments to the City's recall, initiative referendum laws. She also provided legal support to the City's Ethics Commission on ordinances amending the City's Election Campaign Control Ordinance and Lobbying Ordinance. The section has provided ongoing advice to the City Clerk on elections matters, including issues related to circulation of referendum and initiative petitions.

Corporate Partnership: During 2014, the section worked closely with the Corporate Partnership Program, providing legal advice and support on ongoing and new partnerships and partnership opportunities, including these programs: bikesharing, the renewal and expansion of the carshare programs to include additional providers. The City has approved an agreement with Car2Go and there are proposed agreements with ZipCar and DriveNow pending.

Airbnb Collection of TOT and TMD Assessment: The section worked with the City Treasurer and CFO in negotiations that resulted in Airbnb determining to begin collecting and remitting Transient Occupancy Taxes and Tourism Marketing District assessments on a going-forward basis, which began in July 2015. San Diego is one of only a dozen or so cities where Airbnb has agreed to handle such collection and remittance. The agreement has resulted in a substantial increase in the amount of TOT and TMC assessment collected by the City Treasurer.

Smart Parking Meters: The section assisted the City Treasurer with a contract authorizing a pilot program to allow designated City parking meters to accept payment by mobile app on smartphones, and with a procurement of single-space smart parking meters. These efforts are a continuation of the City's efforts to modernize parking Citywide.

Performance Audits: The section worked with the Office of the City Auditor on a number of important audits, including the audits of Citywide Contract Administration, City Code Enforcement, Park and Recreation Department Golf Division, and City's Public Right-of-Way Maintenance Activities.

Arts and Culture: As Counsel to the Commission for Arts and Culture, the section provided legal advice and contract support to City in the allocation of more than \$4 million dollars in funding from Transient Occupancy Taxes to over 50 nonprofit organizations in the City for arts and cultural projects and events.

Public Finance, Securities, and Disclosure: The City was unable to conduct any City public bond offerings in 2014 due to a number of validation actions challenging the required bond approvals. Due to successful litigation by the City Attorney's office, the City was able to reenter the public markets in 2015. In April, the City, through the PFFA, issued \$107 million in capital improvement bonds to fund needed General Fund infrastructure. These bonds had been delayed for over a year due to litigation. In May, Community Facilities District No. 2 (Santaluz), a City-administered Mello-Roos district, refunded two series of Mello-Roos bonds, totaling approximately \$9.6 million, resulting in relief for taxpayers in the district. In August, the City refunded approximately \$314 million in sewer revenue bonds with additional refunding opportunities expected in 2016. The section is also working in a large refunding of approximately 22 outstanding series of bonds issued by the former Redevelopment Agency. The refunding bonds, totaling approximately \$175 million, will be issued in early 2016. The section also continues to work on refunding the City's 2007 ballpark bonds, which were approved by the City Council in March 2015. The ballpark bonds were delayed by another unsuccessful legal challenge and are expected to be issued in March 2016. The section also served as issuer's counsel on various multifamily housing revenue bonds issued by the San Diego Housing Authority with an aggregate total issue size of approximately \$102 million.

Labor and Employment Unit:

The Labor and Employment Unit's four attorneys – Joan Dawson, Bill Gersten, Greg Halsey, and Roxanne Story Parks – provide legal services to the City's Human Resources, Personnel, and Risk Management Departments. These three departments are responsible for overseeing the hiring, management, and benefits of the City's 10,000 employees and volunteers. Unit attorneys advise City staff on all federal and state employment-related laws that apply to the City as a public agency employer, provide legal support to the City's labor negotiations team in ongoing meet and confer matters under the Meyers-Milias-Brown Act, and advise on employment and benefits-related tax issues. Unit attorneys also advise several boards and commissions including the Citizens' Review Board on Police Practices, the Human Relations Commission, and the trustee board for the City's defined contribution plans (SPSP/401(k) Board). This Unit also advises the City's Performance and Analytics Department, in its efforts with the City's Managed Competition and San Diego Works programs.

The attorneys' work regularly includes advising the Departments on employment issues including due process, the accommodation process, and disciplinary actions. The attorneys

represent the City in responding to work-related discrimination complaints, employment-related charges filed by employees with various government agencies, and in obtaining temporary restraining orders and preliminary injunctions, when necessary, to protect the workplace from violence perpetrated against City employees. Unit attorneys provide ongoing legal advice to the City on implementation of the Affordable Care Act, state employment laws including unemployment insurance, and the local Proposition B, a voter-approved pension reform measure. Unit attorneys assist staff in responding to California Public Records Act (CPRA) requests involving employee records, advise on complex citywide CPRA requests, and worked with the City's CPRA process improvement and open data group.

Highlights 2015

In 2015, the Unit provided legal support on several important City efforts. The Unit assisted the City in reaching new four-year collective bargaining agreements with the San Diego Police Officers Association and the San Diego Municipal Employees Association. The Unit provided legal advice to the Charter Review Committee on labor and employment-related issues, including proposals related to the City's retirement system, salary ordinance process, and appointment process for City's boards and commissions.

Of special note, the City Council adopted amended and restated plans for all of City's defined contribution retirement plans and employee benefit plans, drafted by Deputy Roxanne Story Parks. Deputy Parks worked with outside tax counsel to submit the defined contribution plans to the Internal Revenue Service for new determination letters, confirming the tax-qualified status of the plans.

Unit attorneys provided legal support for the implementation of programs and benefits for City employees including a revised Rewards and Recognition Program, Workers' Compensation laws for City lifeguards, the Public Safety Officers Procedural Bill of Rights for City lifeguards, and military leave for City firefighters. The attorneys advised on revisions to the City's threat management policy, implementation of a paid parental leave program, and revisions to the City's sexual harassment training for new hires. The attorneys provided City managers and staff with training on maternity-related leave issues, recent developments in transgender laws, religious issues in the workplace, and fact-finding investigations.

In 2015, Unit attorneys authored a number of significant legal memoranda. These include a memorandum entitled "Effective and Operational Dates of Referended Earned Sick Leave and Minimum Wage Ordinance," advising on the retroactivity of a local minimum wage and earned sick leave ordinance, if approved by City voters in June 2016, and another entitled "Roles of the San Diego City Council and the Mayor in Approving and Modifying Collective Bargaining Agreements." The attorneys also wrote a legal opinion on the status of the City's Annual Supplemental Benefit (13th check) in light of court rulings involving the City of San Jose, an issue related to the application of a Fair Labor Standards Act overtime exemption related to emergency resource officers in the San Diego Fire-Rescue Department, and interest payments to the San Diego City Employees' Retirement System related to underpaid contributions and overpaid benefits.

Public Safety Unit:

The Public Safety Unit, under the supervision of lead Deputy City Attorney Linda Peter, provides legal services to the Police Department, including the Family Justice Center; the Fire-Rescue Department, including Lifeguard Services; and the Office of Homeland Security. Deputy City Attorneys Paige Folkman and Michelle Garland, with the assistance of senior legal intern Devinder Hans, provide legal advice to the Police Chief and her chief officers, and sworn and civilian commanding officers. Deputy City Attorney Noah Brazier provides legal advice to the Fire Chief, Assistant and Deputy Fire Chiefs, including the Deputy Chief of Emergency Medical Services, the Chief of Lifeguard Services, and the Program Manager of the Office of Homeland Security.

Attorneys in the Public Safety Unit work on a variety of legal issues, including:

- Advising on discipline, labor, employment, equal opportunity, and disability issues.
- Drafting ordinances, resolutions, memoranda of understanding and contracts.
- Drafting and presenting reports to the Mayor and Council, drafting legal opinions and memoranda of law.
- Interpreting statutes, including the Public Safety Officers Procedural Bill of Rights Act, and other legal documents.
- Responding to subpoenas and requests for public records.
- Monitoring and advising on new case law and new legislation.
- Litigating administrative matters involving police permits, discipline, alcohol license-related matters, and appeals from those hearings.
- Representing the Police Department in court on *Pitchess* motions seeking access to confidential police personnel records, on petitions seeking retention of seized firearms, on motions seeking the return of seized property, and handling writs and appeals related to those motions.
- Advising the Office of Homeland Security, including participating in regional efforts to maximize emergency preparedness while efficiently using and sharing resources.

HIGHLIGHTS 2015

Attorneys in the Public Safety Unit appeared in court on approximately 80 *Pitchess* motions, where a litigant seeks information from an officer's personnel file. For each *Pitchess* motion, an attorney drafts an opposition which is filed with the court. The attorney, accompanied by the Police Department's Custodian of Records, then appears in court to argue the motion. If the motion is granted, the attorney accompanies the Custodian of Records into the judge's chambers for an in camera review of the officer's file. While *Pitchess* motions are commonplace, they represent a significant time commitment as each hearing can require the attorney to spend a full morning in court.

Attorneys in the Public Safety Unit represent the Departments in what are often multi-day hearings before the Civil Service Commission. This year, the attorneys handled two hearings on behalf of the Police Department and one on behalf of the Fire Department. Typically for these cases, the attorney gathers and reviews documents, prepares witnesses, and presents the Department's case to the Commission for its consideration.

The attorneys also assisted their respective Departments to secure grant funds, including \$16,874,000 from the U.S. Department of Homeland Security to administer UASI (Urban Areas

Security Initiative) funds for the San Diego Urban Areas, which includes the 18 incorporated cities of San Diego County, to prevent, protect, and respond to acts of terrorism; \$276,852 from FEMA for homeland security; \$184,863 from FEMA for emergency preparedness; \$21,400 from the California Healthcare Foundation for a community paramedicine education program to collect data and case manage frequent users of the EMS system; \$484,611 from the Department of Justice for the DNA Backlog Reduction Program; \$720,337 from the Department of Justice for the ICAC (Internet Crimes Against Children) Task Force; and \$250,000 from the U.S. Department of Homeland Security, via the San Diego County Sheriff's Office, for Operation Stonegarden to address border-related crimes and improve border security.

Attorneys for the Police Department handled 1 writ; filed 26 firearms petitions; reviewed approximately 584 subpoenas, 87 investigative reports, and 28 Department Orders; and advised the Department on approximately 73 cases involving various labor and employment issues.

Attorneys updated approximately 30 Police Department policies and procedures on myriad subjects, including facial recognition; license plate recognition; transgender employees; outside employment; and provisional retiree employment.

Attorneys assisted the Police Department in publishing nine Training Bulletins on various topics, including public inebriates and the City's new sobering center; clarification on Municipal Code section 84.09(a) relating to bicycle riding on a sidewalk fronting a commercial business establishment; and PC 290 sex offender arrest and notification procedures.

Attorneys for the Police Department reviewed and finalized MOUs, MOAs, and contracts with many different organizations including agreements with various non-profit organizations to provide juvenile diversion programs; agreements with various law enforcement agencies in the region to participate in the San Diego ICAC (Internet Crimes Against Children) Task Force; and an agreement with the federal government for participation on the San Diego Integrated Narcotic Task Force.

Significant projects undertaken by the Public Safety Unit include:

Deputy City Attorney Paige Folkman opposed a writ of mandate at Superior Court, following the revocation last year of a police permit for a nude adult entertainment establishment (Cheetahs). Ms. Folkman is now preparing the case for appeal before the Fourth District Court of Appeal.

Working closely with the Police Department's Manager of Information Services, Ms. Folkman also reviewed and finalized a complex contract for the replacement of the Department's 24-year old Computer Aided Dispatch (CAD) system. The new CAD system will allow interfaces with next generation communications, including social media and multimedia. More importantly, the new system will provide officers in the field with more reliable dispatches and other critical information to deliver the highest quality police services possible.

Deputy City Attorney Michelle Garland conducted research and advised on matters involving constitutional law. She researched and advised on First Amendment matters ranging from street performing and sales of merchandise to noise complaints and trespass. Other constitutional law

matters included quality of life enforcement, particularly in the Downtown area, and the safety of pedestrians and drivers near street medians.

Ms. Garland created a master template for the Police Department's agreements for juvenile diversion programs. Working with the Lieutenant for Juvenile Administration, this will streamline the process with the Department's many providers of juvenile diversion services. This year, Ms. Garland finalized five MOUs with juvenile diversion providers.

Ms. Garland also created a standard template for state mandated MOUs between universities and law enforcement agencies regarding sexual assault reporting. This mandate was established by AB 1433 (Gatto 2014), and is codified in the California Education Code. Such an agreement was finalized between the San Diego Police Department and UCSD.

Working with the Purchasing and Contracting Department, Ms. Garland reviewed a bid and finalized a contract for janitorial services for the Police Department. While the subject matter seems mundane, this was an important contract for the Department. The previous provider was not performing as required by their contract, and some areas of various substations were neglected and unsanitary. Getting a new janitorial company under contract improved the facilities for many Police Department employees.

In addition to having primary responsibility for reviewing subpoenas that are served on the Police Department, Senior Legal Intern Devinder Hans contributed to the Police Legal Unit in many different ways. Of significance, he worked on the following projects:

In the area of police-regulated businesses, Mr. Hans researched issues arising in litigation related to the revocation of a police permit (Cheetah's, an adult entertainment establishment), including equitable estoppel, unconstitutional vagueness, and various procedural questions. Mr. Hans also addressed issues raised by the trustee of a business owner's estate (the Body Shop, a commercial recreational theatre for adults), including the deceased owner's exemption from the City's nude establishment permit requirements, compliance with the nude establishment regulations, and claims regarding previously conforming land uses.

Mr. Hans researched constitutional issues, including the parameters of searching a deceased victim's cell phone within the restrictions of the Fourth Amendment and privacy laws, and First Amendment issues related to the use of amplified sound by labor protestors.

Mr. Hans also addressed a claim that was filed with the City for lost business revenue due to the operation of a DUI checkpoint on the street fronting the business establishment.

Deputy City Attorney Linda Peter wrote a Memorandum of Law addressing First Amendment rights and commercial speech, with respect to the advertising and promotion of tobacco products and electronic cigarettes. Ms. Peter also drafted an ordinance amending the Municipal Code, to bring the City's advertising and promotion regulations in line with a U.S. Supreme Court decision, and consistent with federal regulations.

Ms. Peter worked with the Police Department and the City Treasurer's Office to transition oversight of the pedicab program from the Transportation and Stormwater Department to the Police Department's Permits and Licensing Unit. Ms. Peter drafted an ordinance amending the

Municipal Code, making pedicabs a police-regulated business. Ms. Peter also drafted a Resolution for new pedicab decal fees and operating permit fees.

For the first time in 2015, the Police Department participated in the San Diego Metropolitan Transit System (MTS) Joint Agency Task Force. The purpose of the Task Force is to increase security on the MTS trolley system through directed law enforcement patrols and joint anti-terrorism operations. Along with MTS and the San Diego Police Department, the Task Force is comprised of the San Diego County Sheriff's Department, and police departments from the cities of El Cajon, La Mesa, and Chula Vista. Ms. Peter worked with legal counsel from participating agencies to finalize the Task Force MOU.



Misuse of disabled person parking placards is a City-wide problem. Working with the Police Department's Traffic Division, Ms. Peter wrote an ordinance to amend the Municipal Code so that violations relating to the misuse of disabled parking placards could be enforced as parking violations instead of misdemeanors. Enforcing and adjudicating these violations as parking violations will save law enforcement resources and contribute to judicial economy.

Deputy City Attorney Brazier negotiated and drafted the emergency medical services ambulance contract five-year extension to allow the City to retain its ambulance service while the County of San Diego and State of California decide the City's role in a future ambulance service competitive process. Mr. Brazier also oversaw the City's legal issues regarding its ambulance contractor's bankruptcy and subsequent acquisition.

With the growing popularity of unmanned aerial systems (drones), Mr. Brazier conducted extensive research into how they may impact City emergency responders. Mr. Brazier is also a principal member of a City-wide working group that monitors ongoing state and federal initiatives and legislation in this area.

Mr. Brazier provided legal review on many homeland security City and regional grant projects. He also updated the City's grant acceptance resolution for Federal Department of Homeland Security grants funds.

Mr. Brazier also provided legal review on numerous mutual aid agreements between regional emergency response agencies and other local entities; he advised the Fire Department on a variety of labor and employment issues; and he provided legal review for many SDFD Lifeguard ocean activity related permitting programs.

Public Services Section:

Chief Deputy City Attorney Mara Elliott leads the Public Services Section. She and eight deputies advise the departments of Transportation and Storm Water, Environmental Services, Information Technology, Communications, Library, Public Utilities, and Purchasing and Contracting, as well as various City programs including Living Wage, Equal Opportunity Contracting, Communications, and the Office of ADA Compliance and Accessibility. This

section also advises the Audit Committee, the Committee on the Environment, the Gang Commission, the Sustainable Energy Advisory Board, and the Equal Opportunity Commission.

Highlights 2015

El Nino Preparations

In late 2015, meteorologists and oceanographers determined that the 2015-2016 El Nino would be among the strongest on record, making a very wet winter likely in San Diego. The Department of Transportation and Storm Water identified over a dozen drainage channels that



had become clogged with vegetation and sediment, which risked flooding homes and businesses given the predicted rains. Clearing drainage channels is typically subject to stringent state and federal permitting requirements, and it can take months, and even years, to conduct the environmental analysis and obtain the permits needed to clear a single channel. The Public Services Section provided advice regarding emergency permitting and environmental review procedures and helped

prepare applications for emergency authorizations that enabled the Storm Water Division to clear a significant number of channels before El Nino-fueled storms drenched Southern California. In addition, using a cooperative procurement contract, the Public Services team assisted the Transportation and Storm Water in leasing additional vehicles and equipment to combat the upcoming burden on storm drains throughout the City because of El Nino.

Establishment of an Accessibility Advisory Board and the Provision of Other ADA-Related Services



The Public Services Section assisted the Government Affairs and Finance Section in establishing the City's Accessibility Advisory Board. This Board will advise the Mayor and Council on policies and issues relating to accessibility, and on compliance with federal, state, and local access codes and regulations. The Board will also make recommendations to the Mayor and Council for improving communications between the disabled

community and City government, and it will perform accessibility studies and surveys as requested by the Mayor or Council.

In addition, the Public Services Section assisted in resolving accessibility issues including parking ordinances and accessible parking spaces, curb ramps and sidewalks, website accessibility, service animals, effective communication, and accommodations.

Purchasing and Contracting

The Public Services Section issued an instructive memorandum on Senate Bill 854, which changed the California Labor Code, thus affecting the City's prevailing wage requirements. To assist staff with these changes, the Public Services Section teamed up with the Public Works Section to provide comprehensive training programs to a variety of affected departments.

The team also drafted the contracts relating to the revamped SanDiego.gov website, which is one of the Mayor's priorities.

The Public Services Section also revised Council Policy 100-10 concerning the City's Small and Local Business Preference Program, which required exhaustive research on the legality of preference programs; updated the City's non-discrimination ordinance to include "gender expression and gender identity;" and revised the City's Living Wage Ordinance (LWO) to comply with the Healthy Families, Healthy Workplace Act, and to include Emergency Medical Technicians and Paramedics as service workers under the LWO.

The Public Services Section has been instrumental in helping Purchasing and Contracting crack down on City contractors who steal from their employees or fail to fulfill contract obligations. The Section is advising on several high profile debarments, and issued a couple of default notices, which were satisfactorily resolved.

Energy-Related Projects

The City's work with regard to energy-related matters increased in 2015.

The Public Services Section negotiated \$15 million dollars in insurance settlements with 16 insurance carriers to cover the City's share of a San Diego Bay cleanup program. The Regional Water Quality Control Board ordered the cleanup of polluted sediments, consisting largely of dredging and disposal work. The \$75 million program will remediate a century of sediment pollution that has affected the food chain, beginning with small marine organisms and aquatic dependent wildlife in the bay, and leading to human health concerns.

In addition, the section negotiated power purchase agreements with Sun Edison for more than 6 megawatts of solar photovoltaic electric generation at 24 different City facilities.

Additional highlights include:

- Legal review of \$20 million in energy efficient street lighting retrofit contracts
- Participation in SDG&E's rate design proceedings, and in California Public Utilities Commission proceedings related to Net Energy Metering
- Energy planning for the Pure Water Program
- Managing legal issues related to the City's feasibility study of Community Choice Aggregation

- Assisting with the implementation of energy efficiency projects in City buildings
- Handling issues related to the incumbent landfill gas operations contract at Miramar Landfill
- Advising on legal matters and disputes related to cogeneration facilities at Point Loma Wastewater Treatment Plant, Metro Biosolids Center, and North City Water Reclamation Plant;
- Managing legal and environmental issues related to capital project for erosion control and drainage in La Jolla Alta Canyon;
- Advising on major power center modifications for Pump Station 2, on contracts for first directed biogas facility in California at Point Loma Wastewater Treatment Plant, on the ancillary power purchase agreement for fuel cell at South Bay Water Reclamation Plant, and on contracts for first directed biogas facility in California at Point Loma Wastewater Treatment Plant, and on ancillary power purchase agreement for fuel cell at South Bay Water Reclamation Plant

Environmental Achievements

The Public Services Section played a key role in helping



staff to develop the City’s Zero Waste Plan (ZWP), which was adopted by the City Council in July 2015. The ZWP was the result of a multi-year process and provides implementation options for the City to meet 75% waste diversion by 2020, 90% waste diversion by 2035, and Zero Waste by 2040. Successful implementation of the ZWP will extend the life of the Miramar Landfill and will maintain lower disposal costs for City-generated refuse.

In addition, the Public Services Section reviewed the Climate Action Plan (CAP), which was adopted by the City Council in December 2015. The CAP provides implementation strategies for the City to meet particular greenhouse gas (GHG) emissions reduction targets, and was the result of multiple years of collaboration between our Office, City staff, and stakeholder groups.

The Public Services Section successfully completed a Mitigation Bank Contract. When a City project damages or destroys wetlands, state and federal environmental laws and regulations require the City to restore or enhance wetlands in or near the same watershed to minimize the adverse effect on the local aquatic habitat. Finding wetlands to enhance and restore can be difficult, so the City decided to purchase credits in a “mitigation bank” to compensate for the destruction of wetlands caused by storm channel maintenance. Mitigation banking is a relatively new compliance mechanism, and the Public Services Section helped negotiate and draft a contract to purchase credits in a privately-owned mitigation bank to help ensure the City’s mitigation requirements would be met.

The Section also completed its review of the Jurisdictional Runoff Management Plan & Water Quality Improvement Plans. The San Diego Regional Municipal Storm Sewer Permit required the City to prepare localized plans to prevent pollution from entering waterways. The Public Services Section helped the Storm Water Division prepare CEQA documentation for the plans and helped bring the plans forward for City Council and Regional Water Quality Control Board approval.

Other highlights include:

- Completion of the Storm Water Standards Manual Update, and provided an office-wide MCLE on rulemaking and enforcement actions by State regulators.
- Procurement of a multi-million dollar Compressed Natural Gas (CNG) Fueling Station for the Miramar Operations Center. Once developed, the CNG fueling station will provide cleaner burning fuels to the City's recycling and refuse collection fleet. Our Office also assisted in securing a California Energy Commission (CEC) grant for this project that will decrease the City's overall costs.
- Procurement of services for the City's Landfill Gas Collection (LFG) system at Miramar Landfill and new cogeneration facilities to produce energy for the City's Pure Water Program and USMC Miramar.
- Significant amendments to the City's Non-Exclusive Solid Waste Franchise Agreements to address recommendations from a 2014 Audit of ESD's Recycling Program, and to include minimum annual diversion targets for the haulers and liquidated damages for failure to meet those targets.
- Establishing a pledge of revenue as the financial assurance mechanism for post-closure maintenance activities for the West Miramar Landfill, in lieu of the previously used mechanism of a trust fund.
- Drafting a Single-Use Carryout Bag Reduction Ordinance that would prohibit the use of single-use plastic bags, and limit the use of single-use paper bags, at regulated stores within the City. Our Office anticipates this item will be heard at Council Committee in February 2016.

Information Technology

The Public Services Section assisted the Department of Information Technology with a City Council briefing regarding cybersecurity issues threatening the City of San Diego.

The Public Services Section also negotiated and drafted SAP licensing and services contracts including \$31 million Master Agreement and implementation of Enterprise Asset Management and vendor cataloging.

Other significant contributions include:

- Advising City staff on the Google Fiber project, the Reciprocal Use Agreement for MTS fiber, and upgrades of fiber for public safety and Balboa Park.
- Legal advice concerning cybersecurity products and services.
- Revisions to Administrative Regulations for Internet Use, Wireless Device Use, and Sensitive Data. Advice to staff concerning Major League Baseball’s trademark license of Balboa Park image for the All-Star game.
- The successful filing of Declarations of Incontestability and Use for Torrey Pines Golf Course logos.

Public Works Section

The Public Works Section provides legal advice on the construction, operation and maintenance of City infrastructure, including the water and wastewater systems and the City’s 3,000 mile transportation system, all among the largest in California. These lawyers also provide legal advice related to the construction and repair of park and recreation facilities, libraries, police, fire and lifeguard stations, airports, sports stadiums and the convention center. The Public Works Section also advises the City in purchasing and maintaining City vehicles and equipment. The Public Works Section is an integral part of implementing the Capital Improvements Program, which is budgeted at \$368 million in fiscal year 2016.



FIRE STATION #45 (MISSION VALLEY)

There are eight lawyers in the Public Works Section who together present an impressive resume. Combined they have 115 years of legal experience, 84 years in the City Attorney’s Office, and 71 years experience in the Public Works Section. They include a mechanical engineer, a former Marine Corps reservist, a financial auditor, three former prosecutors, two former Eagle Scouts, two union officers, a former law school instructor, and a patent lawyer. Their academic achievements include one law school *Valedictorian*, one *Summa Cum Laude*, two *Cum Laude*, a LLM in Securities and Financial Regulations, and a Masters Degree in American History. They include alumni of Theta Xi, Lambda Chi Alpha, and Phi Kappa Sigma. And they have a true native of Pacific Beach.

These lawyers primarily serve as in-house counsel for the Public Utilities Department, the Public Works Department, and the Transportation Division of the Transportation and Stormwater Department. These departments generate a substantial amount of legal work because they collectively account for over 40% of the entire City budget and over 25% of all City employees, or roughly 350 employees for each of our eight lawyers. The day-to-day questions that come up



with operating and maintaining the water, wastewater, and street systems consume most of our lawyers' time. In addition, last fiscal year the City awarded \$274 million in construction contracts, nearly all of it drafted or reviewed by the Public Works Section. The Public Works Section also drafted or reviewed numerous contracts for services, supplies, and equipment necessary to keep City infrastructure, vehicles and equipment running smoothly.



The Public Works Section advises and represents the City at local, state and federal administrative proceedings and at mediation to resolve disputes with contractors and vendors. The lawyers provide legal advice in diverse areas of law including intellectual property, taxes and fees, competitive bidding, bonds and insurance, contracts, prevailing wages, the California Environmental Quality Act, the Federal Clean Water Act, and the Safe Drinking Water Act. The lawyers may wear suits when they appear at City Council meetings, but they also wear boots and hard hats to help our City employees in the field to resolve legal issues quickly and inexpensively.

Much of the work the Public Works Section does is behind-the-scenes and protected by attorney-client privilege. On occasion, though, these lawyers take the lead on projects that are of public interest and knowledge. Here are a few highlights.

Highlights of 2015

Water Rates. Nobody wants to pay more for water, but the price the City pays wholesalers for imported water increases annually. In 2015, the City adopted water rate increases to be implemented over the next five years. Proposition 218 imposes both procedural and substantive requirements on local agencies when they increase water rates. The Public Works Section provided legal advice, available to the public, on legal issues that arose during the process to raise water rates. Regarding reclaimed water rates, we were asked whether the City is required to adopt two different rates, one for each

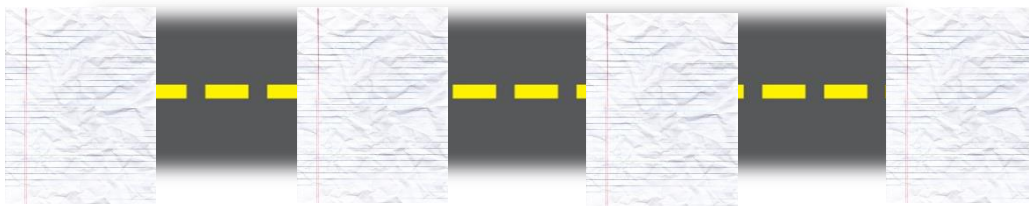


water reclamation plant, and whether the City could phase in the proposed rate increase over time. We concluded that under Proposition 218, the City could adopt different reclaimed water rates for each plant but different rates were not required. We also concluded that based on the City’s historical reclaimed water rates, it was unlikely the City could phase in the reclaimed water rates without violating Proposition 218. We also advised that the City could not implement any of the proposed water rate increases without City Council approval.

Pure Water San Diego. The City is moving quickly to implement Pure Water San Diego, a program which will offload the Point Loma Wastewater Treatment Plant by diverting wastewater and treating it to create 83 million gallons per day of potable water. The Public Works Section is working hard with City staff to create the contractual relationships and obtain the regulatory approvals necessary to implement the program. If the program is successful, by the year 2035 the City will be able to provide about a third of its water needs through wastewater recycling.



Paper Streets. “Paper streets” are what the name implies: streets that exist on paper, but have never actually been improved, paved, or formally accepted for use by the public. There are many paper streets in the City, some of which are overgrown with weeds and brush that could present a fire hazard. Some were brought to our attention by the fire department, and others by concerned residents. The question we were asked was who is responsible for maintaining paper streets? It depends. We explained that if the street has been dedicated, but not improved and formally accepted into the City street system, the underlying property owner is responsible for maintenance and brush removal. But there are exceptions. Please see Memorandum of Law No. 2015-8 for more detail.



Real Property and Land Use Section:

The ten attorneys in the **Real Property and Land Use Section** provide legal advice to the City on issues involving the management and leasing of the City's extensive real estate portfolio, and



public and private development projects. Primary areas of responsibility include the Airports, Development Services, Facilities Financing, Housing, Neighborhood Code Compliance, Park and Recreation, Planning, Real Estate Assets, and various

Stadium facilities, including Qualcomm, PETCO Park, and the Valley View Casino Center (Sports Arena). The lawyers frequently draft memoranda of law, opinions, reports, resolutions, and ordinances for the City departments, as well as draft and review property-related contracts, documents, and correspondence. Additionally, these lawyers staff and provide advice to the Planning Commission, Historical Resources Board, Hearing Officers, Airport Advisory Committee, Smart Growth and Land Use Committee, Park and Recreation Board, and the Housing Authority of the City of San Diego. They also provide the City departments with advice on conflict of interest, Ralph M. Brown Act (open meeting law), and Public Records Act issues.

Real Property

The Real Property attorneys assist staff in the City's Real Estate Assets Department in managing the City's extensive portfolio of owned and leased property. The attorneys negotiate, draft, and review numerous real property-related contracts and associated documents, including purchase and sale agreements, leases, right-of-entry permits, and deeds. The attorneys also draft and review revisions to the San Diego Municipal Code, and assist Department staff with legal issues involving key assets of the City, including Montgomery Field and Brown Field Airports, Qualcomm Stadium, PETCO Park, and the Valley View Casino Center. This assistance regularly involves interactions with other governmental agencies, such as the Federal Aviation Administration, Caltrans, various branches of the military, and other state and federal agencies.

Land Use

The Land Use attorneys assist City staff with all aspects of public and private development in the City, including land use entitlements, condominium conversions, telecommunication facilities, building code issues, community planning issues, financing issues, housing projects, and the associated environmental review. These lawyers review environmental documents to ensure the City's compliance with the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA), and advise on compliance with the Multiple Species Conservation Program (MSCP), and the state and federal Endangered Species Act. In addition, the attorneys draft or review deferred improvement agreements, subdivision improvement

agreements, reimbursement agreements for the construction of public facilities, public facilities financing plans, landscape maintenance agreements, development agreements, contracts for consultant services, grant applications and awards, right-of-entry permits, and special use permits. They also assist staff with revisions to the Land Development Code, the General Plan, and Community Plans.

Highlights for 2015

Real Property

- Assisted with the purchase of property to be used for the new San Ysidro Library.
- Analyzed numerous legal issues and processed documents to allow the Mid-Coast Corridor Transit Project to proceed, which will extend trolley service from Santa Fe Depot in Downtown San Diego to the University City community, serving major activity centers such as Old Town, the University of California, San Diego (UCSD), and Westfield UTC.



- Assisted with the acquisition of property for the Friars Road/SR-163 Interchange Improvement Project in Mission Valley, which is designed to lessen the significant traffic congestion in that area.
- Analyzing legal issues associated with how best to protect the City, its facilities, and citizens from unmanned aircraft systems (UAS).
- Assisted with project documents to facilitate the beautification and renovation in Balboa Park as part of the Balboa Park Centennial Celebration, including the El Cid statue renovation and the botanical garden fountains.
- Redrafted permits to memorialize the relationships between the City and the City's Recreation Councils, which help provide activities at the City's recreational facilities.
- Processed permits for electric vehicle charging stations at numerous parks.
- Processed agreements for the operation of Qualcomm Stadium, including with the Bowl Association.
- Assisted with a new agreement for concessionaire services for the City, the City's tenants, and individual events at Qualcomm Stadium.
- Assisted with securing valuable property rights for the City downtown, including a lease-to-own agreement for the 18-story Civic Center Plaza building and the adjoining building housing the King-Chavez Community High School.

- Advised staff on numerous topics of public interest, including the Torrey Pines Gliderport, the proposed development by Metropolitan Air Park at Brown Field, telecommunications issues, City-wide brush management services, Belmont Park, and the San Diego Polo Fields.

Land Use

- Provided legal review and guidance related to the City's adoption of a Climate Action Plan, which is being hailed as a model for the nation.
- Provided legal review and guidance on the preparation of an environmental impact report for the proposed Charger Stadium.
- Assisted with medical marijuana land use permitting implementation and numerous CEQA appeals for proposed medical marijuana consumer cooperatives.
- Processed amendments to the San Diego Municipal Code to streamline the developer reimbursement agreement process and public facilities financing plan procedures, which were heralded by the City and the business community.
- Processed numerous amendments to the San Diego Municipal Code, addressing issues such as solar rooftop permitting, density bonus, small lot subdivisions, Building Code updates, rooming houses, new zones, development in the Chollas Triangle, and various updates to the Land Development Code.
- Provided important facilities financing and development process information that helped lead to a positive settlement in the long-standing Roque de la Fuente litigation cases.
- Provided legal review and guidance related to numerous Community Plan updates, including Grantville, Southeastern San Diego and Encanto, and Ocean Beach.
- Drafted and reviewed legal documents associated with various public and private development proposals, including One Paseo in Carmel Valley, Carmel Mountain/Del Mar Mesa Trail Plan, CHW Arizona Street Development in North Park, Black Mountain Subarea Plan amendment, and Mid-Cities Chollas Triangle Plan amendment.
- Assisted staff in updating Public Facilities Financing Plans and Impact Fee Studies, which identify potential funding sources for critical public infrastructure for various communities throughout the City, including the Southeastern and Encanto Neighborhoods and Pacific Highlands Ranch.
- Advised staff on numerous topics of public interest, including Short-Term Vacation Rentals, Medical Marijuana, the permissible scope of the City's delegation of land use planning and permitting authority to Civic San Diego, and actions related to Housing and Homeless issues.

