



City Attorney Annual Report

2009



We can best help our city by providing timely, accurate and high quality legal representation to the City of San Diego.



“I appreciate the opportunity to have served as City Attorney during the past year and am pleased to present the 2009 City Attorney’s Annual Report. Our office is making progress on our goal to become one of the finest municipal law firms in the nation, helping our City through tough times and a wide variety of lingering legal issues.

The City Attorney’s Office has developed client communication and internal team support, regular training programs and quality control processes patterned after those used at the best private law firms. Each of our divisions has instituted changes that implement standards of excellence and provide an exemplary model of quality legal services that I am proud of. We have communicated and collaborated effectively and efficiently with the Mayor, City Council and all City Departments. We eliminated a mid-year deficit while continuing to create ways to save the general fund money.

We will continue to retain our focus on quality control and maintain a level of elevation for improvement throughout 2010 while researching additional plans to reduce unnecessary expenditures.”

City Attorney Jan Goldsmith



Table of Contents

I. CRIMINAL DIVISION:

CASE ISSUANCE UNIT	7
GENERAL TRIAL UNIT	18
DOMESTIC VIOLENCE UNIT	24
APPELLATE UNIT	29

II. COMMUNITY JUSTICE DIVISION:

NEIGHBORHOOD PROSECUTION UNIT (NPU)	31
CONSUMER & ENVIRONMENTAL PROTECTION UNIT	35
CODE ENFORCEMENT UNIT	38

III. CIVIL LITIGATION DIVISION:

CIVIL PROSECUTION UNIT	45
GENERAL LITIGATION UNIT	46
WORKERS' COMPENSATION UNIT	48
SPECIAL LITIGATION UNIT	49
LAND USE LITIGATION UNIT	53

IV. CIVIL ADVISORY DIVISION:

GOVERNMENT AFFAIRS SECTION.....	54
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PUBLIC FINANCE, SECURITIES & DISCLOSURE SECTION.....	55
REAL PROPERTY & ECONOMIC DEVELOPMENT SECTION	57
PUBLIC SAFETY SECTION	61
LABOR & EMPLOYMENT UNIT	63
PUBLIC WORKS UNIT	66





The San Diego City Attorney's Office is among the region's largest law firms, with 320 employees, including 137 attorneys handling a diverse case load. The City Attorney's Office advises the City and all its departments, defends the City in court and prosecutes over 40,000 criminal cases. We have restructured the office into a private law firm model with four divisions: Advisory, Civil Litigation, Criminal and Community Justice. These divisions are subdivided into sections and units which allow our attorneys to specialize in areas of practice.

The City Attorney's Office is built upon the senior partner, junior partner and associate model used in private law firms. There are five senior partners who have over 133 combined years of experience as attorneys, averaging over 26 years each.



City Attorney Jan Goldsmith has been an attorney since 1976 specializing in business litigation. He was appointed San Diego Superior Court Judge in 1998 and retired in December of 2008 to assume the office of San Diego City Attorney. Mr. Goldsmith spent his first 6 years on the Bench handling criminal and civil trials and his final years assigned to an independent civil calendar. Prior to his appointment, Mr. Goldsmith served three terms in the California State Assembly representing the Northern San Diego City District stretching from Mira Mesa to the Escondido border. During his career in the Assembly, he held various leadership positions including Majority Floor Leader, Member of Rules Committee, Chairman of the Banking and Finance Committee and Vice Chairman of Judiciary.

<http://www.sandiego.gov/cityattorney/jgoldsmith.shtml>



Andrew Jones, Assistant City Attorney, is head of our Criminal Division with over 13 years experience as a trial attorney. During his tenure in the City Attorney's Office, he served as a Criminal Prosecutor for 2 1/2 years prosecuting misdemeanor violations, heading the Discovery Unit, and prosecuting abusers in domestic violence and child abuse cases. For the last 9 1/2 years he has served as a litigator in the Civil Trial Unit practicing in a variety of areas including Civil Rights, Torts, Inverse Condemnation, Unlawful Detainers and Breach of Contract. Mr. Jones has tried over 50 jury trials, over 100 bench trials, and innumerable hearings and other matters in both State and Federal Court.

<http://www.sandiego.gov/cityattorney/divisions/ajones.shtml>

Tricia Pummill, Assistant City Attorney with our Community Justice Division is a criminal prosecutor with over 26 years experience. Ms. Pummill was a Deputy



City Attorney 1983-1999, working in the Consumer and Environmental Protection, Code Enforcement, Appellate, and Trial Units. She worked as a Deputy District Attorney in San Diego, from 1999-2008. She has handled complex criminal theft cases, cases involving unlicensed contractors, unsanitary food markets, unlicensed automobile repair facilities, unlicensed bus companies, travel promoters, and unlicensed attorneys. In addition, she has handled false advertising and unfair competition civil cases. Her extensive criminal trial experience also covers real estate fraud and environmental protection matters.

<http://www.sandiego.gov/cityattorney/divisions/tpummill.shtml>



Donald Worley, Assistant City Attorney for our Civil Litigation Division came to the City Attorney's Office first in the Land Use Litigation Unit, after over 30 years in private practice in land use, real estate and business litigation. He is credited in several appellate decisions which mark new ground in land use and subdivision regulation. In the last years of his practice he was outside litigation counsel for the County of Imperial, where he extended his experience to employment cases.

<http://www.sandiego.gov/cityattorney/divisions/dworley.shtml>



Mary Jo Lanzafame, Assistant City Attorney, is head of our Civil Advisory Division. She has been a strong municipal attorney with over 21 years experience. Her primary areas of practice include the California Environmental Quality Act/National Environmental Protection Act, California Coastal Act, Planning and Zoning, Subdivision Map Act, Conflict of Interest, Brown Act, Legislative drafting, Real Estate and Public Works. Ms. Lanzafame is an Adjunct Professor at San Diego State University and is co-author of *California Land Use Practice* for Continuing Education of the Bar.

<http://www.sandiego.gov/cityattorney/divisions/mlanzafame.shtml>

I. CRIMINAL DIVISION

The City Attorney's Office is divided into four divisions that reflect the distinct roles that the City Attorney performs under the City Charter:

The Criminal Division prosecutes misdemeanors and infractions committed within City limits. The Criminal Division is divided into four units: Case Issuance, General Trial, Appellate and Domestic Violence. Upon implementation, coordination and training the City Attorney's Office has transformed into a near seamless operation with the District Attorney's Office to attack crime. Some of our deputies have been authorized to prosecute felonies under a new cross-deputization program and we regularly cover court appearances for each other and consult each other about strategy in attacking organized criminal conduct.

Through computer technology and with the help of the District Attorney's Office, the City Attorney's Office has a professional case management system that allows for unified search parameters, pre-defined reports, research on history and prior convictions, and statistics on cases, agencies and divisions. The results speak for themselves as justice and efficiency prevail against criminals when the system works together. We have also received positive feedback from Superior Court Judges.

CASE ISSUANCE UNIT

Overview of the Case Issuance Unit:

The Case Issuance Unit operates within the Criminal Division of the San Diego City Attorney's Office. The Case Issuance Unit is responsible for receiving, processing, and reviewing all citations, arrest reports, and crime reports submitted by local law

enforcement agencies. Attorneys in the Unit review misdemeanor and infraction violations occurring within the City of San Diego, the City of Poway, and the unincorporated area known as 4S Ranch.



The Case Issuance Unit can file three types of charges:

- Felony Wobbler: this is a crime that may be prosecuted either as a misdemeanor or a felony at the election of the prosecutor. The District Attorney's Office elects to send certain felony wobbler cases to the City Attorney's Office for misdemeanor prosecution.
- Misdemeanor: a misdemeanor is a crime that is punishable by a fine and six months to one year in the county jail.
- Infraction: an infraction is a crime punishable by a fine.

Thousands of cases are received and processed each month. In turn, thousands of complaints are filed in court each month. Each case is reviewed by an attorney who decides whether charges should be filed, and if so, what the charges should be. If charges are filed, the case is prepared for arraignment. Thus, the Unit is jointly responsible with the Trial Unit for ensuring the proper arraignment of each individual charged with a violation of state, county, or municipal law.

The Case Issuance Unit reviews hundreds of types of violations. Our cases range from minor violations such as open containers of alcohol and marijuana possession to more serious

offenses such as driving under the influence, identity theft, sex crimes, and weapons possession.

Finally, the supervisors within the Unit are responsible for the training and development of new attorneys and staff members. Attorneys are trained in the legal requirements of reviewing cases and issuing appropriate charges against an individual. Staff members are trained to understand office and court procedures used in order to correctly file a case in court. Some staff members are also trained to work in the Misdemeanor Arraignment Court as vital assistants to the attorneys and courtroom personnel.



The Case Issuance Unit is under the direction of Chief Deputy City Attorney Michelle Garland and supported by nine deputy city attorneys.

Staffing of the Case Issuance Unit:

The staff members within the Unit are divided into three distinct groups, each tasked with a unique function and set of responsibilities. Although we struggled with staff and attorney shortages during the final quarter of 2009, the attorneys and the staff members work diligently to produce a quality work product.

Cooperation with Law Enforcement Agencies:

The Case Issuance Unit receives cases from a variety of law enforcement agencies. We work closely with each agency to ensure successful prosecution of each viable case submitted to us. 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 Control, Department of Health Services, Department of Fish and Game, San Diego Park Rangers, San Diego

Lifeguards, Metropolitan Transit District, and the Department of Alcoholic Beverage Control.

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

Highlights of 2009

Case Management System

In 2009, the Case Issuance Unit was the first to begin preparation for the new Criminal Case Management System. The San Diego District Attorney's Office graciously allowed us to purchase their case management system. This implementation will allow the two prosecutorial agencies to more efficiently prosecute crimes in San Diego County. The Case Management System is a great addition to the Case Issuance Unit. It allows for simpler statistical analysis, faster issuing by the attorneys, and an overall more professional work product. Preparation for the new system involved a complete analysis of our current business process and then a complete reorganization of that process. Attorneys and staff

members worked tirelessly to identify changes that needed to be made, areas where higher efficiency could be obtained, and subjects that would require additional training.

The result was two-fold. The staff structure and business processes were completely re-organized, allowing for maximum efficiency within the new Case Management System. Additionally, the attorney workload was reorganized and each attorney was assigned specific responsibilities within the Unit.

Case Issuance was the first unit to "go live" with the new system on November 2, 2009. Overall, the

transition was successful. Full integration into the Case Management System will be an on-going learning

process. However, positive steps are taken every day and we hope to be completely integrated very soon.

Expansion of Jurisdiction

The year 2009 also brought the expansion of the Criminal Division's jurisdiction to include the unincorporated county area known as 4S Ranch. In January 2009, the San Diego Superior Court clarified that the proper venue for cases occurring in 4S Ranch was the Central Division. In an effort to continue the smooth flow of cases, the San Diego County District Attorney's Office granted permission and authority to the City



Attorney's Office to prosecute misdemeanor violations occurring in this unincorporated area of San Diego County.

This expanded jurisdiction brings new cases and a new relationship with the San Diego Sheriff's Department 4S Ranch substation. We look forward to continue serving that area of our community.



Expanded Cooperation with the District Attorney's Office

During 2009, the Case Issuance Unit developed a working relationship with the Case Issuance and Extraditions Unit at the San Diego County District Attorney's Office. The chief deputy and the division chief and assistant chief at the District Attorney's Office work closely together to seamlessly transfer cases to one another in the event that a case submitted to our office should be prosecuted as a felony or a case submitted to the District Attorney's Office should be prosecuted as a misdemeanor.

Better communication and information sharing, when appropriate, have greatly improved the timely filing of cases that cross both offices and the more efficient administration of justice.

Additionally, implementation of the Case Management System allows us to work together with the District Attorney's Office on matters that impact both offices and law enforcement county-wide.

Case Issuance Statistical Information¹

In 2009, the Criminal Division of the City Attorney's Office received approximately 35,739 cases that were entered into our former case management system. We filed charges in approximately 28,635 of those cases.² Between November 2, 2009 and December 31, 2009, Case Issuance deputy city attorneys reviewed an additional 1,717 cases that were entered into our new case management system. Charges were filed in 1,370 of those cases.



¹ The following statistics have been gathered with due diligence. However, their accuracy is limited by the technical limitations of our former case management system, and the inherent learning curve involved in moving into the new case management system.

² These statistics represent the total number of cases submitted to the Criminal Division. They include cases submitted directly to specialized units in addition to cases submitted to the Case Issuance Unit.

More specifically, in 2009 we filed:

- 5,670 driving under the influence of alcohol or drugs cases
- 1,099 petty theft cases
- 128 grand theft cases
- 16 false impersonation (identity theft) cases
- 1,030 prostitution cases
- 417 resisting arrest cases
- 26 harassing and annoying telephone calls cases
- 27 furnishing alcohol to a minor cases
- 328 hit and run cases with property damage
- 10 hit and run cases with injury to a person
- 19 cases for failure to register as a sex offender
- 35 cases for indecent exposure
- 67 cases for committing a lewd act in public.



This is a sampling of some common offenses reviewed by Case Issuance. We also file weapons possession cases, violence cases (battery, assault with a deadly weapon, brandishing a weapon), drug possession cases, suspended driver's license cases, municipal code violations, and more.

Case Examples

Although the Case Issuance Unit issued many important cases this year, two cases are particularly notable.

Harassing Telephone Calls to a Homicide Detective

In May of 2008, we received a case from the San Diego Police Department alleging that the suspect was making harassing telephone calls to a San Diego Police Department homicide detective and his staff members. The suspect was a witness in a murder case from 1993 that was investigated by the same detective. The calls had become so bothersome that the detective and his staff members were unable to receive new voicemails from homicide witnesses and were unable to fully and properly perform their job functions.

The case was investigated and evidence was gathered for the remainder of 2008. We ultimately charged the defendant with 58 counts of Penal Code section 653m (a), which prohibits electronic communications containing threatening or obscene language made with the intent to harass or annoy the victim.

In late December 2008, the Defendant pleaded guilty. Both the deputy city attorney who issued the case and the homicide detective appeared in court for the plea. The defendant was sentenced to 300 days in county jail, and served his sentence well into 2009. He was also placed on probation for five years and ordered to have no

written or electronic contact with the victims in the case.

Serious Indecent Exposure Case

In March of 2008, the San Diego Police Department began investigating a series of indecent exposure incidents occurring throughout the city. It soon became apparent that the incidents followed the same pattern. The suspect would enter a business, sit down, wait for a victim (usually an employee) to appear, and then expose himself. In August 2008, a press release warned the community about this individual and his dangerous and offensive conduct. The assigned detectives were ultimately able to link the cases and trace them to the same suspect.

The cases were submitted to the City Attorney's Office and we began reviewing the evidence for each incident. In January of 2009, we filed a complaint alleging five counts of Penal Code section 314(1), indecent exposure, and six counts of Penal Code section 647(a), lewd act in public.

The Defendant pleaded guilty and was sentenced to jail time, probation, sex-offender counseling, and most importantly, lifetime sex-offender registration.



Challenges for 2010

During these challenging economic times, staff shortages and increasing workloads will be our primary hurdle. The leadership of the Case Issuance Unit will work diligently to prioritize and manage the misdemeanor case load to ensure that justice and the needs of our community continue to be served.

Additionally, we look forward to full integration into the new Case Management System in 2010. Training is ongoing, as well as constant review of our business process to attain maximum efficiency.

STOP DEPUTY UNIT REPORT



Background

The San Diego Police Department STOP Team is recognized throughout the state as the premier law enforcement agency in combating the problem of suspended, revoked, and unlicensed drivers. The San Diego Traffic Offender Program (STOP) was established in 1997 when the California Office of Traffic Safety (OTS) awarded a two-year \$635,000 grant to the San Diego Police Department to create and support a full-time unit to proactively enforce driver's license laws. The police department formed the STOP Team to focus on suspended, revoked, and unlicensed drivers because they are a public health and safety risk. The STOP Team officers routinely conduct driver's license checkpoints, stings and surveillances, and follow-up investigations of illegal drivers. The STOP Team initiates forfeiture proceedings when a vehicle is operated by a repeat driver's license offender who also meets certain statutory criteria.

In the past, the STOP Team has been comprised of one Sergeant, five motor officers, one officer in a vehicle, one code compliance officer, one administrative aide and one full-time

Deputy City Attorney. Due to budgetary constraints, the STOP Team, like all other units in the department is currently understaffed. Deputy City Attorney Melissa Ables issues and prosecutes the STOP Team misdemeanor cases, defends the police department 30-day impounds, litigates all forfeiture matters and assists in related efforts of the San Diego Police Department (ie: Red Light Camera, Traffic Court Issues, Illegal Speed Contests and Destruction of Vehicles and/or Component Parts Missing VINs).

2009 Highlights

Driver's License Offenses

Statistics show that of all drivers involved in fatal accidents, more than 20 percent are not licensed to drive. Moreover, a driver with a suspended license is four times as likely to be involved in a fatal crash as a properly licensed driver. The DMV estimates that 75 percent of all drivers whose driving privilege is withdrawn continue to drive, regardless of the law. Throughout 2009, law enforcement agencies forwarded approximately 9,503³ misdemeanor cases involving driver's license offenses to the City Attorney's Office for prosecution. This number includes cases involving other types of charges

³ This number is an estimate of the cases received. Due to the City Attorney's transition to a Case Management System (CMS) on November 2, 2009, the statistics for these cases have been gathered from two different computer systems. Due to some clerical errors and a change in the time and manner of entry of these cases, tracking all of the statistics for cases involving violations occurring in 2009 has been somewhat problematic. However, it is believed that this number represents the minimum number of cases that were received involving these charges during the calendar year.

including but not limited to DUI cases. Of that number, approximately **73 percent (or an estimated 7,002 cases)** were initiated by the San Diego Police Department, and of those cases approximately **23 percent (or an estimated 1,633⁴)** were issued by the STOP deputy city attorney. This last number represents an estimated **20 percent decrease** in the number of cases issued by this deputy city attorney position from the Calendar Year 2008 during which approximately 2,029 cases were issued. It is believed that this reduction in cases is a direct result of the staffing issues discussed above and facing the San Diego Police Department city-wide.

STOP Team Vehicle Forfeitures and Revenue Generation

Even with the fewer number of cases submitted and prosecuted, the STOP Team continued to focus on problem drivers and there was an increase in the number of vehicles forfeited. During Calendar Year 2009, the STOP Team forfeited 237 vehicles from repeat traffic offenders, generating approximately \$55,222.50⁵ in revenue for the city's general fund and an equal amount

⁴ Again, due to the transition to the CMS system, inherent problems in the former system and some clerical errors the accuracy of this number is limited. It is believed that this number under-estimates the actual number of cases issued by the STOP DCA during the calendar year. However, this represents the best estimate of the minimum number of cases that were issued by this position involving licensing offenses.

⁵ This number is provided by the Fiscal Operations of SDPD and it represents the actual revenue collected from the forfeitures. However, the STOP DCA has been informed that we received a partial payment of \$55,744.50 in proceeds from one of the tow company's in forfeiture sales for Calendar Years 2008 and 2009 in 2010.

generated for the state's general fund. This was approximately the same amount of revenue generated in 2008.

In addition to generating revenue through vehicle forfeitures, the program also generates revenue through the collection of the Unlicensed Driver Fee (ULD) in the amount of \$72.00 for every vehicle that is impounded because it was being operated by an unlicensed, suspended or revoked driver. In Calendar Year 2009, the City collected approximately \$931,068.00 in ULD fees. The ULD fees are deposited into the STOP account, and are used to pay for the expenses of the program. These funds are in addition to the Negligent Impound Fees (NIP) in the amount of \$102.00 which are also collected each time a ULD fee is collected. The NIP fees are deposited into the City's General Fund.

Impound Hearings

There are several statutes which authorize the City to impound vehicle for up to 30 days in specific situations. Two statutes, Vehicle Code section 14602.6 and 23109.2 are used regularly by the San Diego Police Department. As part of the Deputy City Attorney's duties, the DCA assigned to STOP defends the City at the impound hearings when the registered owner is requesting a Court Order for early release of the vehicle.

In 2009, the number of impound hearings increased significantly. There were a total of 83 impound hearings during the Calendar Year 2008, which is 21 less than the previous year where in there were 104 hearings requested. The majority of the vehicles, were impounded pursuant to Vehicle Code

section 14602.6 because the driver of the vehicle was unlicensed, suspended, or revoked. The Court upheld the 30-day impound for 65 vehicles. There were two (2) cases in which we did not oppose the early release because the driver obtained a valid license. In five of the remaining 16 cases, the Court ordered early release, but at a date later than the registered owner requested.

DUI Forfeitures

A person convicted of a third DUI within seven years may have his or her vehicle declared a nuisance and forfeited to the state. During 2009, there were two vehicles sold at auction and the proceeds in the amount of \$5,899. Fifteen were donated to San Diego Youth & Community Services, Mid-City Communities Center, to be used for community-based adolescent substance abuse treatment services as mandated by the California Vehicle Code.



California Vehicle Code section 10751(b) authorizes law enforcement officers to take possession of and destroy a motor vehicle when any number, including but not limited to those used for registration purposes, that is affixed by the manufacturer to the vehicle or component part, has been removed, defaced, altered, or destroyed. A person in possession of a vehicle or parts of a vehicle missing its

VIN number can be charged with a misdemeanor under VC § 10751 or a civil action may be brought to have the vehicle forfeited. In June 2006,

San Diego Police Detective Timothy Coyle approached the City Attorney's Office, requesting prosecution of individuals for possession of vehicles with missing VIN numbers and to have their vehicles ordered destroyed. Later that year, the City Attorney's Office began initiating civil and criminal proceedings to forfeit and destroy vehicles in violation of this statute.

Illegal Street Racing

During 2009, the City Attorney's Office received **29 cases** involving illegal speed contests, most involving "impromptu" races. Although these cases had been steadily declining since 2001 when our office prosecuted 290 of these cases, this number represents a slight increase over the last two years. Of the cases received, our office filed charges in 23 of the cases, and of this number 15 were resolved via plea agreement and 14 of the offenders pled to misdemeanor violations.

In 2009, the City Attorney's Office initiated 25 civil proceedings to forfeit and destroy vehicles in violation of this statute and one (1) criminal case charging violations of this statute. This represents an approximately 44 percent increase in these types of cases over Calendar Year 2008, in which 18 civil proceedings were initiated. Of the 25 civil cases brought forth for destruction in 2009, the Court ordered 18 vehicles destroyed, two (2) of the cases were dismissed and the vehicle was released after the vehicles owner's voluntarily agreed to have the offending part removed at their own costs, three

VC 10751 Forfeitures

(3) of the vehicles owner's stipulated to destruction of the vehicle, and two (2) hearings are pending for February, 2010.

The City Attorney's Office elected to proceed with criminal charges in one case because it appeared that the registered owner had significant criminal history involving auto theft arrests. However, during the pendency of the case, it was determined that the Defendant's brother had actually been using the Defendant's name. Based on this information, the criminal case was dismissed, after an order for destruction of the vehicle was obtained. Although the Defendant was given the opportunity to remove some component parts from the vehicle, after he learned the costs of doing so, he chose not to pursue that option and the entire vehicle will be destroyed.

Additionally in 2009, our office began to work cooperatively with the District Attorney's office to assist them in filing civil and criminal cases to destroy these vehicles. During Calendar Year 2009, the STOP Deputy worked directly with DDA Mary Ellen Barrett to assist their office in filing the first of these cases to resolve issues with vehicles that were missing the identification numbers but were located outside of the city limits. This cooperation has ensured that vehicles across the county that are missing their identification numbers and/or have component parts that are missing identification numbers are destroyed. This protects the general public from innocently purchasing these vehicles and/or parts and is aimed at reducing the market for stolen components by ensuring that appropriate consequences result from having unidentifiable vehicles or vehicles containing unidentifiable parts.

Conclusion:

Although 2009 brought many budgetary and staffing challenges, the Case Issuance Unit successfully reviewed and issued thousands of cases. The Deputy City Attorneys and the support staff assigned to the Unit worked hard to maintain collaborative relationships with court personnel and law enforcement agencies. Together, we ensured that individuals charged with criminal violations were brought to justice and that victims of crime were treated with respect and

compassion. We look forward to the new challenges of 2010.



GENERAL TRIAL UNIT

Overview of General Trial Unit:



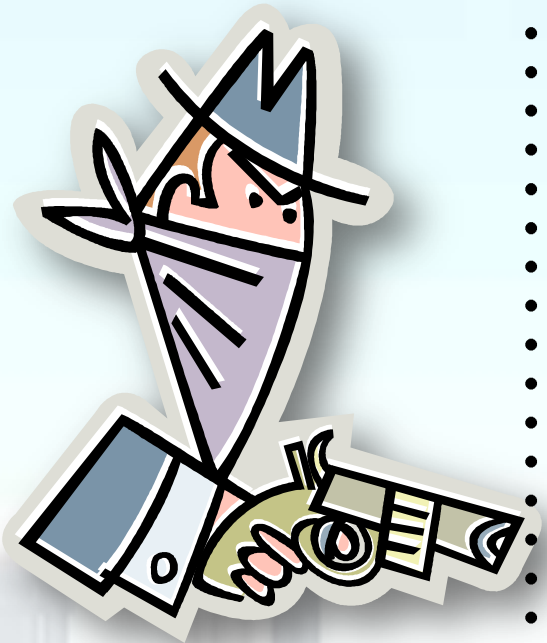
The General Trial Unit of the Criminal Division (Trial Unit) conducts all the post-issuance courtroom proceedings, including arraignment, negotiating offers on the cases, reviewing each case to determine its provability at trial, trying the cases, and ascertaining what sentencing parameters are appropriate based on the defendant's conduct and any aggravating or mitigating circumstances. Once a case is filed, our role is that of an advocate for the People.

Led by Chief Deputy City Attorney Karen Li, the Trial Unit consists of 20 to 25 full-time attorneys, one provisional attorney, two paralegals, two legal secretaries, two investigators, three trial support assistants, and 15 to 20 clerical staff in the Discovery and Records and Information Units.

The cases prosecuted and tried by the Trial Unit impact the public in their daily lives, and effective prosecution of these cases is vital to the quality of life in San Diego.



Cases that made up the work of the Trial Unit in 2009 include:



- Driving under the influence of alcohol and/or drugs
- Resisting arrest
- Hit-and-run
- Shoplifting and other forms of theft
- Fraud and Forgery
- Assaults and batteries
- Brandishing or possessing illegal weapons
- Vandalism
- Under the influence of or possessing illegal drugs
- Prostitution
- Indecent exposure or other sexual assault crimes
- Hate crimes
- Driver's license-related offenses
- Reckless driving
- Illegal street racing
- Vehicular Manslaughter

Other types of cases that also contribute to a significant portion of the Trial Unit's caseload include various Municipal Code violations, Fish and Game/animal violations, illegal lodging, drunk in public, trespassing, failures to appear, furnishing alcohol to minors, and minors in possession of alcohol. We

proactively address the chronic and nuisance problems in specific neighborhoods. Our goal is to protect the citizens of the City by reducing the negative impact some crimes have on our environment and community, and save the taxpayers' money.



Highlights of 2009

Vertical Prosecution

Prior to 2006, the Trial Unit prosecuted cases horizontally, meaning different deputies issued the cases, appeared at each court hearing, negotiated the cases, prepared the cases for trial, and tried the cases in front of a jury. The Trial deputy would receive most of his or her cases the day before the jury trial was set and was expected to try the case the next day. Since 2006, however, the Trial Unit prosecutes all cases vertically. We established a core group of experienced screening deputies in the Case Issuance Unit, thus providing more consistency in the issuing process, and assigned the jury trials to the Trial deputies as soon as they are set. To gain experience and develop their issuing skills, Trial deputies also rotate into the Case Issuance Unit for four months at a time. When not in that rotation, Trial deputies are assigned trials as soon as there is a jury trial date, and they are responsible for assessing the evidence and preparing those cases for trial. This preparation includes



developing the witness list, creating the exhibits, negotiating the terms of any possible settlement, and trying the case. Vertical prosecution provides the Trial deputies with their own case loads, creating a sense of ownership, and a

higher level of preparation on each case. In vehicular manslaughter and sexual battery cases, because of the sensitive nature of the circumstances and the need to establish a relationship and rapport with the victim and/or the victim's family, Trial deputies were assigned these cases pre-issuance. After personal interviews with the victims and witnesses, the Trial deputies

make the issuing decision and appear at each subsequent court hearing, including ultimately, trying the case. This complete vertical prosecution lends itself to very informed issuing or non-issuing decisions and even better knowledge of the cases.

Trial Cases

Most of the cases handled by the Trial Unit result in a criminal conviction based on a guilty or no contest plea before trial. Trial deputies appear at the plea and sentencing hearing to ensure the correct plea is entered and to argue for appropriate sentencing terms based on the defendant's conduct. However, each month, numerous cases are still set for trial. Each of those cases is reviewed and prepared for trial. The process of trial preparation includes subpoenaing and interviewing witnesses, preparing exhibits, and securing the presence of physical evidence such as photographs, 911 tapes, weapons, and blood vials, to name a few. Once this preparation is completed, many cases resolve with a guilty or no contest plea on the eve or day of trial.



Criminal Case Management System

2009 also marked the transition for the Trial Unit to a new criminal case management system (CMS). With training by various District Attorney employees, including the temporarily assigned Assistant City Attorney David Greenberg, the Trial Unit began CMS case implementation in November. This

new system allowed for more ability to gather different statistics and also helped to restore the collaborative relationship with the District Attorney's Office.



Victim Restitution

A critical component of the work of the Trial Unit involves seeking restitution for persons victimized by crime. Often, a “Restitution Evidentiary Hearing” was held even if the defendant pleaded guilty because the dollar amount of the harm to the victim may be difficult to ascertain. Trial deputies appeared regularly at these hearings to argue for orders that required convicted defendants to compensate those whom they have victimized. In 2009, the Trial Unit was able to successfully argue and

obtain court orders for over \$433,000 in victim restitution.

In addition to restitution ordered after a hearing, we were also able to help the effort towards making victims whole by employing the assistance of the Victim Compensation and Government Claims Board, Marcy’s Law, and victim advocates.

Money Saved

In cooperation with the San Diego Police Department (SDPD), our office utilized a step-subpoena process developed a few years ago whereby we subpoenaed some officers for the second day of trial instead of the actual trial date. With the goal of saving the City some money, this resource-conserving procedure came to fruition from years of experience and the reality that generally, the jury trial process did not provide a prosecutor enough time on the first day of trial to call to the witness stand more than two law enforcement witnesses. Prosecutors had to argue pre-trial motions, put on evidence in any pre-trial evidentiary hearings, conduct the jury selection, and perform their opening



statements before the first witness testified. Furthermore, on the day of trial, many defendants would plead guilty or no contest, fail to appear, or the case would be continued. With this understanding, we subpoenaed the third officer (and any more officers) for the next day after the jury trial date. If a case reached a disposition or was continued on the date set for trial, we were able to call-off the second-day officers. By not having all the officers appear on the first day of trial, in 2009, this collaborative resource-saving process allowed 107 SDPD officers to be on the streets enforcing laws and protecting the public instead of sitting in the officers’ waiting room for a few hours just to be told to come back the next day or that the case had

resolved. This also prevented the City from having to pay overtime for those second-day-subpoena officers who were

on the night shift and previously would have had to come straight to court on the first day.



Case Examples

People v. Consuelo Ingram

Successful conviction of eight counts of harassing and obscene/threatening telephone calls of a defendant who made over ten such calls over a span of three months despite specific warnings by the police to cease. After educating the jury about circumstantial evidence and having to amend the complaint to allege more specific facts, Deputy City Attorney Kristi Hein was able to argue for and get defendant remanded into custody for 240 days.

People v. June Reyno

Successful conviction of a defendant who repeatedly re-entered her foreclosed home and trespassed without consent. In this five-day trial that drew media attention, Deputy City Attorney Morgan Hezlep was able to diligently and painstakingly work through volumes

of certified court documents, question an expert in bankruptcy, and bring back guilty verdicts on the case.

People v. Rocky Forguson

Guilty x 6 on 6 counts of violating a restraining order. Defendant posted numerous internet photos of the victim in violation of an active restraining order. In another document-intensive case, Deputy City Attorney Julie Lynn presented 22 pages of internet documentation, successfully argued against a motion to dismiss based on a violation of the right to free speech and effectively dealt in voir-dire with Defendant's tactic to involve the news media about the case one week before the jury trial.

DOMESTIC VIOLENCE UNIT

Overview of the Domestic Violence Unit:

The Domestic Violence Unit, led by Chief Deputy City Attorney Kathleen McManus, is responsible for the vertical prosecution of all misdemeanor domestic violence, elder abuse and child abuse cases occurring within the City of San Diego, 4S Ranch, and Poway.

The unit provides aggressive, comprehensive, and early prosecution of domestic violence cases resulting in a reduction of violence escalation and homicides in the City of San Diego. In 2009, the unit's five vertical prosecutors

reviewed more than 4,400 police reports. A review is currently underway to determine if five vertical prosecutors are enough to provide the level of service the public demands of this highly critical unit. The unit's mission is to maintain victim safety while holding batterers accountable for their actions.



Highlights of 2009

Court decisions in the past several years have dramatically changed the way misdemeanor DV cases had to be tried, but the unit had done little to keep up with the current state of the law. These outdated practices and procedures resulted in 25% of the cases filed being dismissed on the day of trial because the victim was not served with a subpoena or failed to appear after being served.

This year new procedures were instituted for aggressively enforcing subpoenas to ensure victims show up for trial. This has resulted in only two cases being dismissed because of victim unavailability on the day of trial, a 96% reduction from 2008.

In 2007, the District Attorney's Office stopped referring all wobbler cases to the City Attorney's Office. These were cases that the City Attorney's office had traditionally prosecuted. In 2009, the DV unit worked with the District Attorney's Family Protection Unit and the DV Detectives of the San Diego Police Department and re-established a relationship that resulted in wobblers being returned to the City Attorney's Office. Now these three units, responsible for prosecuting all the DV cases that occur within the City, work as a seamless organization to aggressively hold batterers accountable.

The unit also refocused on its primary mission of prosecuting defendants. The line deputies attended DV specific training; new and innovative procedures were instituted to overcome legal issues that had been stifling successful prosecution for years; expert witnesses were retained to testify about topics outside the knowledge of jurors; line deputies began to roundtable cases before trial to take advantage of all the knowledge and experience in the unit; and weekly training sessions were held to keep in front of new issues that may be impediments to successful prosecution.

In December, the DV unit moved back to Civic Center Plaza and rejoined the rest of the City Attorney's Office. In addition to saving \$217,000 annually in rent, the move puts the DV unit back

with many resources that were unavailable at the Family Justice Center. The remote location also made it difficult to consult with many of the other attorneys in the office which is important to successful prosecution of our cases. The full reintegration with the rest of the office has had a positive impact on the unit and its work.



Family Justice Center:

The DV unit is a founding partner of the San Diego Family Justice Center (FJC), America's first comprehensive center for families who are dealing with domestic violence. The FJC was established in 2002 and today, more than 15 social service agencies provide consolidated and coordinated legal, social, and health services to more than 7,000 victims. The San Diego FJC is the model for the development of other family justice centers throughout the nation, as well as internationally.

Poster Awareness Program:



In July, the FJC unveiled the latest installment in the *Family Violence Awareness Poster Campaign*. Professional Skateboarder Tony Hawk's "Get on Board" poster was released to help create awareness about the resources available to victims of domestic violence. Prior posters featured San Diego Charger LaDainian Tomlinson and former San Diego Padre Trevor Hoffman.

Verizon HopeLine

HopeLine is a program sponsored by Verizon Wireless to assist victims of domestic violence by collecting no longer used cell phones & equipment. Verizon then donates wireless phones and airtime to victims from the sales of the



Program:

refurbished/recycled phones. Since its inception in 2001, HopeLine has distributed more than 76,000 phones with more than 228 million minutes of free wireless service to be used by victims of domestic violence.

Case Examples

People v. Dawson

Over several days, the defendant battered the victim and threatened to kill her. He held a knife to the victim's neck and threatened to cut her throat. After the defendant was arraigned, a criminal protective order was issued to keep the defendant away from the victim. Defendant violated that order before the case went to trial. Defendant was placed on probation for three years, ordered to complete a 52 week DV recovery program and was sentenced to serve 60 days in custody.

People v. Johnson

Defendant fondled a 12-year-old neighbor on two occasions. At trial, he tried to blame the girl by stating she dressed provocatively and was mature for her age, while admitting she looked

to be only 14 to 15 years old. He was convicted by a jury, placed on formal probation, ordered to complete 52 weeks of sex offender counseling, perform 20 days of public work service, and ordered to register as a sex offender.

People v. Taylor

In this elder abuse case, the 43-year-old son attacked his 75 year old father when the father refused to give him money to buy alcohol. The victim sustained a six-inch cut on his arm. The father had previously obtained a restraining order against his son, which was also violated during this incident. This was the fifth incident involving the father as the victim. The defendant was sentenced to 16 months custody.





People v. Tellez

The defendant came home drunk and accused his wife of cheating on him. Their 15-year-old daughter intervened, pushing the defendant away from her mother, and then called 911. Defendant has three prior misdemeanor DV convictions. He was sentenced to 270 days in jail.

People v. Ulufale

The defendant accompanied his pregnant girlfriend to a prenatal appointment. The defendant threatened to kill the victim and the unborn baby if she ever cheated on him. While in the waiting room at the doctor's office, the defendant punched the victim in the stomach. The defendant was placed on probation for three years, ordered to complete a 52 week DV recovery program and was sentenced to serve 60 days in custody.

People v. Chavez

The defendant followed the victim to her house where he strangled and threatened to kill her. The victim's mother had previously obtained a restraining order against the defendant to protect her and the victim who shared a home together. A jury found the defendant guilty and he was sentenced to 365 days in jail. The court also issued a ten year criminal protective order.

People v. Canty

The victim and the defendant were homeless and living in the same tent on the streets. Defendant became angry at the victim and punched her several times in the face. Defendant threatened to kill the victim. The victim ran out of the tent screaming for help and defendant grabbed her by the throat.

After diligent search efforts, the City Attorney's Office found the victim and secured her presence in court, causing defendant to plead guilty to all charges on the day of trial. Defendant was sentenced to 210 days custody.

People v. Ramos

In a rare female power and control case, Defendant became enraged when the victim cooked the wrong way. She threw hot oil from a pan on the victim and then head-butted, scratched, and bit him causing significant visible injuries.

Defendant was sentenced to 180 days custody.

People v. Garcia

The defendant pushed the victim to floor and attempted to strangle her. Victim tried to call her brother, but defendant knocked the phone away from the victim. Defendant pushed the victim again and strangled her. The victim's brother heard her gurgling and struggling to breath over an open phone line. Victim's throat was red and sore for two days after incident. Defendant was sentenced to 365 days custody.



APPELLATE UNIT

Overview of the Appellate Unit:

The Appellate Unit provides legal support for the Criminal Division. The Unit is led by Chief Deputy City Attorney Steve Hansen and is composed of three deputy city attorneys supported by two and one-half clerical positions. The Unit handles all pre-trial motions and writs for cases in the general misdemeanor unit and handles post-trial appeals for both 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 has cases in the Fourth District Court of Appeal and the California Supreme Court.

The Unit also provides training, research, and legal support for other 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 motions on behalf of the General Misdemeanor Unit. Typical motions include defense motions such as motions to suppress evidence and motions to dismiss based upon the Fifth and Sixth Amendments.

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, and motions to seal 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 trains new deputies on such topics as trial procedures, appellate issues, and Fourth Amendment 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.

Highlights of 2009

Although because of budget restraints the Appellate Unit lost a deputy city attorney position, the Unit still handled a high volume of pre-trial motions. The Unit resolved over 780 motions and enjoyed a success rate of more than 95%.

The Appellate Unit handled more than 155 appeals and pre-trial writs. The Unit practiced primarily in the Appellate Division of the Superior Court but also handled cases in the Court of Appeal and the California Supreme Court. The Unit enjoyed a success rate of more than 94%. While the great majority of cases involved the Unit defending against appeals brought by convicted defendants, the Unit also initiated seven appeals to correct judicial error and won them all.

On a daily basis the Appellate Unit responded to over numerous requests for assistance from deputy city attorneys needing help with trial issues, arraignment court problems, and screening and arraignment questions.

The Appellate Unit assisted in training deputy city attorneys. The Unit trained new deputies on screening and arraignment issues, discovery issues, trial procedures, evidence rules, driving under the influence prosecutions, and constitutional issues.

To improve efficiency, save money and consolidate resources within the Criminal Division the Appellate Unit moved offices. The Unit also participated in the transition to CMS, the new case management system



The Southeastern Division

Highlights:

Dep. City Atty. Haley Shumaker

- Conducted needs assessment using community member and police officer surveys to identify quality of life crime problems and areas of concentration.
- Chose Valencia Park, Lincoln Park, Encanto, and Mountain View as primary NP focus areas.
- Created enforcement project at Willie Henderson Park (transient encampments).
- Trained officers on NPU principles and community policing strategies.
- Prosecuted violations of Lincoln Park and West Coast Crips Gang Injunctions

The Southern Division Highlights:

Dep. City Atty. Karolyn Westfall

- Conducted needs assessment using police officer surveys to identify quality of life crime problems, possible areas of concentration, and resources.
- Developed protocol for filing cases in the South Bay branch of the Superior Court.
- Partnered with District Attorney to develop policies and procedures for case selection and processing both internally and externally.
- Trained officers on NPU principles and community policing strategies.
 - Improved safety of San Ysidro port of entry by prosecuting illegal solicitation of transportation services (“wildcatting”). Illegal solicitors undercut legal transportation companies to transport passengers in unsafe vehicles mostly to the Los Angeles area. As pedestrians cross the border into the US, illegal solicitors aggressively block their path, grab their luggage and endanger public safety.

II. 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, fair business dealing and to promote justice. The Community Justice Division is divided into three units: Neighborhood Prosecution, Code Enforcement and Consumer &

NEIGHBORHOOD PROSECUTION UNIT

Environmental Protection.



Overview of the Neighborhood Prosecution Unit:

The Neighborhood Prosecution Unit, in partnership with the San Diego Police Department, other agencies, and the community, works to combat crimes that impact the quality of life in San Diego neighborhoods. These crimes include vandalism, graffiti, prostitution, disturbing the peace, alcohol and drug offenses, and illegal lodging. Led by Chief Deputy City Attorney Regan Savalla, neighborhood prosecutors work in targeted neighborhoods side-by-side with police officers and community members on problem-solving initiatives. The City Attorney added two additional Neighborhood Prosecutors for the Southeastern and Southern Divisions in 2009.

Highlights of 2009

NPU Caseload: NPU processed 6290 quality of life cases in 2009. Twenty-six cases were sent to trial departments, 22 of which pleaded guilty the day of trial. Three trials were conducted, all with guilty verdicts. NPU works with SDPD to bring chronic repeat violators to court for probation revocation hearings. In 2009, NPU obtained the revocation of probation on 172 cases and the courts ordered from 30-180 days custody per case for a total of 5,094 days in jail.

Problem Solving Courts:

The NPU participates in five alternative courts. Alternative courts educate offenders and have them do community service work in the neighborhoods affected by their crimes.

Beach Area Community Court (BACC)

- Participants attend a community impact panel and complete community service in the beach area.
- BACC hosted 14 court sessions, addressed 325 participants, and facilitated 1300 hours of community service in the beach area.



Mid-City Community Court (MCCC):

- A community sanctioning panel requires participants to do community service to address quality-of-life crime crimes such as loud parties in the College area and prostitution activity on El Cajon Blvd.
- MCCC hosted 10 court sessions, addressed 63 participants, facilitated

322 hours of community service, and collected \$6,100 in administrative fees.

- \$2,335 of labor was given back to the mid-city communities in 2009.

Downtown Community Court (DCC):

- Requires offenders who commit specific misdemeanor offenses in downtown San Diego to perform community service as a means of restorative justice. It operates daily from the arraignment department of the San Diego Superior Court.
- In 2009, the court addressed 72 offenders and facilitated 1304 hours of community service.

Homeless Court:

- NPU works with the Court, Public Defender, and social service agencies to allow homeless individuals making significant progress in approved programs to address their low-level misdemeanor and infraction offenses.
- Homeless Court is held monthly at two local homeless shelters.
- Homeless Court addressed 566 defendants with a total of 1,774 cases.



Stand Down:

- 172 defendants attending a

weekend event sponsored by the Veterans Village of San Diego for homeless veterans addressed 532 criminal cases one weekend in July.



Alternative Sentencing Options, Prevention Programs and New Strategies/Developments:

Prostitution Impact Panel (PIP)

This is a program organized by DCA Kristin Beattie for men arrested for soliciting prostitution. They attend a victim impact panel comprised of residents of the neighborhoods, former prostitutes, and others impacted by prostitution. In 2009, 61 defendants attended PIP, and NPU collected \$12,200 in administrative fees.

No Bystanders

In this crime-prevention program DCA Angela Geisler teaches young adults and entertainment establishments about the myths surrounding sexual assault crimes and ways for them to safely and effectively intervene in a variety of situations. In 2009, three presentations were given at San Diego State University, addressing 78 students. An additional five presentations were given to 146 restaurant/entertainment establishment employees.

Gambling/Slot Machines (Mid-City)

DCA Kristin Beattie addressed a new crime issue arising in Mid-City involving illegal ownership of slot machines. Police conducted undercover sting operations and seized 21 gambling machines. There were 12 convictions, and the court ordered all 21 gambling machines to be destroyed and the \$15,510.20 of money recovered to be deposited into the general fund.

Behavioral Health Court Calendar:

DCA Karolyn Westfall, is the City Attorney's representative on the development committee for the Behavioral Health Court Calendar. This calendar, dedicated to address problems presented by mentally ill offenders, is set to launch in 2010. 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.

Chronic Offenders

The NPU vertically prosecutes chronic (repeat) offenders to ensure the court addresses community safety and the offender's recidivist nature during sentencing and orders terms of probation aimed at preventing future incidents. This often includes orders for offenders to stay away from areas where the offenses occurred. Notable cases include:

People v. Miller:

Southeastern- DCA Haley Shumaker

- Miller was prohibited by the Court from associating with members of the Lincoln Park Gang.
- DCA Shumaker gathered all active cases and secured a plea to the criminal charge of violating a gang injunction order.
- Miller was sentenced to serve 90 days in custody, to perform 25 days public work service and to register as a gang member.

People v. Garnica:

Southern- DCA Karolyn Westfall

- Garnica was caught in an undercover operation targeting "wildcatting" at the Border Zone.
- DCA Westfall filed a criminal case against him in the South Bay court.
- Garnica pleaded guilty to illegal solicitation and was sentenced to 90 days custody and ordered to stay away from the Border Public Safety Zone for three years. He also had to pay a \$451 fine.



People v. Chapman:

Central- DCA Dani Stroud

- Chapman was charged with trespassing, battery, and harassing students and faculty at City College.
- DCA Stroud convinced the judge that Chapman's escalating behavior made him unsuitable for probation.
- Chapman was sentenced to 365 days custody.

People v. Barberini:

Mid-City- DCA Angela Geisler

- Barberini engaged in erratic, violent and malicious behavior, forcing his neighbor to vacate his home.
- He had previously been ordered by the court to leave his neighbor alone.
- DCA Geisler charged Barberini with being under the influence of drugs, making criminal threats and violating a court restraining order.
- After the Court released Barberini on his own recognizance because he represented that he would not return to the apartment complex, Police found him at the complex, making threats via the media to bomb the San Diego Superior Courthouse.
- Barberini was arrested and while in custody, he called another news station from jail and threatened to blow up the news station.
- Barberini was subsequently charged with seven felonies.

Recognized Leaders in Neighborhood Prosecution:



Chief Deputy City Attorney Regan Savalla instructed prosecutors at the National District Attorneys Association (NDAA) from Oct. 6-8, 2009, about creating partnerships with community organizations and measuring the success of community prosecution strategies.

Four of the Neighborhood Prosecutors taught at the California District Attorneys Association (CDAA) annual Community Prosecution Seminar held on February 9-11, 2009.

Chief Deputy Savalla also worked with prosecutors and police personnel from Rotterdam, the Netherlands, which would like to establish a neighborhood prosecution unit similar to that of the City Attorney's Office.

CONSUMER & ENVIRONMENTAL PROTECTION UNIT



Overview of the Consumer & Environmental Protection Unit:

The Consumer & Environmental Protection Unit (CEPU) under the direction of Assistant City Attorney Tricia Pummill, successfully concluded 64

cases (58 criminal and 6 civil) where there was a consumer transaction or an unfair business practice. The CEPU recovered \$100,040 in civil penalties,

\$35,000 in costs, \$54,994 in criminal fines, and \$114,877 in restitution to victims. In addition, the Unit achieved the following in 2009:

- Shifted the cost of the unit from the city budget to an account that

is required to be used solely for consumer protection prosecution

- Expanded environmental protection efforts
- Resolved significant cases
- Reached out to the community

Highlights of 2009

Unit Entirely Funded by Prop. 64 Funds

Beginning this fiscal year, the eight members of the CEPU are paid from the Proposition 64 account rather than from the General Fund. The Proposition 64 account was established in 2005, shortly after the Proposition was passed by voters. This fund houses money received as penalties in consumer protection civil cases brought by the CEPU and must be spent by the City exclusively for consumer protection.

Expanded Environmental Protection

In June, the City Attorney assigned an attorney to handle primarily environmental cases. There were 19 environmental cases that were concluded successfully in 2009, including:

- *People v. NASSCO*, a civil unfair competition case by DCA Kristine Lorenz redressing the release of petroleum products into the San Diego Bay. NASSCO paid \$13,000 penalties and \$5,000 costs pursuant to a Judgment.



Photo by Craig Hudson

- *People v. Binh Chau*, a criminal case filed by DCA Kristine Lorenz after Chau was arrested for the third time

with undersized lobsters. He pleaded guilty and was sentenced to serve 90 days in jail.

- *People v. Jason Chavez*, a criminal case filed by DCA Michael Hudson after Chavez was arrested with 46 undersized lobsters during the season when it is illegal to take lobsters. Chavez was sentenced to serve 120 days in jail.
- *People v. Jesus Garcia doing business as Aztecas Towing and Repair*, a criminal case handled by DCA Michael Hudson for having no permit from the County Dept. of Environmental Health for the hazardous waste at his business. Garcia pleaded guilty and was ordered to perform 10 days of Public Work Service and pay a fine of \$100.

The City Attorney's office has joined the County's Hazardous Waste Task Force and has also joined other prosecutors' offices in the state as co-counsel on environmental cases.

Case Examples Consumer Protection

CEPU resolved significant consumer protection cases. Some examples are:

- ***People v. Linville Martin:*** Martin was a real estate professional who sent a letter to property owners that contained false statements that he represented the Community College District. In a civil case handled by DCA Kristine Lorenz, Martin paid \$15,000 penalties and \$10,000 costs.
- ***People v. Nancy Graham:*** DCA Michael Rivo alleged in a criminal case that Graham failed to comply with disclosure requirements while she served on a city redevelopment board. She pleaded no contest to criminal charges and paid \$3300 in fines and is banned from holding public office in California for 3 years.
- ***Diet Supplement Fraud Cases:*** DCA Joan McNamara prosecuted five cases against companies and individuals who disseminated untrue or misleading advertisements to sell diet supplements. The companies were ordered by the court to cease the false advertising and were ordered to pay a total of over \$72,000 in penalties and \$15,000 in costs.
- ***People v. Robert Stevens doing business as The Concrete Company:*** Stevens was charged by DCA Joan McNamara with engaging in unlicensed contracting. He pleaded guilty and was ordered to pay \$7,900 restitution and to do 30 days of Public Work Service.
- ***Smoke Shop Enforcement:*** DCA Kristine Lorenz worked with the Police Dept. Drug Abatement Unit on a sting operation involving the sales of marijuana paraphernalia at smoke shops. Store employees who sold bongs to underage purchasers were charged with crimes and all defendants took responsibility for their crimes.



Photo by Craig Hudson

Community Outreach:

The Unit staffs a consumer hotline for the public to call to report violations. It is staffed by an employee who is bilingual in English and Spanish. The Unit received 346 complaints from the public in 2009. The CEPU posted

monthly newsletters on the office website on selected topics of interest to consumers. [Newsletters Media Center](#). Unit members also spoke publicly to community groups about current scams to avoid.

Recognized Leaders in Consumer & Environmental Protection

Assistant City Attorney Tricia Pummill taught Ethics for Consumer Prosecutors at the California District Attorneys Association (CDAA) Consumer Protection Prosecution Conference in April 2009, and Ethics for Insurance Fraud Prosecutors at the CDAA Insurance Fraud Conference in November 2009. Investigator Renee Wharton taught investigators at the Consumer Protection Conference about investigation techniques in consumer protection cases.

Co-ordination with San Diego District Attorney's Office

Four attorneys in the CEPU have been cross-designated by the District Attorney of San Diego as deputy district attorneys. This enables them to handle cases more efficiently and to avoid duplication of effort by the two offices. The CEPU staff works daily with colleagues at the District Attorney's Consumer Protection, Real Estate Fraud and Environmental Protection Unit on matters of mutual interest. ACA Tricia Pummill helped train the Public Assistance Fraud Investigators at the District Attorney's Office on consumer protection so they could provide that information to potential victims whom they encounter when they do house visits to verify welfare eligibility.

CODE ENFORCEMENT UNIT



Overview of the Code Enforcement Unit:

The Code Enforcement Unit prosecutes criminal and civil case filings, cases involving violations of the City Municipal Code dealing with zoning, building, fire safety, nuisances, properties with drug and criminal activity, abandoned vacant properties and

destruction of environmentally sensitive resources. Chief Deputy City Attorney Diane Silva-Martinez and CEU deputies work in partnership with code inspectors, community groups, the Police, and other law enforcement agencies to resolve issues important to San Diego's neighborhoods. Deputies and CEU Investigators provided a number of trainings to City Departments on case submission, courtroom testimony and specialized topics.

Highlights of 2009

In 2009, the CEU improved efficiency of the Drug Abatement Response Team; increased efforts to bring vacant properties to productive use; prosecuted owners of substandard housing; prosecuted significant nuisance cases, and renewed efforts to address the societal problems that lead to code violations. Through aggressive prosecution, CEU obtained court orders requiring code violators to pay the following monies:⁶

- \$ 34,000 in judicial civil penalties
- \$ 10,691 in administrative civil penalties
- \$ 3,950 in criminal fines
- \$ 27,439 in investigative costs
- \$ 16,475 in relocation costs
- \$ 11,500 in restitution



Improved Efficiency of the Drug Abatement Response Team [DART]

An important function of the City Attorney's Office is active participation in the City's Drug Abatement Response Team which consists of a CEU prosecutor, a City Attorney Investigator, narcotic officers, and code inspectors from the Neighborhood Code Compliance Division [NCCD]. The team works closely to identify problem properties with ongoing narcotic activity and develops an appropriate long term strategy to abate the drug and nuisance activity and ensure that all code violations are corrected. In 2009 the responsibilities for the prosecution of DART actions were transferred to the Code Enforcement Unit. Significant progress has been made to refocus the efforts of DART on properties with narcotic activity and update policies and procedures with the Police Department.

CEU has initiated trainings for officers on how to refer cases and meets regularly with the Police narcotics teams. All CEU attorneys have now been trained in filing DART actions, allowing the Unit to bring more resources to combat narcotic activity in neighborhoods. In addition, code inspectors with NCCD have been trained on DART procedures and have developed closer relationships with DART officers.

⁶ In addition, suspended penalties and fines were ordered in each case which could be imposed upon noncompliance with the court order.

Case Examples Drug Abatement

People v. Pryor: DCA Ken So obtained an injunction against a property owner in Southeast San Diego who allowed considerable narcotic trafficking from her house and was personally involved in narcotic sales. The injunction requires the defendant to keep over 50 problem individuals away from the property and prohibit all narcotic activity on the premises.



People v. Westlake: DCA Ken So and DCA Gabriela Brannan obtained an injunction against the owner of a single family residence near the downtown area which had a long history of narcotic activity. The court ordered over 25 problem individuals to stay away from the property. The owner must correct code violations and pay \$5,000 in civil penalties with \$10,000 stayed pending compliance.

Increased Efforts to Bring Vacant Properties to Productive Use

The City Attorney added DCA Joseph McKenna to CEU in 2009 to address the increase in the number of vacant properties due to the recent foreclosure crisis. This position is funded from penalties obtained in prior code enforcement cases.



Vacant structures create fire hazards and attract crime and nuisance activity. Transients often break into the structures causing police to respond to crimes relating to drug activity, alcohol use, or prostitution at the premises.

DCA McKenna worked with the City's Vacant Properties Coordinator, the Police, and residents to quickly address crime at these properties and ensure they are properly secured and rehabilitated.

The addition of a prosecutor led to the following:

- Increase in the number of prosecutions of property owners unwilling to take responsibility for vacant structures attracting nuisance activity.
- CEU assumed a more proactive role in identifying vacant structures in critical locations such as transient corridors, high crime areas, or adjacent to parks and schools in an effort to prevent crime.

- CEU worked with property owners, banks, and asset managers to put the property to productive use.
- CEU conducted training for City Departments on what administrative and judicial remedies exist to require owners of vacant properties to maintain them and how to identify the asset managers of foreclosed properties.
- CEU worked with the Real Estate Industry on best practices to implement when managing a foreclosed vacant property.
- CEU coordinated efforts with the Police Department and code inspectors in improving response time to nuisance properties.
- CEU improved the “Letter of Agency” form and corresponding Police Department website, thereby making it easier to arrest trespassers on vacant properties.
- CEU assisted code inspectors in reviewing the inventory of vacant properties to identify obstacles preventing the properties from being put to productive use and develop a strategy to remove those obstacles.
- CEU educated the public on the City’s Vacant Property Program, what laws apply, and what citizens can do to address vacant properties.
- CEU involved Reserve Senior Volunteer Patrol personnel to actively assist in monitoring vacant properties.

Case Examples Vacant Property Enforcement

In re Green – DCA Nicole Pedone obtained an administrative order allowing the City to abate nuisance conditions at a property with continuing narcotic activity, transients, and considerable trash and debris. A fire damaged structure was demolished and the property cleaned by City contractors. The property has since been sold and is in the process of being rehabilitated.

People v. Ershadi - the owner of a long standing vacant structure in Golden Hill, was held accountable via criminal prosecution in a case handled by DCA Danna Nicholas. The dilapidated structure attracted transients and illegal activity. Portions of the roof had collapsed, exposing the interior to the



elements. Weeds, trash and debris were commonplace leading to complaints from the community. The owner elected to demolish the structure eliminating the nuisance.



Prosecution of Substandard Housing Violations

The City Attorney's Office places a high priority on holding landlords accountable to provide safe decent housing to their tenants. CEU works in partnership with code inspectors, police, and the community to identify substandard

housing, relocate the tenants to decent housing when appropriate, and require the owner to reimburse the city for relocation costs and to rehabilitate the property.

Case Examples Substandard Housing

In re Pittleloud – DCA Nicole Pedone obtained an administrative order requiring a property owner to pay for the relocation of six families living at an illegally converted residence. The conditions included: non-permitted electrical work; faulty weather protection; broken windows; leaky roof; lack of permanent heating facilities; exposed and non-permitted electrical wiring; missing smoke detectors; holes in the walls and ceilings; deteriorated and buckled floors, mold, mildew and dampness in habitable rooms; and rats and roaches. The owner was ordered to pay \$12,564.06 in relocation costs to the tenants and \$1,232.87 in administrative costs.

People v. Renteria – DCA Nicole Pedone filed a criminal complaint against a landlord for renting a substandard property to a single mother with three children. The structure at the property had non-permitted electrical

and structural work, holes in the walls and ceilings, deteriorated and buckled floors, mold, mildew and dampness, rats, and roaches. A second structure on the property was an unsecured duplex with two vacant partially boarded units, one of which had suffered substantial fire damage. The owner allowed the homeless to frequent the property and use the area as their personal toilet.



There were makeshift structures on the property where trash, debris and fecal matter were abundant, creating a severe health hazard for the tenants and public. The owner pleaded guilty and is on

probation. He is required to pay \$4,275 in tenant relocation costs and \$2,679 in investigative costs, as well as properly clean and rehabilitate the property.

People v. Jacobs—DCA Gabriela Brannan filed a civil case against the owner of a substandard property in San Ysidro. Jacobs was ordered to pay \$9,200 in relocation costs to his tenants who had complained there was no running water or heat. Multiple code violations, including dangerous electrical wiring, existed at the property where four families lived in unpermitted structures, including a converted garage, a stable, and a storage room. The owner also paid \$3,408 in investigative costs to the City.

People v. Corral – the property owner of un-permitted and substandard rental units on a ten-acre parcel in the Tijuana River Valley pleaded guilty to

criminal charges brought by DCA Danna Nicholas. Several families, including children, lived in dilapidated trailers which had unpermitted septic and water systems. As part of the sentence in the case, the owner of the property cannot rent or allow the residential occupancy of any unpermitted structures in which she has a financial interest.

The property housed hundreds of horses and the unsanitary accumulation of animal waste was a breeding ground for thousands of flies and mosquitoes. One pile of horse manure stood more than six feet high. The property also had structures and fences made entirely out of garage doors. The owner was sentenced to three years probation, and must reimburse the City investigative costs totaling \$2,815. All code violations must be corrected as well as the environmental damage on the property.

Prosecution of Significant Nuisance & Grading Cases

An area where significant progress has been made by CEU is responding to significant nuisance activity and crime at independent living facilities in residential neighborhoods. While some cases deserve prosecution, CEU also works proactively to address the problem of improper management at sober living environments, group homes and other care facilities. For example, this past year CEU conducted trainings on group home regulations and their impacts for community mental health providers and discharge personnel with County Mental Health and San Diego County Hospital. CEU has also developed partnerships with County parolee supervisors, the Psychiatric Emergency Response Team (PERT), and care providers to work together on solutions to prevent problem facilities. Line-up trainings were also conducted with the Police Department.

CEU prosecutors and investigators work with City Departments to respond to incidents involving destruction of San Diego's protected resources: canyons, wetlands, and environmentally sensitive land. Prosecutors address illegal grading through civil and criminal prosecutions.

Case Examples Nuisance & Grading

People v. Broas – DCA Danna Nicholas filed a criminal complaint against the owner of an unlicensed community care facility in Southeast San Diego where improper management resulted in a homicide occurring at the facility. The owner illegally housed a number of tenants and failed to provide them with adequate care and supervision such that a dependent’s health and safety was endangered.

Code violations, such as illegal room conversions; unpermitted electrical systems; unpermitted and dangerous structural work and plumbing systems also existed at the property. A judge ordered the owner to disassociate herself entirely from all community care facilities and sentenced her to pay investigative costs over \$1,000.

People v. Payan—DCA Markecia Simmons filed a civil case against Payan for illegal dumping and importing fill material on a vacant lot with environmentally sensitive land, causing erosion, sedimentation, and water pollution. Payan was required to pay a penalty of \$5,000 and investigative costs of \$400, and to restore the property.



Renewed efforts to address social problems that lead to public nuisances and health hazards:

In 2009, Dispute Resolution Officer Michael Littlefield created for CEU staff a resource directory of social agencies, providers, non-profits, and other contacts important to bringing a long term resolution to a variety of code

enforcement cases.

Stronger partnerships have been created with the Police “Psychiatric Emergency Response Team” which now accompanies code inspectors to properties where the owner can then be immediately transferred to the hospital or County Mental Health as appropriate.



Recognized Leader in Code

Enforcement: Chief Deputy City Attorney Diane Silva-Martinez spoke at the 2nd National Vacant Properties Campaign Conference held in Louisville, Kentucky, about “Prosecuting Housing Code Violations.”

III. 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. In 2009, 204 cases were filed against the City, the majority of which are injury cases that go to the General Litigation Unit.

CIVIL PROSECUTION UNIT



Overview of the Civil Prosecution Unit:

The Civil Prosecution Unit (CPU) is tasked with collecting all money owed to the City. Chief Deputy City Attorney Dan Bamberg supervises the 6-deputy unit. In addition to initiating litigation in the name of the City, the CPU also directs outside counsel on cases where the City stands to recover substantial sums.

In 2009, the CPU was responsible for bringing in \$6,000,000 from collection actions, litigation initiated by the City, and from other actions litigated by outside counsel as directed by one or more of the CPU's 6 deputies.

Case Examples

- Examples of those successes include an action brought by Deputy City Attorney Jon Taylor against *NSF Railway Company, Shell Oil Company, Chevron Oil, Exxon Mobil Oil Corporation, and Kinder Morgan Energy Partners* that netted the City \$1,050,000.
- Deputy City Attorney Clay Welch supervised outside attorneys in the *Armenta v. James Jones litigation* and successfully brought in \$2,133,072.
- Deputy City Attorney Molly Hoot is currently litigating a case against *RCP Block and Brick, et al.*, seeking to obtain upwards toward \$1,000,000 resulting from the improper installation of a road.
- Deputy City Attorneys Tessa Heunis and Clay Welch with *The Revenue and Recovery* section of the Civil

77 Prosecution Unit successfully litigated numerous cases for the City in fiscal 2009. Tessa and Clay brought in tens of thousands of dollars on numerous occasions including \$90,000 from Rob Hagey Productions, \$50,750 from Thunderboats Unlimited, and \$400,000 from the Hess Corporation.

- The Civil Prosecution Unit anticipates continued success with the cases currently being litigated by its attorneys and those being litigated through outside counsel at the direction of the unit's attorneys. Those cases include the action being litigated by the Deputy City Attorney Bruce Bailey against SDG&E to recover millions of dollars in damages

suffered by the City as a result of the 2007 wildfires.

- Jon Taylor and Dan Bamberg's supervision of outside counsel in *City v. Hotels.com*, an action brought to recover tens of millions of dollars in Transient Occupancy Taxes that were collected by the Online Travel Companies but not paid to the City.
- *City v. Kinder Morgan* case pending in Federal District Court to recover from Kinder Morgan for having polluted the drinking water in the City's original aquifer and contaminating the property upon which the City's Qualcomm stadium is located.

GENERAL LITIGATION UNIT

Overview of the General Litigation Unit:



The San Diego City Attorney's General Litigation Unit consists of Chief Deputy City Attorney Donald F. Shanahan, Deputy City Attorneys Jane Boardman,

Wendy Davisson, Bonny Hsu, Keith Phillips, Kathryn Snyder, Jennifer Gilman, and Catherine Turner. Each attorney handles a heavy case load,

defending the City of San Diego, 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, inverse condemnation, 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 summary judgment motions, motions to dismiss, and demurrers were obtained for our City clients.

Highlights of 2009

During the past year, the General Litigation Unit acquired 136 new cases, in addition to the carry-over of cases from 2008. Eighty-two (82) cases were disposed of through motion practice, tender letters, and settlement

negotiations, saving the City millions of dollars in claims. In addition to resolving cases which monetarily benefit the City, the General Litigation Unit obtained legally significant rulings enforcing the City's legal rights.

Case Examples

Graves v. City of San Diego: Plaintiff tripped and fell on a City sidewalk in the dark. He landed on his forehead and injured his leg. Plaintiff served the City with a demand of \$425,000. Plaintiff ultimately dropped the case after the City filed a Motion for Summary Judgment.

Hansen v. City of San Diego: Plaintiff fell on a paved path surrounding a children's play area in Villa Monserate Park. The fall resulted in significant hand laceration. The City filed a Motion for Summary Judgment based on trial immunity, although the paved path would not normally be considered a trial, the City used a creative argument to convince Plaintiff that a quick, nominal settlement was in his best interest. Plaintiff agreed to settle the case for \$2,500.



WORKERS' COMPENSATION UNIT

Overview of the Workers' Compensation Unit:



The Workers' Compensation Unit consists of Chief Deputy City Attorney Diana Adams and Deputy City Attorneys Linda Godinez, Michael Herrin and Thomas Griffin. Each attorney's 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 17 claims adjustors 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.

Highlights of 2009

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, to day to day operational decisions regarding 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 2009, the unit had over 1,300 open, active cases, resulting in 22 trials, 72 depositions and 252 hearings before the WCAB. These actions resulted in cost savings of more than \$1,117,849 with an additional \$36,500 from third party subrogation cases.

SPECIAL LITIGATION UNIT

Overview of the Special Litigation Unit:



Under the direction of Chief Deputy City Attorney Joe Cordileone, the Special Litigation Unit defends the City of San Diego and its employees, officials and departments in civil actions that are not considered “General

Litigation” matters. The following are examples of the type of work performed by the Special Litigation Unit:

- Defend the City in class action lawsuits.
- Defend challenges to the constitutionality of City ordinances and City policies or practices.
- Defend employment-related cases which include claims of discrimination, harassment, retaliation and FLSA wage and hour matters.
- Defend writs or other non-standard legal challenges, including employment-related administrative writs, alleged Brown Act and Public Records Act violations, election challenges, and actions involving provisions in the City Charter and Municipal Code.
- Defend the City in complex litigation – whenever any lawsuit against the City, by virtue of its size or level of difficulty requires extra attention from the court, it is declared “complex,” and its defense is transferred to the Special Litigation Unit.
- Represent various City departments in administrative hearings before the Civil Service Commission.
- Prosecute and defend all appeals in State and Federal Courts.

Employment cases:

The City was successful in defense of various employment matters where discrimination in one form or another was alleged as the basis for adverse employment actions including discipline, failure to promote and termination. In most instances, our deputies have

satisfied both state and federal trial courts that the cases are so lacking in merit that a trial is unnecessary. These frivolous lawsuits were dismissed. Moreover, the City has prevailed on every appeal that has been decided during this fiscal year.



Case Examples

- ***Cephas v. City of San Diego***: court of appeal affirmed MSJ in City's favor. City entitled to costs at trial and appellate levels.
- ***Conners v. City of San Diego***: Civil Service Commission upheld the termination.
- ***Gonzales v. City of San Diego***: court granted City's MSJ thereby ending the case.



- **Hubbs v. City of San Diego:** court granted City's MSJ thereby ending the case.
- **Linares v. City of San Diego:** court granted City's MSJ thereby ending the case.
- **Mitchell v. City of San Diego:** plaintiff voluntarily dropped the case rather than face City's MSJ.
- **Smith v. City of San Diego:** civil service commission upheld the termination.
- **Sullivan v. City of San Diego:** court granted City's demurrers thereby ending the case.
- **Sviridov v. City of San Diego:** court granted City's MSJ thereby ending the case.
- **Terry v. City of San Diego:** court granted City's MSJ thereby ending the case.
- **G. Terry v. City of San Diego:** court granted City's MSJ thereby ending the case.
- **Vandeveld v. City of San Diego:** court granted City's MSJ thereby ending the case.
- **Zahn v. City of San Diego:** court of appeal upheld City's MSJ thereby ending the case.

Other high profile employment related cases include:

- **San Diego Police Officers' Association v. SDCERs, et al:** Police union sued the City and others over underfunding of the City's pension plan. In a published decision, the appellate court held that retiree medical benefits are not vested contractual rights and are subject to renegotiation. The appellate court affirmed the District Court's summary judgment order in favor of the City.
- **Marcus Abbe, et al. v. City of San Diego:** Approximately 1600 police officers brought suit against the City for unpaid overtime. Plaintiffs demanded payment of 250 million dollars in back wages. At the conclusion of a five-week jury trial involving "test" plaintiffs, the jury found for the City and the Court entered judgment against all of the plaintiffs. Costs of \$208,402 were awarded to the City.
 - **Collins v. City of San Diego:** court granted the City's demurrer



to a claim by three former San Diego Police Officers' Association presidents who sought enforcement of a 2002 resolution that purportedly allowed them to combine their union salary with their City salary for purposes of increasing their pension benefit. The court ruled that the pension "benefit" was invalid because it violated the City Charter.



- **Blizzard v. City of San Diego:** The firefighters' union sought a writ of mandate against the City requiring it to include regularly scheduled overtime as part of its members' highest salary for pension purposes



Outside the employment arena the Special Litigation Section has been busy with cases such as:

- ***O’Sullivan v. City of San Diego:*** In the “seals” case, the City prevailed on a motion to vacate the Court’s injunction that required immediate dispersal of the seals at the Children’s Pool and dredging. The motion was based on new state legislation that the City Attorney’s Office aggressively pursued after the City Council voted to support such legislation.
- ***City of San Diego v. SDCERS:*** In this case, the City prevailed on its “purchase of service” lawsuit which will save the City more than 42 million dollars. SDCERS recently filed an appeal, but the Special Litigation Unit is confident that it will prevail in the Court of Appeal.
- ***Dawson v. City of San Diego:*** court dismissed this claim against the City for allegedly overburdening its easement agreement to flood a property in which she held a 20% ownership interest.
- ***The Mt. Soledad landslide case:*** In this case the City prevailed at trial on litigation arising from the October 3, 2007 Mt. Soledad landslide. The plaintiffs agreed to forego any appeals and reached a final settlement with the City of the entire action.
- ***Colony Hill landslide case:*** What began as a lawsuit seeking 160 million dollars from the City concluded in a settlement where the City will actually

receive money to repair leaks in City owned water lines.

- ***CRM Systems Inc. dba Crest Café v. City of San Diego:*** This was a class action lawsuit filed on behalf of food establishments who alleged to have been overcharged for sewer fees from 1994 to 2004. Potential liability exposure was estimated at up to five million dollars. The City succeeded in having the case thrown out on a motion for summary judgment.



- ***Vigneau v. City of San Diego:*** the City successfully defeated a motion for class certification in November 2009 in an action challenging the City’s wastewater rate structure on behalf of multi-family dwellings. Had certification been granted, the City’s exposure would have been in the 5 million dollar range. Instead, after the City’s success, the plaintiff voluntarily dismissed the action.

LAND USE LITIGATION UNIT



Overview of the Land Use Litigation Unit:

Under the direction of Chief Deputy City Attorney Christine Leone, and five deputy city attorneys, the Land Use Litigation Unit

(LULU) prosecutes and defends all real property, land use, development and environmental actions on behalf of the City of San Diego. LULU provides specialized knowledge and representation of the City in the following types of litigation:

- Prosecutes and defends legal actions involving the California Environmental Quality Act (CEQA), state and federal eminent domain actions, and constitutional issues related to the use of land, real estate valuation and real estate development.

- Prosecutes and defends actions relating to administrative decisions by the City involving the subdivision map act, zoning, permitting and other administrative procedures.
- Defends and initiates land use cases, including writs of mandamus and prohibition, CEQA writs, and property damage claims arising from floods, sewer backups, soil subsidence, etc.
- Advises City Council and City Departments relating to potential litigation and settlement of claims involving land use matters.

These specialized skills are important to the City in that land use cases typically have enormous political and economic implications for the City. Without attorneys capable of navigating through the issues unique to these cases, the City could be liable for significant damage and attorneys' fee claims and lose its ability to regulate the use of its land.



IV. CIVIL ADVISORY DIVISION

The Civil Advisory Division provides advice to the City and each of its departments, including the City Council and Mayor. The Advisory Division is divided into five sections of specialties: Government Affairs & Finance, Real Property & Economic Development, Public Works, Public Safety/Hiring & Training and Labor & Employment.



GOVERNMENT AFFAIRS SECTION

Overview of the Government Affairs Section:



The section consists of four full-time and two part-time attorneys who provide advice and legal support to the Mayor's Office, City Council,

City Clerk, Independent Budget Analyst, Auditor, Treasurer, Financial Management, Library, Funds Commission, Civil Service Commission, Salary Setting Commission, Committee on Budget and Finance, Audit Committee, and the Ethics Commission.

Supervised by Chief Deputy City Attorney Catherine Bradley, the section

provides 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, ethics and conflicts of interest, boards and commissions, taxes, appropriations, and elections.

Highlights of 2009

For the first time since 2004, the section conducted training sessions for the four new Council members on subjects including the Brown Act and the California Public Records Act. The small training sessions helped the office provide advice and guidance in advance of decisions being made by the Council offices.



whistleblower hotline. The section also has been working with the litigation unit on their efforts to collect taxes from online travel companies. During 2009, the section continued to provide advice on ballot measures to amend the City Charter. One required ballot measure would: (1) make the Mayor-Council form of governance permanent as of January 1,

One of the section's primary functions is to advise the Clerk's Office on candidate-related issues and ballot measures. The section prepares ballot measures and the impartial analysis for the ballot materials, and provides advice on recall issues, ballot arguments, and initiatives.

2011; (2) increase the number of Council districts to nine at the time of the next City Council district reapportionment following the national decennial census in 2010; and (3) increase the number of Council votes required to override a mayoral veto of an ordinance or resolution to a two-thirds majority of the Council, with such increase to take effect when a ninth Council member is elected and qualified. The ninth Council district would be added as part of the upcoming redistricting process.

The section also provided ongoing advice to the Audit Committee, City Auditor, Treasurer, and the Council Committee on Budget and Finance relating to fees, taxes, and the Auditor's

PUBLIC FINANCE, SECURITIES & DISCLOSURE SECTION

Overview of the Public Finance, Securities and Disclosure Section:

The section currently is composed of two Deputy City Attorneys and their primary responsibility is to provide



legal and structuring advice regarding the issuance of debt by the City and its related entities, particularly

with respect to the City's disclosure responsibilities under state and federal securities laws.

The section works closely with the Debt Management Department, the Financial Management Department, the Metropolitan Wastewater Department and the Water Department as the City departments primarily involved in City debt obligations.

The section also works with various City related entities such as the Housing

Authority and the Redevelopment Agency, which also issue debt. As the City's primary legal advisors with respect to debt obligations, the Public Finance, Securities and Disclosure section serves as general counsel to a number of City financing entities such as the Public Facilities Financing Authority, the Facilities and Equipment Leasing Corporation, the Tobacco Settlement Revenue Corporation and the Convention Center Expansion Authority.

Highlights of 2009

The section assisted the City in returning to the public bond market with the issuance, in January 2009, of \$157.2 million of Water Revenue Bonds, the City's first public bond issue in over five years. Also this year, the section assisted the City with the public issuance of sewer revenue bonds, water revenue bonds and tax and revenue anticipation notes, and the Redevelopment Agency with the public issuance of tax allocation bonds.

Earlier this year, the section, in conjunction with the City's general disclosure counsel, conducted trainings on securities law responsibilities for the

City Council, City staff and the Mayor's office.

The section also worked closely with the Comptroller's Office, which recently issued the City's Comprehensive Annual Financial Report [CAFR] for Fiscal Year 2009. This is the first time the City has been up to date with its audit financial statements since Fiscal Year 2002.

Finally, the section has been instrumental in assisting the City in implementing Proposition C, leading to the creation of a new, independent Audit Committee in January 2009 and a new independent City Auditor.

REAL PROPERTY & ECONOMIC DEVELOPMENT SECTION

Overview of the Real Property and Economic Development Section:



The attorneys in the Real Property and Economic Development Section provide legal advice to the Airports, Community Services,

Development Services, Economic Development, Neighborhood Code Compliance, Park and Recreation, Planning, Real Estate Assets, and Redevelopment Departments. These lawyers staff and provide advice to the Planning Commission, Historical Resources Board, Hearing Officer, Airport Advisory Committee, Land Use and Housing Committee, Housing Authority, and the Redevelopment Agency.

Under Chief Deputy City Attorney Elisa Cusato, the attorneys advise City departments on a wide variety of issues including the Multiple Species Conservation Program (MSCP), and the state and federal Endangered Species Act. They review environmental documents to ensure the City's compliance with the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA). They also assist City staff with all aspects of public and private development in the City including

entitlements, condominium conversions, telecommunication facilities, building code issues, redevelopment projects, and housing projects. The Real Property and Economic Development Section Unit drafts memoranda of law, opinions, reports, resolutions, and ordinances for the City departments. In addition, they draft deferred improvement agreements, subdivision improvement agreements, reimbursement agreements for the construction of public facilities, public facilities financing plans, landscape maintenance agreements, disposition and development agreements, purchase and sale agreements, leases, deeds and assist staff with revisions to the Land Development Code. Additionally, our attorneys advise staff on the Airport Land Use Compatibility Plans for Miramar, Gillespie, Brown Field, and Montgomery Field Airports. The Unit assisted with the creation and funding of Maintenance Assessment Districts and Business Improvement Districts. They also assist City staff with issues and agreements involving Community Development Block Grant (CDBG) and Transient Occupancy Tax (TOT) funds. The Real Property and Economic Section also advises staff regarding the San Diego Workforce Partnership, the City's Storefront Improvement Program, the Small Business Enhancement Program, and the San Diego Regional Enterprise Zone as well as provide the City departments with advice on conflict of interest, Brown Act, and Public Record Act issues.

Highlights of 2009

The attorneys in the Real Property and Economic Development Section assisted and advised on many different projects, including the following:

- Airports' Division with the negotiation of an Exclusive Negotiation Agreement (ENA) between the City and Brown Field International Business Park, LLC, d/b/a DPC Brown Field. This ENA will allow the City to work cooperatively with Developer towards a possible large-scale development at Brown Field Airport. Should this development go forward, it is estimated that the development will generate significant economic impacts to the local and regional community, including up to \$20,000,000 per year in increased tax revenues, up to 3,800 new permanent jobs and up to \$2,200,000 per year in additional revenues for the Airport Enterprise Fund. Besides the proposed development of aviation-related facilities such as jet, helicopter and general aviation facilities and hangars, fueling services, maintenance and other aviation-related commercial facilities, the developer proposes construction of a satellite museum facility and a solar power facility.
- Real Estate Assets Department and Qualcomm Stadium staff with the negotiation of a 10-year lease between the City and San Diego State University (SDSU) for the

use of Qualcomm Stadium for Aztec football games. This lease represents a significant financial improvement over the previous agreement with SDSU in that the City will now receive full cost-recovery for all police and fire services provided by the City throughout the lease term. Instead of losing approximately \$180,000 per season, the City will now net roughly \$90,000 per season.

- Provided comprehensive, in-depth, in-house training on the California Environmental Quality Act (CEQA) training to City staff.



- Advising City staff on the proposed development of a new City Hall, the leasing of space in the new Main Library to the San Diego Unified School District for a downtown charter school, and on the proposed Convention Center Expansion Project.
- Provide assistance to the City's Medical Marijuana Task Force.
- Informed the City, the Redevelopment Agency, and the Southeastern Economic Development Corporation (SEDC) in connection with the City Council's approval of the Fifth Amendment to the Central Imperial Redevelopment Plan and related planning activities, together with the Redevelopment Agency's certification of the Final Environmental Impact Report for the project. This action, which covers the approximately 580-acre Central Imperial Redevelopment Project Area, envisions mixed-use redevelopment and public infrastructure improvements, provides for an increase of approximately 1,900 dwelling units, including a considerable increase in the supply of affordable housing, and promotes the Pilot Villages concept with respect to the Village Center at Euclid and Market.
- Consulted with Real Estate Assets Department staff on its Property Sales Program, which produced more than \$12 million for the City. The lawyers advised the Redevelopment Agency with

respect to the preparation and approval of five-year implementation plans covering Fiscal Years 2010 through 2014 for eleven redevelopment project areas and mid-term reviews for other redevelopment project areas. These detailed plans and reviews are required to be completed on a periodic basis by the Community Redevelopment Law and are essential to evaluating the agency's progress in meeting the redevelopment goals in each project area and the Redevelopment Agency's ongoing compliance with its legal obligations related to the expenditure of tax increment revenues and the provision of affordable housing.

- Assisted the City and the Redevelopment Agency with respect to the Redevelopment Agency's acquisition from the City of several excess or remnant parcels adjacent to Interstate 15 in the City Heights Redevelopment Project Area. These parcels are located in a prime location with maximum freeway visibility and will be part of a larger land assembly enabling the Redevelopment Agency to coordinate a significant redevelopment effort in the future.
- Provided assistance to staff with the amendment of the Regional Transportation Congestion Improvement Program and with the Torrey Highlands and Rancho

Encantada Public Facilities
Financing Plans.

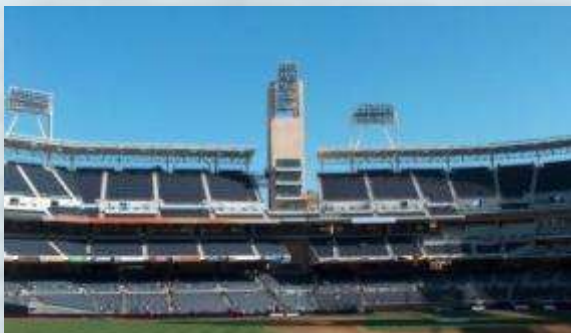
- Supported the preparation of the First Amendment to the Joint Exercise of Powers Agreement between the City, the Redevelopment Agency and the San Diego Unified Port District to implement the development of the first phase of the North Embarcadero Visionary Plan.
- Assisted with the preparation of the Second Amendment to the Ballpark Cooperation Agreement

- Assisted City staff with the modification of Council Policy 700-02, which guides the City's administration of its Community Development Block Grant (CDBG) program. The modification included reforms to the Policy that are intended to address recent Federal Housing and Urban Development audits of the program and to remedy deficiencies in its allocation process.
- Advised staff, and assisted with the drafting of findings, on a



whereby the Redevelopment Agency agreed to pay the debt service for the Ballpark Bonds for Fiscal Years 2009-2013 on behalf of the City.

number of controversial Process 5 projects including the Pacific Coast Office Building, Tucker Self Storage, the Community Wellness Center, and the Crown Castle monopole.



- Providing staff with amendments to the amateur radio antenna (HAM) regulations.

PUBLIC SAFETY SECTION

Overview of the Public Safety Section:

The Public Safety Section provides legal advice to the San Diego Police Department, the Fire Department, the Family Justice Center, and the

Commission on Gang Prevention and Intervention. Section members also formed the City Attorney's Crisis Response Team.

Section Scope of Work: Police Department



Supervised by Chief Deputy City Attorney Mary Nuesca, the section members work closely with the Chief of Police and his Assistants, and with commanding officers, both sworn and civilian. Section members respond to questions and assist with projects from all levels and members of the Department. The section's general practice includes the following subjects:

- Advising on discipline, labor, employment, equal opportunity, and disability issues.
- Drafting ordinances, resolutions, memoranda of understanding and contracts.
- 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 Department in *Pitchess* motions seeking access to confidential police personnel records, in motions seeking retention of seized firearms, and in motions seeking the return of seized property.

Section Scope of Work: Fire Department

The general practice includes:

- Advising on discipline, labor, employment, equal opportunity and disability issues.
- Drafting ordinances, resolutions, memoranda of understanding and contracts.
- Interpreting statutes, including the Firefighters Procedural Bill of Rights Act.
- Responding to subpoenas and requests for public records.
- Monitoring and advising on new case law and new legislation.

Section Scope of Work: Family Justice Center

The general practice includes:

- Advising on discipline, labor, employment, equal opportunity and disability issues.
- Drafting ordinances, resolutions, memoranda of understanding and contracts.
- Interpreting statutes and other legal documents.
- Responding to subpoenas and requests for public records.
- Monitoring and advising on new case law and new legislation.

Section Scope of Work: Commission on Gang Prevention and Intervention

The general practice includes:

- Advising on Brown Act issues.
- Drafting ordinances, resolutions, memoranda of understanding and contracts.
- Interpreting statutes and other legal documents.
- Monitoring and advising on new case law and new legislation.

Highlights of 2009

The section assisted the Fire and Police Department in the City's efforts to implement its new user fee policy, which provides full cost recovery for a variety of tasks performed by the Departments. The section remains involved in issues such as medical marijuana, homelessness, and the Open Carry movement (those who openly carry unloaded firearms). Section members

assisted the Police Department in implementing the Crime Victim's Bill of Rights Act of 2008, also known as "*Marsy's Law*." Section members drafted documents used by the entire San Diego region for region-wide efforts in the area of Homeland Security including the creation of a back up communications system for emergencies to be used by local, state,

and federal emergency responders; and the creation of a computer-aided dispatch interoperability system to assist dispatchers and firefighters throughout the region.

Section members provided training to legal assistants on *Pitchess* motions,

and updated a variety of motion templates used by the section in court.

The section handled approximately 120 *Pitchess* motions, 46 firearms motions, several motions to quash subpoenas and motions to return property.

Crisis Response Team

The Crisis Response Team put together a comprehensive manual to be used by City management in the event of a

disaster. The Team also monitored and advised on the implications of the H1N1 influenza virus.

Training Section

The Civil Division embarked on an aggressive in-house training program. Practice groups meet regularly to discuss and train on current issues in the following areas: land use, public records, employment, and contracts. In

August, the Civil Division held a week long training on both advisory and litigation matters, including ordinance drafting, civil rights cases, the Brown Act, and trial training.

LABOR & EMPLOYMENT UNIT

Overview of the Labor & Employment Unit:



The Labor & Employment Unit is under the supervision of lead Deputy City Attorney Joan Dawson. The unit provides legal services in a variety of areas, including employment, labor relations, and retirement.

The Labor & Employment Unit provides legal advice to the Human Resources Department, Risk Department, Lifeguards, Corporate Sponsorship, the SPSP/401(k) Board, the Human Relations Commission, and the Citizens Review Board on Police Practices. Unit

members also advise City-wide management on all labor and employment related issues, and are also

members of the ADA Committee, Labor & Advisory Committee, and Threat Assessment Team.

Unit Scope of Work Labor & Employment:

Unit members work closely with the Human Resources Department and City-wide management on all labor and employment related issues. The Unit's general practice includes the following:

- Advising management on the FMLA, ADA, Title VII, FEHA, CFRA, FLSA, PDA, FBOR, MMBA, and other relevant employment and labor laws.
- Advising management on pensions and benefit implementation and administration
- Assisting management through the employee discipline, appeal, and grievance process to ensure compliance with City policies and procedures and applicable laws.
- Conducting investigations and fact findings concerning employee related discipline and complaints.
- Conducting training on employment related matters and the Brown Act.
- Representing the City in workplace TRO and OSC hearings.
- Responding to agency complaints and charges (DOL, EEOC, DFEH, OSHA) regarding employment related matters.
- Assisting Departments in responding to subpoenas and requests for public records under the CPRA.
- Drafting ordinances, resolutions, memoranda of understanding and contracts.
- Interpreting statutes, including the FMLA, ADA, Title VII, FEHA, CFRA, FLSA, PDA, FBOR, MMBA, and other labor and employment laws, and their application to the City.
- Representing the City in labor negotiations, meet and confer meetings, settlement conferences and mediations.
- Advising management during the meet and confer process with the City's six labor unions and on interpretation and implementation of memorandums of understanding with the labor unions.
- Defending the City against any alleged unfair labor practices in actions before the Public Employment Relations Board.
- Reviewing and revising City rules, regulations and policies to ensure legal compliance.
- Monitoring and advising on new case law and new legislation.

Unit Scope of Work Human Relations Commission:

The general practice includes:

- Advising on Brown Act issues.

- Interpreting and drafting Commission bylaws and other legal documents.

- Monitoring and advising on new case law and new legislation.

Unit Scope of Work Citizens Review Board on Police Practices & SPSP/401(k) Board:

The general practice includes:

- Advising on Brown Act issues.

- Interpreting and drafting Board bylaws and other legal documents.

- Monitoring and advising on new case law and new legislation.

Highlights of 2009

During this last year, the major projects of the attorneys in the Unit included drafting pension ordinances and new plan documents. In addition, the Unit assisted in successfully negotiating labor contracts with the International Association of Fire Fighters Local 145, the Municipal Employees' Association, and the Deputy City Attorneys Association.

The past couple of years brought many changes in employment laws which significantly expand the protections given to employees. The Unit carefully monitors and tracks these changes and helps to ensure City compliance with the new laws. For example, the Unit worked to ensure compliance with the ADA, ARRA, GINA, and new FMLA regulations by updating City documents, regulations, and forms. The Unit also assisted in preparing the City for the implications of H1N1, by preparing a comprehensive pandemic preparation

plan, including management guidance on how to handle contagious illness and disease in the workplace, contingency plans, and distributing information to employees and the public on how to protect them during the pandemic.

The Unit also worked with Councilmember Gloria in preparing a ballot measure proposal which would amend the City's veterans hiring policy to allow qualified veterans who have served our country in any war, major military action, or peacekeeping mission to be included in the city's veteran's preference points under the civil service system. The proposal would also provide added credit for qualified veterans with a service related disability.

Unit members also provided training to City management on employment leave and wage and hour laws, the FFBOR, as well as the Brown Act.

PUBLIC WORKS UNIT

Overview of the Public Works Unit:

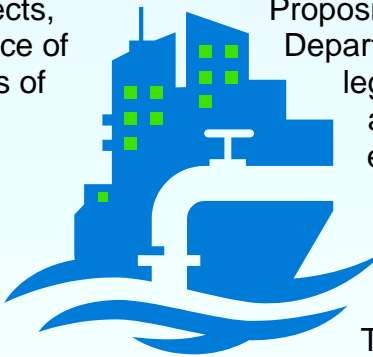


The Public Works Unit consists of 13 attorneys providing legal advice on matters pertaining to the construction, operation and maintenance of public buildings, streets, utilities and other infrastructure; the provision of public services such as water, sewer, solid waste collection, recycling, and disposal; and support services to other City Departments in areas such as energy efficiency, regulatory compliance, and purchasing of supplies and equipment. Supervised by Chief Deputy City Attorney Tom Zeleny, the Public Works Unit is divided into two teams: Public Services and Public Infrastructure.

The Public Services Team consists of six attorneys who provide legal advice and produce and analyze legislative, contractual, and other documents, across numerous legal disciplines, for a number of City Departments, including

Storm Water, Environmental Services, Purchasing and Contracting, General Services, Information Technology, Equal Opportunity Contracting, and Park and Recreation. The Team's attorneys are responsible for drafting RFPs, contracts, franchises, ordinances, resolutions, Council policies, and administrative regulations; representing departments in various regulatory matters involving the Regional Water Quality Control Board ("RWQCB"), Air Pollution Control District, Department of Environmental Health, and the California Integrated Waste Management Board; assisting in grant acquisitions for energy and recycling projects; advising City task forces and advisory committees; and coordinating amongst various City Departments to resolve cross-Department legal issues. We provide legal advice in areas such as storm water regulations and compliance; environmental clean-up actions; Americans with Disabilities Act requirements; competitive bidding; equal opportunity contracting; intellectual property; advertising on City property; park and recreation public works projects; solid waste, hazardous waste, and recycling issues; and fees and taxes under Propositions 13 and 218. Currently, our attorneys are providing legal support in the resolution of two significant environmental clean-up matters pending before the RWQCB: the San Diego Bay Clean-up order and the MVT/Qualcomm remediation.

The Public Infrastructure Team works closely with the departments of Public Utilities (Water and Wastewater), Purchasing and Contracting, Engineering and Capital Projects, General Services and the Office of the Mayor to oversee all forms of capital improvement and infrastructure projects from inception through completion. The Team's civil advisory attorneys review and advise these departments on such matters as water conservation, RFPs and RFQs, all applicable state, federal and municipal laws, bid protests and conflicts of interest. Our services include resolution of contract and insurance disputes, representation of the client departments in administrative hearings, drafting of City Council resolutions related to the funding and approval of significant capital projects and issuing memoranda



on a broad range of legal issues. A top priority among the Team's contributions to the City is its ongoing legal support in successfully securing funding under Proposition 218 for the Public Utilities Department. Our efforts in providing legal support for the City's water and sewer rate increases ensure funding of necessary capital improvements and pay for the increasing cost of imported water. Using guidelines established by the Team, the City has successfully implemented regular rate and fee adjustments without legal challenge. In 2008, the Team completed negotiations with the California First 5 Commission to guarantee nearly \$4,000,000 in funding to promote early childhood development and public health through fluoridation of the City's public water supply.

Highlights of 2009

- **Fluoridation Funding Agreement with First 5 and Infrastructure Commencement**
 This accomplishment will bring fluoridated water to the entire City of San Diego, a significant health benefit to families and children throughout the region. After receiving an offer of \$2.9 million from the First 5 Commission of San Diego County, attorneys from the Public Infrastructure Unit prepared several Memorandums detailing the City's legal obligation to negotiate with First 5 and the County to obtain a Fluoridation Funding Agreement under the California Safe Drinking Water Act. Acting as the lead

negotiators for the City, the Unit successfully entered into an agreement with significant financial protections for the City. Working closely with the Mayor's Office, the Unit also prepared a First Amendment and an Escrow Agreement to guarantee that the \$2.9 million in funding could not be seized by the State or County during the recent budget crisis. Over the last year, attorneys from the Unit also advised the Water CIP program to ensure the design-build procurement process complied with the strict timelines under the Act. Twice over the last fifteen years the City has attempted to fluoridate its water

supply, but the process collapsed due to legal and political factors. Now, this project is underway with guaranteed funds at no cost to the City or its ratepayers.

- **Proposition 218 Water and Indirect Potable Reuse Rate Increases**

For the last year, attorneys in the Unit have been charged with handling the Public Utilities Department water rate increases before the City Council. In November of 2008, we provided legal advice to the Department and the Mayor's Office to ensure the City's notice complied with Proposition 218 and that City Councilmember's were given sufficient information regarding our process, the water rate increase, and the separate increase for the Indirect Potable Reuse Demonstration Project, which will allow the City to explore a new source of local water production. In addition, the Unit is responsible for overseeing the legal aspects of the Department's upcoming Proposition 218 water rate increases. To date, none of the Unit's Proposition 218 procedures for increasing new or existing water rates have been legally challenged, and all rate increases have been successful.



- **Small and Local Business Program**

For the past several years, the Mayor and the City Council have been exploring new and innovative ways to enhance diversity in City contracting. In 2009, the City Attorney's office drafted a Small and Local Business Ordinance, capturing elements of other successful programs in Los Angeles, San Francisco, San Jose, Oakland, and the State of California. Such programs involve a myriad of legal issues, including federal and state constitutional issues, competitive bidding restrictions, and other concerns. Our office provided legal guidance on these issues to the Mayor and City Council throughout development of the

Small and Local Business Program, and drafted the Ordinance in order to ensure both an effective program and legal defensibility.