



Message from City Attorney Jan

Goldsmith: It has been my extraordinary privilege to serve as San Diego City Attorney for the past 6 years. The office, among San Diego’s largest law firm, is made up of more than 340 full-time, part-time, and volunteer staff members committed to doing the best job possible, day-in and day-out. None of our accomplishments would be possible today without the leadership and determination of our employees.

The City Attorney’s Office is led by an eight member Executive Team: City Attorney Jan Goldsmith, Executive Assistant City Attorney Paul Cooper, Assistant City Attorney Dan Bamberg (Civil Litigation), Assistant City Attorney Marlea Dell Anno (Criminal Division), Assistant City Attorney Mary Nuesca (Civil Advisory), Deputy Director Tanya Tomlinson (Administrative Services), Carmen Sandoval (Principal Assistant) and Gina Coburn (Director, Internal Communications/Employee Relations).

Highlights from 2014

Some of our highlights for 2014 include the launch of San Diego Community Court. The post-plea diversion program for people, who

commit low-level misdemeanors, is off to a successful start. It allows defendants to get their case dismissed if they pay their debt to society by completing conditions that include two days of community service. Community Court provides swift consequences for individuals who commit lesser crimes, but without the lasting stain of a criminal conviction. It has the potential to redirect lives, by putting offenders in contact with the social-service agencies and allowing them to pay their debts through community service and restorative-justice programs. The program was developed by our office in close cooperation with the Sheriff’s Department, the Public Defender’s Office and the Alpha Project and Urban Corps of San Diego County. This program eliminates the public costs of pre-trial motions, trials and appeals. Those resources can now be directed to more serious crimes and other public benefits. As the Community Court program evolves, we anticipate that additional providers will come on board, expanding the resources available to participants. We also hope to see Community Impact panels created in each City Council district.

The City Attorney’s Code Enforcement Unit continues to aggressively shut down illegal marijuana dispensaries operating in violation of the City’s zoning laws.

The Consumer & Environmental Protection Unit (CEPU) prosecutes violations of law that arise from consumer transactions or actions that damage the environment. In a recent consumer protection case, *People v. CSK Auto, Inc. (O’Reilly Auto Parts)* was a civil case brought by the City Attorney,

along with the District Attorney Offices in San Bernardino, Santa Clara and Santa Cruz counties. CSK Auto, Inc. agreed to pay \$1,550,000 in civil penalties, investigation costs and restitution for alleged scanner price and injunction violations. O'Reilly has agreed to and is required to maintain a "\$5 off or Get It Free Program" to protect consumers against overcharges. Any customer who discovers an overcharge can obtain \$5.00 off the price of the item; or, if the item price is less than \$5.00, O'Reilly has agreed to give the item to the customer for free.

In a recent environmental protection case, CEPU joined California District Attorneys and City Attorneys offices in civil cases against Lowe's Home Centers, LLC; TJX Companies, Inc. and Albertsons in law enforcement actions against the companies. The actions claim that stores throughout the state unlawfully handled and disposed of various hazardous wastes and materials. The companies were ordered to pay civil penalties totaling \$23.9 million.

The City Attorney's Office negotiated with 16 insurance carriers to cover the City's \$15 million share of a San Diego bay cleanup program in a lawsuit settlement that protects taxpayers as well as the environment. The office with assistance from an "insurance archaeologist" sifted through 70 years of City records and determined levels of coverage responsibility on behalf of the insurance carriers. This achievement saves millions of dollars for City programs and infrastructure.

The Civil Prosecution Unit required a City vendor, who had been accused of violating the City Living Wage Ordinance, to properly pay his employees. As a result of the hard work on this case, the vendor agreed to pay the workers \$23,420.61 in back wages.

Working with staff from the offices of Council members Emerald and Kersey, the Public Safety Unit drafted an ordinance to amend the Municipal Code to regulate the retail sale of electronic cigarettes. The sale of electronic cigarettes is now restricted in the same manner that sales of tobacco products are restricted. And sellers of electronic cigarettes are now required to obtain a police permit.

Looking ahead in 2015, we are anticipating an increase of misdemeanor cases of approximately 15%, due to the passage of Proposition 47 last November. This increase is due to the cases that had previously been charged by the District Attorney's Office as felonies, now being reduced to misdemeanors to be issued by our office.

Additionally, the Civil and Criminal divisions must now review all police body worn camera footage, which could range from minutes to hours, between multiple officers. This will become part of our discovery process, as well as to appropriately assess and work-up on a case with the footage for trial. The Civil Advisory and Civil Litigation Unit's workload will also increase.

Sincerely,

Jan Goldsmith

TABLE OF CONTENTS

Executive Summary..... 5

Civil Litigation Division..... 5

Civil Prosecution Unit..... 5

Worker’s Compensation Unit 7

General Litigation Unit 8

Land Use Litigation Unit 11

Special Litigation Unit..... 13

Civil Advisory Division 19

Public Works Section..... 20

Government Affairs and Finance Section..... 24

Economic Development Section..... 27

Real Property and Land Use Section..... 32

Public Safety Section..... 34

Public Services Section..... 37

Employment Services Section..... 39

Criminal Division..... 41

General Trial Unit..... 41

Appellate Unit..... 47

Neighborhood Prosecution Unit..... 49

Case Issuing Unit..... 53

Domestic Violence and Sex Crimes Unit..... 58

Consumer & Environmental Protection Unit..... 65

Code Enforcement Unit..... 71

Our Mission Statement:

Integrity matters! We can best help our city by maintaining our integrity, providing timely, accurate and high quality legal representation to the City of San Diego. We will be firm, independent and professional, stopping illegalities while suggesting solutions. We will never forget that we are accountable to the people of San Diego and that we represent the City of San Diego.

EXECUTIVE SUMMARY

The Office of the San Diego City Attorney is structured like a private law firm model and has been serving the needs of representation for the City. The office is divided into four divisions: Civil Litigation, Civil Advisory, Community Justice and Criminal. These divisions are subdivided into units and sections which allow the attorneys to specialize in areas of practice.

Civil Litigation Division



The Civil Litigation Division prosecutes or defends civil lawsuits in which the City is a party. The Civil Litigation Division is divided into

five units: Civil Prosecution, Workers' Compensation, Land Use Litigation, General Litigation and Special Litigation. Assistant City Attorney Dan Bamberg is head of this division. Mr. Bamberg has over 40 years in plaintiffs' civil actions, at trial and on appeal.

Civil Prosecution Unit

The City Attorney's Civil Prosecution Unit (CPU) represents the City in several capacities: as a plaintiff, claimant or intervener when the City seeks money damages or other affirmative relief in court; as plaintiff or defendant in disputes over construction projects or contracts; as plaintiff in collection matters referred to the City Attorney's office by the City Treasurer's Delinquent Accounts Program



(“Collections”); and, when City Departments need assistance resolving legal disputes with outside parties. Deputy City Attorneys assigned to the CPU include Erin Dillon, Molly Hoot, Paul Prather and Jon Taylor and the unit is supervised by Chief Deputy City Attorney R. Clayton Welch. In FY2013/14 the CPU recovered a total of \$4,300,000 for the City and has collected a total of \$4,630,000 through December 31, 2014 for FY2014/15.

Deputy City Attorney Erin Dillon, who just started with the office in July, 2014, primarily handles cases referred to the City Attorney by Collections and pursues recovery of amounts owed on invoices referred to the City Treasurer for collection by other City departments. One of the more significant matters assigned to Erin involves collection of civil penalties owed by a number of banks and mortgage companies for violation of the City’s Property Value Protection Ordinance, which requires registration of properties in foreclosure. She also works on matters in which parties owing the City money have filed for

bankruptcy in the U.S. Bankruptcy Court and on qui tam litigation referred to the City Attorney by the State of California Attorney General.

Named Public Justice’s 2014 Trial Lawyer of the Year, Deputy City Attorney Paul Prather is pursuing claims for TOT funds owed to the City by delinquent hoteliers, diversion of taxes by smaller cities or counties that should go to the City, and reimbursement for damage to City property. Earlier in the year Paul negotiated a \$2.8 million dollar settlement with the CSAC Excess Insurance Authority to reimburse the City for costs associated with litigation involving the Soledad Mountain Landslide. More recently, Paul required a City vendor, who had been accused of violating the City Living Wage Ordinance, to properly pay his employees. As a result of Paul’s work on this case, the vendor agreed to pay the workers \$23,420.61 in back wages.

While he handles some of the cases referred by Collections related to money owed to the City on unpaid invoices and is defending several general liability cases that involve injury or damage claims asserted against the City, Deputy City Attorney Jon Taylor primarily handles construction litigation cases, initiating and defending lawsuits related to City construction projects/contracts. Besides these kinds of cases, Jon also handles transient occupancy tax appeal hearings for the City Treasurer and does foreclosure work for Debt Management where property owners have failed to pay Mello-Roos or other assessments owed the City. Jon recovered

\$100,072.39 in delinquent assessments on behalf of the City in 2014.

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

In addition to supervising the CPU and working with the City Treasurer, Chief Deputy Clayton Welch works with other departments to assist with pre-litigation or with litigation related to matters and claims not usually referred to Collections. One of the larger cases he is handling is a "qui tam" case involving claims asserted against JM Manufacturing Co. and Formosa Plastics related to the sale of a substantial quantity of allegedly defective PVC pipe to governmental entities, such as the City, for use in potable water distribution and pressurized sewage collection systems. In 2014, the court in the JM case approved a large settlement between plaintiffs and Formosa Plastics, with that defendant paying the plaintiff entities a total of \$22.5 million

dollars (court approval of the allocation of the settlement money between plaintiffs is still pending), in addition to attorney's fees.

Workers' Compensation Unit

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

The Unit's worth is immeasurable, since its contributions to cost savings occur on a daily basis while guiding the handling of Workers' Compensation claims. Due to continual reformation in the workers' compensation system, the attorneys are charged with providing advice to the Risk Management Department on a wide range of issues, from interpretation of wholesale legislative changes such as those of 2004 and 2012, to day to day operational decisions regarding 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 2014 the unit had over 1,357 open, active cases, resulting in 302 hearings, 77 depositions, 1 appeal, and 35 trials at the Workers' Compensation Appeals Board. These actions resulted in cost savings of more than \$5,293,403 for the City of San Diego.

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, Brian Cline, Bonny Hsu, Christine Leone, Kelly McGeehan, Keith Phillips, Catherine Turner, Stacy Plotkin-Wolff, Christina Milligan, Rayna Stephan, and Timothy Stutler. 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, 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.

During the past year, the General Litigation Unit received 96 new cases, in addition to the carry-over of cases from 2013. Sixty (60) cases were disposed of through trials, motion practice, tender letters, and settlement negotiations. In addition to resolving cases which monetarily benefit the City, the General Litigation Unit obtained legally significant rulings. Several examples include:

Arsham vs. City of San Diego

Plaintiff alleged that while walking on a public sidewalk maintained by the City of San Diego and Las Casitas Community, he tripped and fell on an uneven raised slab of concrete. Plaintiff sustained severe injuries, including a significant fracture of his right hand requiring a surgery and insertion of a plate and screws; cuts on his left hand, face and lips requiring sutures, and the loss of several teeth. Plaintiff claimed medical specials in excess of \$50,000 and a potential of a second surgery. Plaintiff demanded \$450,000 from the City and co-defendant Las Casitas. After extensive discovery relating to both liability and damages, the case settled in the amount of \$80,000 of which the City contributed \$5,000.

Debow vs. City of San Diego

San Diego Police Department officers conducted a traffic “hot stop” after plaintiff Allison Debow’s vehicle license plate check returned as a stolen vehicle, although she and her husband had legally purchased the vehicle. Plaintiff alleged that SDPD pulled her over and drew multiple firearms at her. She alleged that although she told the officers that she was pregnant, nevertheless, they forced her on her knees, handcuffed her and placed her in a hot patrol vehicle. Plaintiff’s Complaint included causes of action for false imprisonment, battery, assault, excessive force and civil rights violations, and infliction of emotional distress and personal injuries. Plaintiff alleged that she suffered a miscarriage after this incident. We served a C.C.P 998 Offer for dismissal in exchange for a waiver of costs. After discovery and extensive negotiations, while unwavering from our no liability position, Plaintiff dismissed her action against the City without any payment.

Doe v. City, et al.

This was the last of 13 lawsuits against the City of San Diego and nine past supervisors of former San Diego Police Officer Anthony Arevalos. Plaintiff, Jane Doe, was sexually assaulted by on-duty Officer Arevalos in a convenience store bathroom. She reported his misconduct and her actions led to his arrest and ultimate conviction and incarceration. Doe’s case was one of the most high-profile cases in the office and was

aggressively litigated. The parties took 53 depositions and produced tens of thousands of pages of documents. Ultimately, the Court granted the supervisor defendants’ motion for summary judgment, finding that they all had qualified immunity. The remaining case against the City eventually resolved on the eve of trial preventing the City and the San Diego Police Department from suffering through a very public, expensive trial.

Paul Hupp v. City of San Diego, et al.

Plaintiff, Paul Hupp, claimed that his civil rights were violated by a San Diego Police Detective who was investigating Hupp for allegations of criminal threats. Specifically, Hupp claimed that the detective deliberately concealed evidence and failed to disclose exculpatory evidence that would have revealed his innocence in violation of *Brady v. Maryland*. As a result of the detective’s alleged acts, Hupp claimed that he suffered emotional distress. Hupp’s case against the City and the detective was ultimately dismissed following a successful motion for summary judgment.

Kahsay v. City of San Diego

On January 4, 2011, a suspect driver in a pursuit collided with the plaintiff’s vehicle at the intersection of Robinson Avenue and Sixth Avenue in Hillcrest. The suspect driver, while fleeing from a SDPD Officer with his lights and siren activated, drove the wrong way down a one way street, turned onto Robinson Avenue and traveled a block

before running a red light and striking the plaintiff's car. The officer followed the plaintiff onto the one way street but pulled to the left and slowed down when he realized he was traveling the wrong way. He was approximately one block behind the suspect driver when the accident occurred. The plaintiff suffered a subdural hematoma and claimed continuing sequela from the head injury as well as an exacerbation of her pre-existing back and neck issues. She alleged that the pursuing officer was negligent for not terminating the pursuit as soon as the suspect driver turned down the one way street. The case was tried to a jury, which found that the officer was negligent but that his negligence was not a substantial cause of the collision because the officer pulled over and slowed down once he realized he was driving on a one way street and was approximately one full block behind the plaintiff when the collision occurred.

Milazzo v. City of San Diego, et al.

On October 30, 2011, Decedent Joan Milazzo was hiking with her husband – Plaintiff Paul Milazzo – and Decedent's sister – Plaintiff Susan McCaffrey¹ ("the hikers"). Plaintiff Kathleen Milazzo is Decedent's daughter. While the hikers were crossing Camino Del Sur, Decedent was struck by a speeding vehicle and killed. Through investigation, we discovered an Encroachment Maintenance and Removal

¹ Susan McCaffrey is now deceased as well. She died from an unrelated health issue.

Agreement in which one of the co-defendants had agreed to indemnify and hold the City harmless for any median and landscaping issues. Thus, we tendered the City's defense to that co-defendant and the tender was accepted.

Sherard v. Campbell, et al.

In 2010, plaintiff allowed a woman whom she met through the Girls Club of San Diego to stay in her pool house. Although plaintiff claimed the woman was only to stay one night, she stayed seven months. On October 5, 2010, plaintiff began physically evicting the woman. Officers were called to the location twice. When they attempted to speak with plaintiff, she swung a wicker basket at them. Officers attempted to handcuff her for safety, but she resisted and a struggle ensued. Once plaintiff was detained, officers tried to convince her to file a formal eviction with the courts. Plaintiff refused. Officers allowed plaintiff to speak with her attorney who arrived on the scene in hopes she would cooperate. The attorney indicated officers would have to arrest her. At trial, plaintiff claimed officers used excessive force and unlawfully arrested her. The jury deliberated and found for both defendants that there was no unlawful arrest, no excessive force, no false arrest, no battery, and no violation of Civil Code section 52.1.

Walters v. City, et al.

Plaintiff attended the 2011 San Diego Gay Pride event wearing bondage attire.

Plaintiff's outfit consisted of leather straps, rings, g-string with loin cloth, and a leash. The material swayed freely as plaintiff walked, fully exposing his buttocks. Plaintiff was contacted by officers and asked to cover up. He refused. Ultimately officers issued plaintiff a citation pursuant to San Diego Municipal Code §56.53 (public nudity). Plaintiff refused to sign the citation and was ultimately arrested. The Court granted City's motion for summary judgment and determined that plaintiff failed to establish his claims for injunctive relief, §1983 violations of the Fourteenth Amendment under the Equal Protection Clause, §1983 violations of the Fourth Amendment for unlawful arrest, False Arrest, Battery, Negligence, or Civil Rights Violations pursuant to Civil Code §52.1.

Venuto v. City, et al. / Herdelin-Doherty v. City, et al.

On May 31, 2011, decedent Nicholas John Venuto, and plaintiff Baron Herdelin-Doherty were riding bicycles on the bicycle path running parallel to State Route 56, east of Carmel Mountain Road. Venuto and Herdelin-Doherty were struck by a vehicle that left eastbound SR 56 and entered the bicycle path. The property belonged to City at the time of the accident. City also built this section of SR 56 and adjacent bicycle path with CalTrans as oversight. The Court granted City's motion for summary judgment on the basis of design immunity and trail immunity.

Land Use Litigation Unit

The Land Use Litigation Unit prepares and defends civil actions on behalf of the City in state and federal court, including challenges based on the California Environmental Quality Act (CEQA), eminent domain, constitutional issues related to the use of land, real estate development, failure to comply with the Municipal Code or City procedures, and land use-related decisions by the City Council or City staff. The Land Use Litigation Unit employs five seasoned and proven litigators to navigate the complex and unique issues raised in land use cases. Last year, this Unit handled approximately 75 cases. In addition, the attorneys proactively advised the City Council and City Departments about potential litigation risks and settlement of claims involving land use matters, to help protect the City and taxpayers from adverse judgments.

Highlights for 2014

American Tower Corporation v. City of San Diego

This federal matter involved seven consolidated cases challenging the City's application of its telecommunications regulations. The case arose out of the City's denial of use permits for large cell towers throughout the City that violated the regulations in effect at that time. The federal District Court and Ninth Circuit Court of

Appeals found in favor of the City and upheld the City's right to place reasonable restrictions on the height and aesthetic appearance of cell phone towers. This was a groundbreaking case with nationwide significance.

Brandon v. City of San Diego

The plaintiff challenged the City's right to proceed with building Olive Park, a park long-awaited by the community to implement the City's Uptown Community Plan goal of creating desperately needed public park area in the inner City. The judge ruled in favor of the City. The case is on appeal.

Coalition for a Safe Environment v. City of San Diego

Petitioners filed a Writ of Mandate under CEQA challenging the Environmental Impact Report for the Metropolitan Airpark Project at Brown Field Municipal Airport. The project proposes development of general aviation facilities and offices, hotels, restaurants, industrial and commercial uses, a fueling station, and a solar energy generation facility on approximately 331 acres of the 880-acre site. The court found that the City's environmental analysis was appropriate and denied the Petition.

Coastal Environmental Rights Foundation (I-IV) v. City of San Diego

These actions challenged the July 4th La Jolla Cove Fireworks Show, and were ongoing for nearly four years. The City was able to negotiate a favorable settlement that allowed the Fireworks Show to continue, while providing certainty to Special Event and Park Use Permitting, adding more environmental safeguards, and minimizing the liability to the City.

San Diegans for Open Government v. City of San Diego (2014 PBID/MADs)

Petitioner challenged the City's Fiscal Year 2014 assessment levies for the City's Downtown Property and Business Improvement District (PBID) and the City's 57 Maintenance Assessment Districts (MADs). The PBID is a funding mechanism initiated by local property owners to assess themselves for special services to facilitate downtown economic revitalization and prevent the erosion of the City's Downtown area. The MADs create funding to maintain neighborhood common areas, such as street medians, landscaped rights-of-way, and adjacent sidewalks. The judge sustained the City's demurrer because Petitioner could not demonstrate standing to sue. The case is on appeal.

San Diegans for Open Government v. City of San Diego (Bahia)

Petitioner sought to set aside a new 40-year lease of the Bahia Hotel property based on alleged violations of CEQA, the Ralph M. Brown Act, and other grounds. The judge

ruled that the City's actions were appropriate.

Rolandans for Quality Infill Development v. City of San Diego

Petitioner sought to set aside the Centrepont mixed use development project for an alleged violation of CEQA. The City successfully disposed of the claim after a writ hearing.

Mesdaq v. City of San Diego

Plaintiff claimed that he and other downtown property owners were entitled to take their property back because the City acquired the property for a proposed downtown hotel development that had not been developed ten years later. Following the City's successful opposition to Plaintiff's motion for class certification, the Plaintiff settled the case on terms that required him to dismiss the case with prejudice in exchange for a waiver of costs.

San Diego Yacht Club v. City of San Diego

Plaintiff claimed inverse condemnation and Clean Water Act violations arising from siltation from the City's storm drain that allegedly impaired access to the Yacht Club's docking slips. After mediation, the Plaintiff abandoned its claims.

Torrey Hills Community Coalition v. City of San Diego

Petitioner sought to set aside development approvals based on alleged CEQA violations. After settlement negotiations, the Petitioner dismissed the case.

City of San Diego v. Caryon Properties

The City prevailed in this eminent domain action to acquire property for the construction of high occupancy vehicle (HOV) lanes and direct access ramps on Interstate 805 at Carroll Canyon Road, and for the extension of Carroll Canyon Road from Scranton Road to Sorrento Valley Road. Caryon valued property at \$4.8 million, while the City valued the property at \$170,000. The parties stipulated the value of the "take" at \$170,000, saving the City millions of dollars. The case is on appeal.

Special Litigation Unit

Under the direction of Chief Deputy City Attorney Joe Cordileone, the Special Litigation Unit defends the City of San Diego, 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 employment-related cases which include claims of discrimination, harassment, retaliation and FLSA wage and hour matters.

Defend the City in class action lawsuits.

Defend challenges to the constitutionality of City ordinances and City policies or practices.

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 and CalOSHA.

Prosecute and defend all appeals in State and Federal Courts.

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.

Employment Cases Addressing Various Claims:

The City was successful in defense of various employment matters. Often the cases allege discrimination in one form or another as the basis for adverse employment actions including discipline, failure to promote and termination. In many cases, our deputies satisfied either state or federal trial judges that the cases were so lacking in merit that a trial was unnecessary resulting in many frivolous lawsuits being dismissed by the Court without the need for trial. The City also utilizes a program whereby it conducts a detailed early assessment of employment

cases and, if there is any validity to the claim, it offers a fair and reasonable settlement early on with a goal to saving both sides the expense and inconvenience of protracted litigation.

Calderon v. City of San Diego

A former employee sued claiming disability was the reason for her termination. The City’s motion for summary judgment was granted and the court dismissed the lawsuit finding no City liability.

Gibson v. City of San Diego

The City successfully defended a claim that employees who left the employ of the City before the change to retiree health benefits in 2012 with enough service credits to *eventually* retire from the City were entitled to whatever benefits they had at the time they left City employment. Because the City prevailed in this matter, its citizens will receive tens of millions of dollars in savings as a result of the 2012 changes to the retiree health benefit.

Majors v. City of San Diego

Another former City employee made a similar claim that he was discriminated because of his disability and retaliated against. After explaining the deficiencies in the Plaintiff’s case and filing papers moving for dismissal of the lawsuit, the City persuaded the Plaintiff to voluntarily drop his lawsuit.

Employee MM v. City of San Diego

A City employee sued alleging that the City violated the Uniformed Services Employment and Reemployment Rights Act. Papers the City filed with the Court were sufficient to convince the employee to drop his case.

Wood v City of San Diego

This case began as a class action more than 10 years. It produced three different lawsuits which were ongoing over that entire period including two trips to a federal appeals court (both successful for the City). It finally ended on the eve of trial with a nominal settlement to Plaintiff. A claim was made that the City's pension plan gave an unfavorable benefit to married retirees over unmarried retirees. Had the suit been successful, it would have cost the City tens of millions of dollars in increased pension payments and additional millions in attorney fees to opposing counsel. Instead, the City paid a tiny fraction of what it would have had to pay its own lawyers to complete the trial.

Civil Service Commission Appeals

Termination of employee AH

Employee took cash from a private citizen to fix a maintenance problem on their private property. Employee termination affirmed.

Termination of employee DL

Employee alleged termination based on racial and/or sexual orientation grounds, instead of job performance. Employee termination affirmed.

Suspension of employee KK

Employee challenged a suspension for consuming alcohol at a department-funded training seminar off site. Employee suspension affirmed.

Other Cases Handled by the Special Litigation Section

Outside the employment arena, the Special Litigation Section deals with many interesting cases:

Cases with Far Reaching Effect

American News & Info. Services, Inc., et al. v. William Gore, et al.

This was a lawsuit by news provider and photojournalist regarding City's issuance of media credentials and County's actions at news scenes. City's motion to dismiss was granted in full.

City of San Diego v. Therapeutic Healing Corp., et al.

The City sued a marijuana dispensary clinic for operating illegally. The dispensary closed after the lawsuit was filed but turned around and sued the City Attorney and City officials for damages and abuse of process over the City's lawsuit. Ultimately it concluded that they could not succeed and dismissed its lawsuit entirely.

De Anza Cove Homeowners Association v. City of San Diego

The Judge described this as the most complex matter he had ever dealt with in his career. The genesis of the lawsuit began in 1981 with the intervention of the State of California under the Mobilehome Residency Law passed that year and extended until 2003. It addressed the rights of park residents to reside in non-compliant permanent dwellings. The law tied the City's hands to a large degree with respect to vacating the park and providing relocation benefits. The strategy employed in the defense of this matter resulted in payments that were considerably lower than the amounts sought by Plaintiffs. The City is now able to begin a process of closing the park and returning it to its proper uses.

Environmental Health Coalition, et al. v. Elizabeth Maland, et al.

There were two challenges to the validity of referendary petitions submitted to the City Clerk. The City was able to get these cases dismissed with a finding of no liability.

Friends of the Children's Pool v. City of San Diego

Plaintiff filed a writ petition and complaint for injunctive relief challenging the 22-foot extension of the seasonal guideline rope at the La Jolla Children's Pool. The rope was put in place to protect the seals residing there. After the Court denied a request for an injunction, the Plaintiff dismissed its lawsuit.

The Redevelopment Dissolution Cases

The Special Litigation Unit represents the City and the Successor Agency to the Redevelopment Agency for the City of San Diego in several lawsuits arising from the Legislature's dissolution of the State's redevelopment agencies at the trial court and appellate level. Specifically, the City and the Successor Agency brought claims against the State Department of Finance seeking to overturn its decisions regarding past and future expenditures of tax money for certain obligations of the former redevelopment agency. Additionally, the Special Litigation Unit is currently defending the City and the Successor Agency against claims brought by the Affordable Housing Coalition of San Diego County asserting that the Successor Agency is required to satisfy outstanding affordable housing obligations of the former redevelopment agency that existed at the time of dissolution. This wide reaching and complex litigation will have a significant impact on City finances.

***San Diegans for Open Government—
Actions Challenging the City’s Bond
Issuances***

San Diegans for Open Government filed two actions to halt issuances of lease revenue bonds intended to finance much-needed capital improvement projects throughout the City, including building projects (libraries, fire stations, lifeguard stations) and long delayed infrastructure projects (sidewalks, streets and storm drains). The bond issuance could not occur while SDOG’s actions were pending. In the first case, the Court rejected each of SDOG’s legal theories and ruled in favor of the City after a three-day trial. In the second case, the Court ruled for the City on summary judgment. The City plans to complete the bond issuance in early 2015.

San Diego Puppy, Inc. v. City of San Diego, et al.

Plaintiffs sued the City and others over the City’s new ordinance that bans certain commercial sales of puppies within the City. After the federal court denied a request for an injunction to prevent the ordinance from being enforced, the Plaintiffs dismissed their lawsuit against the City.

**Cases Addressing Various Individual
Non-Employment Claims**

Not all of our cases have a broad reach. But each is important to the litigant and each requires a skilled attorney to protect the City’s interests.

Cooney v. City of San Diego

Plaintiff sued the City and in particular two Deputy City Attorneys who defended the City in an earlier lawsuit. This instant lawsuit was filed in the Federal District Court, seeking the same relief as the state court lawsuit. The District Court granted the City’s Motion to Dismiss. The Plaintiff had had his day in Court and could not seek to re-litigate the same claim.

Davis v City of San Diego, et al.

Plaintiff, a participant in the 2009 Occupy San Diego protests, claimed that members of the San Diego Police Department used excessive force against her during an operation to clean and clear Civic Center Plaza. After failing to respond to requests for information supporting her claim, Plaintiff ultimately voluntarily dismissed her case.

Earn v. City of San Diego et al.

Petitioner alleged that the City failed to rely on substantial evidence when assessing fines against a property owner for code violations. The City showed the Court that the petitioner failed to state a recognizable claim against it.

Elite Show Services v. City of San Diego

This breach of contract action alleged a security services contract for Qualcomm Stadium was wrongfully awarded to another

bidder. The City's summary judgment motion granted, on the grounds that no contract had been entered into.

Garrett v. City of San Diego

The Plaintiff filed suit alleging false arrest and excessive use of force after police responded to a night time break in. The Plaintiff had a knife in his hand and lunged at the officers. He was shot, once in his wrist and once in his neck. The Federal District Court granted the City's motion for summary judgment. Plaintiff appealed to the Ninth Circuit. The Ninth Circuit upheld the dismissal of this lawsuit.

Motyl v. City of San Diego et al.

This breach of contract action alleged the City failed to follow its own Citizens Review Board practices when reviewing Police conduct. The City successfully moved early on to dismiss the case on grounds that no contract had been entered into.

Schutz v. City of San Diego

This was a second lawsuit by a disabled Plaintiff alleging wheelchair access violations on City property. After the City filed papers moving for dismissal of the lawsuit, the Plaintiff dropped his case.

Velazquez v. City of San Diego, et al.

Plaintiffs were the surviving heirs of a female who was struck by a vehicle while crossing Ocean View Boulevard. Plaintiffs alleged the area was a dangerous condition of public property. The Court dismissed the case after their attorney withdrew and Plaintiffs failed to appear at multiple hearings in the matter.

Yilmaz v. City of San Diego

This lawsuit alleged the City of San Diego wrongfully detained Plaintiff and in doing so used excessive force. Shortly after the case began, the City persuaded the Plaintiff to dismiss all his claims in exchange for a waiver of costs.

The City Attorney's Investigation Unit has had a busy year

In April of 2014, they were asked to prepare a training update for SDPD officers and supervisors concerning current liability issues, lesson learned from past civil suits and ideas for preventative steps to mitigate future liability.

Trainers from the Civil Division Investigation Unit assembled a two-hour course and presented the course to members of the Police Academy, In-service Training Staff, and various members of ranking SDPD Personnel. The Training Staff approved the content and began scheduling the two-hour class for various employee groups at SDPD.

Since last spring, the course has been delivered to graduating recruits of all recent police academies. Additionally, groups of sergeants, lieutenants and captains from all Divisions received the training course as part of a 13-session supervisory training program that ran from August through November of 2014.

The class was so well-received, the Academy and In-service Training Staff arranged for it to be delivered to all weekly sessions of Advanced Officer Training (AOT) for the 2015-2016 training cycle. AOT pulls officers from around the County to receive instruction. This liability course for AOT is currently underway and takes place every Thursday at the Miramar College Police Academy.

The course includes an overview and awareness of the civil litigation process, explanations about Federal Courts and State Courts, report writing and recall issues, lessons learned from recent civil cases and ideas for improving testimony and evidence gathering for civil cases.

Lastly, the course has gained the attention of



local surrounding policing agencies. On October 2014, it was delivered to a group of local and statewide police instructors as part of a P.O.S.T. Train the Trainer Course for Defensive Tactics Instructors. It is also scheduled for presentation to San Diego State University Police Department and La Mesa Police Department in 2015.

Civil Advisory Division



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

Economic Development, Government Affairs and Finance, Public Works, Public Services, Public Safety and Employment Services, and Real Property and Land Use. This division is under the direction of Assistant City Attorney Mary Nuesca. She has served as a criminal prosecutor, appellate lawyer, and legal advisor to the San Diego Police Department. Ms. Nuesca has over twenty years experience in the Advisory Division, and has worked on a variety of special projects including Bio-Tech Conventions, the Super Bowl, vice-related issues, homeless related issues, and medical marijuana.



Public Works Section

The Public Works Section provides legal advice on the construction, operation and maintenance of City infrastructure, including the water and wastewater systems and the City's 3,000 mile transportation system, all among the largest in California. These lawyers also provide legal advice related to the construction and repair of park and recreation facilities, libraries, police, fire and lifeguard stations, airports, sports stadiums and the convention center. The Public Works Section also advises the City in purchasing and maintaining City vehicles and equipment. The Public Works Section is an integral part of implementing the Capital Improvements Program, which is budgeted at \$310 million in fiscal year 2015.

There are eight lawyers in the Public Works Section who together present an impressive resume. Combined they have 107 years of legal experience, 76 years in the City Attorney's Office, and 63 years experience in the Public Works Section. They include a mechanical engineer, a former Marine Corps reservist, a financial auditor, three former prosecutors, two former Eagle Scouts, two

union officers, a former law school instructor, and a patent lawyer. Their academic achievements include one law school *Valedictorian*, one *Summa Cum Laude*, two *Cum Laude*, a LLM in Securities and Financial Regulations, and a Masters Degree in American History. They include alumni of Theta Xi, Lambda Chi Alpha, and Phi Kappa Sigma. And they have a true native of Pacific Beach. These lawyers primarily serve as in-house counsel for the Public Utilities Department, the Public Works Department, and the Transportation Division of the Transportation and Stormwater Department. The departments generate a substantial amount of legal work because they collectively account for over 40% of the entire City budget and over 25% of all City employees, or roughly 350 employees for each of our eight lawyers. The day-to-day questions that come up with operating and maintaining the water, wastewater, and street systems consume most of our lawyers' time. In addition, last fiscal year the City awarded \$225 million in construction contracts nearly all of it drafted or reviewed by the Public Works Section. The Public Works Section also drafted or reviewed numerous contracts for services, supplies, and equipment necessary to keep City infrastructure, vehicles and equipment running smoothly.

The Public Works Section advises and represents the City at local, state and federal administrative proceedings and at mediation to resolve disputes with contractors and vendors. The lawyers provide legal advice in diverse areas of law including intellectual property, taxes and fees, competitive bidding, bonds and insurance, contracts,



prevailing wages, the California Environmental Quality Act, the Federal Clean Water Act, and the Safe Drinking Water Act. The lawyers may wear suits when they appear at City Council meetings, but they also wear boots and hard hats to help our City employees in the field to resolve legal issues quickly and inexpensively.

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

Highlights of 2014

State Funding under Senate Bill 829

In 2012, the Governor signed Senate Bill 829 which cuts off state funding for construction projects of charter cities that are prohibited, limited, or constrained in any way from using project labor agreements. Also in 2012, the voters of San Diego passed Proposition A which prohibits the

City from requiring contractors to use a project labor agreement except as required as a condition of the receipt of state or federal funds. In 2014, two state agencies inquired whether the City was still eligible for state funds in light of SB 829 and Proposition A. Potentially hundreds of millions of dollars were at stake. The Public Works Section interacted with the state agencies and provided the legal analysis explaining that the exception in Proposition A gave the City the

discretion to consider project labor agreements to maintain eligibility for state funds. With our legal analysis and the help of our local and state elected officials, the state agencies determined that the City is still eligible to receive state funds on construction projects.

Pure Water San Diego.

The City is in the initial stages of implementing Pure Water San Diego, a program which will offload the Point Loma Wastewater Treatment Plant by diverting wastewater and treating it to create 83 million gallons per day of potable water. The Public Works Section assisted the Public Utilities Department in drafting and negotiating a cooperative agreement with local environmental groups to support the City in obtaining legislative and regulatory approval for the program. If the program proceeds as planned, the cooperative agreement will be the blueprint for implementing Pure Water San Diego through the year 2035.

Taxicabs

During the summer of 2014, a Council Committee asked whether the City could remove the cap on the total number of taxicab operator permits. The Public Works Section wrote a legal opinion explaining that the City had broad discretionary powers to adjust or remove the cap on such permits. A proposed amendment to Council Policy 500-02 (which governs taxicab administration) was introduced at Council Committee on September 18th at one of the most well attended committee meetings in recent memory. After more than four hours of public testimony, the amendment was forwarded to the full City Council, where it was heard on November 10th in Golden Hall to another record-breaking public turnout. The City Council approved the amendment to Council Policy 500-02, setting the stage for an open market for taxicab operators in San Diego.

Montezuma Trunk Sewer

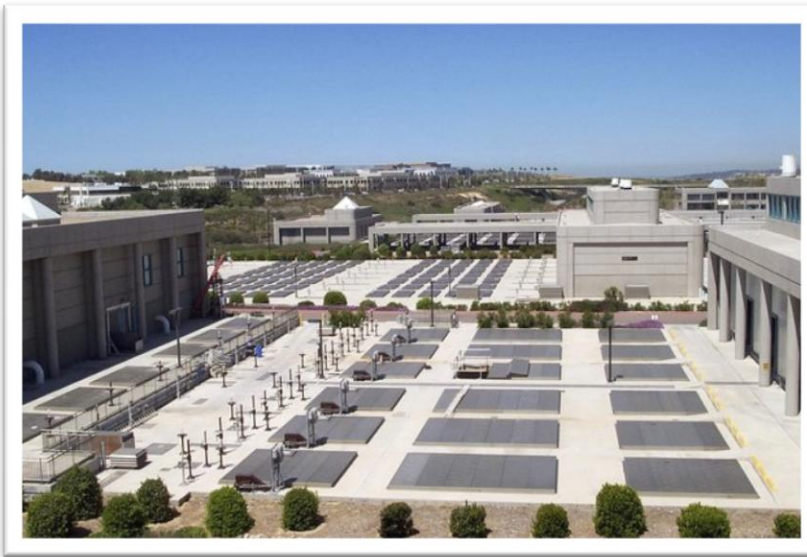
This project consisted of abandoning an existing sewer main and replacing it with a new sewer main. A portion of the project included tunneling performed by a subcontractor. The subcontractor alleged that the soil conditions encountered during tunneling were different than described in the contract documents and that they were defective. The subcontractor claimed it was entitled to an additional \$400,000 because

the soil conditions caused the work to take longer than it anticipated in its bid. The City contended that based on borings and other information in the contract documents, the subcontractor should have been on notice of the potential soil conditions. The Public Works Section represented the City at mediation, where the claim was resolved for \$125,000.



Lake Hodges Operating Agreement

The Santa Fe Irrigation District and the San Dieguito Water District both draw water from Lake Hodges pursuant to agreements with the City of San Diego. These agreements did not adequately anticipate the impacts of Olivenhain Dam and Reservoir, recently completed San Diego County Water Authority projects that connect Lake Hodges to the County Water Authority's water system. The Public Works Section took the lead for the City in renegotiating the previous operating agreements because they were ambiguous on how Lake Hodges would be operated after the County Water Authority completed its projects.



Miramar Water Treatment Plant

The City has been performing major upgrades to the Miramar Water Treatment Plant, including a few new buildings. The metal roofs of all the new buildings started to leak shortly after they were completed. The Public Works Section took the lead in negotiations, and was able to reach a deal to have the roofs replaced by the general contractor and the designer of record at an estimated cost of \$1 million.

Lifeguard Stations

Building near the coast is difficult, but building on the beach can be nearly impossible. Constructing and repairing lifeguard stations raise many unique challenges because of the continuing need to protect the beach-going public and the proximity to protected species

such as seals and gulls. The Public Works Section assists City staff in the complicated process of navigating such things as CEQA compliance and mitigation measures, obtaining and complying with California Coastal Commissions permits and conditions, and federal permit requirements for construction near protected species. There are also several different moratoriums that are recognized in the City that

staff tries to be respectful of in the coastal communities. There are several competing interests on the coastline, and in an effort to maintain access to the coast and build necessary life saving facilities, there is a lot of legal work that occurs on a day-to-day basis.



Government Affairs and Finance **Section**

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

The sections Finance unit is made up of two deputy City Attorneys whose primary responsibility is to provide legal advice to the City and its related entities regarding disclosure obligations with respect to state and federal securities laws. The attorneys work closely with the departments of Debt Management, Financial Management, Public Utilities, and the Office of the City

Comptroller. The attorneys also provide advice to the Council Committee on Budget and Government Efficiency and the Budget Review Committee.

Highlights of 2014

Elections:

One of the section's primary functions is to provide legal advice to the City Clerk and the City Council on candidate-related issues and ballot measures. During 2014, the section provided legal advice related to the special election for the new Mayor, a City proposition to amend the Charter regarding elections and inaugurations, and referendary petitions regarding the Barrio Logan Community Plan update, Propositions B and C, on the June, 2014 ballot. The section advises the City Council regarding ballot measures it considers for placement on the ballot, prepares legal documents related to elections, advises the Clerk on election procedures, and prepares information published for voters in the sample ballot, such as titles and summaries, ballot questions, and impartial analyses of initiative measures and Charter amendments. The section also prepared Municipal Code amendments, updating the laws on recall and revising election law provisions.

Council Administration:

The section provided legal advice and support on the appointment process for a new District 2 Councilmember, who held

office after the new Mayor was sworn in and until the December inauguration of a new Councilmember.

Corporate Partnership:

During 2014, the section worked closely with the Corporate Partnership Program, providing legal advice and support on ongoing and new partnerships and partnership opportunities, including these programs: water and wastewater service line warranties, bikesharing, wireless communications, Lifeguard vehicles, and others. Most recently, we provided advice on legal issues related to a car sharing as a corporate partnership opportunity.

Special Events:

The section provided legal advice and support to the Mayor's staff during negotiations for the City's bid to host the 2021 United States Open Championship at the Torrey Pines Golf Course, resulting in a Council-approved agreement between the City and the USGA for that event. The section also provided legal support to staff and drafted the Council's resolution supporting the Port District's bid for the 2017 America's Cup, and the Council's resolution providing critical financial and political support to the San Diego Padres' successful bid to host the 2016 Major League Baseball All-Star Game and related events. The section continues to provide legal advice and support to the City's Special Events program, including addressing issues related to the Over the

Line Tournament. The Office worked with staff on issues related to the Public Records Act, ensuring that the public had appropriate access to information on proposed events, while limiting disclosure of information necessary to protect public safety. The court upheld the rational basis for our decision and did not require the City to turn over the emergency medical plans and security plans of various special events.

Ordinance Regulating the Use of Electronic Cigarettes:

The section worked closely with Council Districts 5 and 9 to enact regulations related to the growing use of electronic cigarettes (so-called "vaping"). Similar to the City's prohibitions on cigarette smoking, vaping is prohibited in City parks, beaches, boardwalk, seawall, City-owned fishing piers, public tot lots, and enclosed public places and places of employment. The ordinance allows for the creation of designated vaping areas and also exempts certain businesses such as vaping lounges and electronic cigarette shops from the prohibition on vaping, provided that such businesses obtain a police permit to operate as an electronic cigarette retailer and the area used for vaping is not accessible to minors.

Smart Parking Meters:

The section assisted the City Treasurer with cooperatively procuring a \$8.1 million contract with a local San Diego company, IPS, Inc., to supply up to 5,000 single-space

smart parking meters and related services to replace existing parking meters on a City-wide basis. The new smart parking meters have already begun to be installed in various locations in the City. They are anticipated to allow the City to immediately realize substantial cost savings and improvements in parking meter-related efficiencies as the City's existing parking meters were well beyond their expected life span and the cost to maintain them continually increased because more time was required to do so and spare parts were not as readily available.

The smart parking meters also allow the City to automate revenue reporting and to collect real-time data, which had to be done manually by City staff with the City's existing meters. The smart parking meters will also accept a variety of payment options including credit cards.

Performance Audits:

The section worked with the Office of the City Auditor on a number of important audits, including the audit of Balboa Park Celebration, Inc. (BPCI), the non-profit organization contracted by the City to carry out all aspects of the Balboa Park Centennial Celebration (Celebration) on behalf of the City. In order to address the public's concern with the failure of BPCI to ultimately put together the Celebration, the audit addressed various issues which among other things included whether BPCI misused public funds, whether BPCI complied with various contractual agreements, and whether agreed-upon services were provided. Other audits for which the section provided legal advice and support included audits of the

City's Graffiti Control Program, Waste Reduction and Recycling Programs, and Community Facilities Districts.

Arts and Culture:

As Counsel to the Commission for Arts and Culture, the section assisted the placement of the recently conserved Aztec Brewery Rathskeller Collection in the Logan Heights Branch Library after several years of unsuccessful efforts to place said artwork in the Mercado del Barrio Project. The section provided legal advice and contract support to City in the allocation of more than \$4 million dollars in funding from Transient Occupancy Taxes to over 50 nonprofit organizations in the City for arts and cultural projects and events.

Public Finance:

2014 was a challenging year for the issuance of bonds by the City and its affiliates. The City Council approved the issuance of deferred capital bonds in a principle amount not to exceed \$130 million in January 2014, however, this approval has been challenged in court. The City Attorney's office has been successful in defending the Council action and the bond issuance is expected to go forward in the early part of 2015. The section is also working on refunding the City's 2007 Ballpark Bonds, two issuances of Mello-Roos bonds in Community Facilities District No. 2 (Santaluz) and the City's sewer revenue bonds. Refundings are undertaken pursuant to the City's debt policy to reduce debt service payments

resulting in savings for taxpayers and ratepayers. The section also served as issuer's counsel on various multifamily housing revenue bonds issued by the San Diego Housing Authority with an aggregate total issue size of approximately \$83 million.

Economic Development Section

The six attorneys in the **Economic Development Section** provide legal advice to the City and the Successor Agency to the former Redevelopment Agency of the City of San Diego on a variety of legal issues related to local economic development programs and post-redevelopment matters. The lawyers prepare legal memoranda, reports, and resolutions, and draft, negotiate and review sophisticated contracts and documents.

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

The Economic Development attorneys also assist staff with the creation and funding of

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

Highlights 2014

Assessment Districts, Parking Districts, and Related Programs

Assisted with the ongoing operation of 58 MADs and 20 BIDs throughout the City, including the annual renewal process in which the City Council authorizes the continued levying of assessments within the districts for the purpose of providing services that offer special benefits to the assessed communities.

Drafted, reviewed, and approved agreements to provide services within the City's MADs and BIDs, and advised City staff regarding compliance with federal, state, and local laws in addition to the City's internal policies and procedures.

Advised City staff with respect to the successful formation of five new MADs in

the Kensington/Talmadge neighborhoods, which will provide funding for the installation and ongoing maintenance, operation, and servicing of ornamental lighting, decorative gates, landscaping, sidewalks, curbs, gutters, and other community-wide improvements.

Worked with City staff and consultants on a proposed long-term renewal of the Downtown Property and Business Improvement District, which is scheduled to expire in mid-2015 and provides a reliable funding source for the provision of special benefits to the downtown business community.

Assisted with legal issues related to the renewal and operation of the TMD, which levies assessments that finance marketing and promotional services for San Diego. In 2012, the City Council authorized the renewal of the TMD for 39.5 years until 2053. The TMD is expected to raise approximately \$30 million per year for tourism development, including coordinated joint marketing and promotion of San Diego, in order to retain and expand the tourism industry – one of the largest revenue generators for the San Diego economy and a key employment sector.

Drafted numerous documents and provided legal advice in obtaining approval of the FY 2015 annual plans and budgets for the City's six Community Parking Districts.

Assisted City staff in responding to legal issues addressed in the City Auditor's performance audit of the Community Parking District Program released in November 2014 and provided advice

regarding the permissible scope of expenditures using parking meter revenues.

Addressed legal issues related to a time extension on the Electric Vehicle Car Share Pilot Program – North America's first all electric municipal car share program. This time extension will enable the City to complete a competitive process to select a more permanent car share operator in 2015.

Drafted a contract with a qualified business to supply, install, operate, and maintain, at no cost to the City, electric vehicle charging stations at specified locations authorized by the City Council.

Incentive and Financial Subsidy Programs

Advised and assisted City staff with the drafting of contracts related to the City's business and industry incentive programs, including incentive agreements with craft breweries Ballast Point Brewing & Spirits and AleSmith Brewing Company, and biotechnology company, Illumina. The broad range of incentives offered in these programs includes permit assistance, tax incentives, fee reductions, and financing. The incentives are designed to retain and promote businesses with strong growth potential in core sectors of the local economy.

Provided legal advice related to contracting and administration of the City's other business incentive programs, such as the Small Business Enhancement Program, Storefront Improvement Program, and Small Business Loans, which similarly offer

benefits such as permit assistance, tax incentives, fee reductions, and financing.

Drafted, reviewed, and approved agreements to facilitate execution of the City's Economic Development and Tourism Support Program, which promotes the City as a visitor destination and advances the City's economy by increasing tourism and attracting industry.

Provided legal advice related to the development and drafting of the City's FY 2014-2016 Economic Development Strategy, and evaluated the legal implications of proposed actions such as continued use of existing economic development programs, program changes, policy updates, and municipal code amendments.

Provided legal advice and assisted staff in obtaining the City Council's approval of the City's FY 2015-2019 Consolidated Plan for CDBG and other federal funding sources, and drafted numerous agreements for projects and programs that achieve the goals of the Consolidated Plan.

Advised staff regarding the legal implications and requirements associated with the elimination of enterprise zones on a statewide basis as a result of Assembly Bill 93, which became effective on January 1, 2014. Advised and assist staff with wind-down activities such as drafting of contracts, continuation of the voucher process, and transition to the State's replacement business incentive programs.

Post-Redevelopment Activities

Assisted the City, as Successor Agency, in complying with State laws, including Assembly Bills x1 26 and 1484, related to the winding down of redevelopment operations and the fulfillment of existing contractual and financial obligations.

Advised the Successor Agency and the City with respect to the impact of new State laws, as well as proposed State legislation, that refined certain aspects of the redevelopment dissolution process and addressed post-redevelopment issues related to affordable housing and economic development, including enhanced infrastructure financing districts.

Assisted staff in obtaining authorization from the Oversight Board and the State to allow the Successor Agency's execution of new contracts and amendments to existing contracts as necessary to wind down the former Redevelopment Agency's operations in an orderly manner and to complete projects already in progress.

Provided legal advice and prepared and evaluated numerous documents with respect to the proposed Long-Range Property Management Plan, which describes the intended use or disposition of each real property asset currently owned by the Successor Agency, including the potential disposition of many properties to the City for governmental use and future redevelopment.

Negotiated transactional documents and provided legal advice regarding the fulfillment of obligations under the Ballpark Village Owner Participation Agreement, including the remediation of known

environmental contamination in the public rights-of-way surrounding Ballpark Village near Petco Park.

Provided legal advice and facilitated the completion of numerous documents related to the anticipated construction of the Bayside Fire Station project in the Little Italy neighborhood, which will include a three-story fire station, below-grade parking, and sustainability features, such as a green roof and a photovoltaic system.

Facilitated the completion of numerous documents and the resolution of complex issues related to the future development of an urban park that will feature community-serving uses and retail pavilions at a prominent downtown location on Broadway Avenue next to the Horton Plaza Retail Center.

Negotiated and drafted numerous documents, and provided legal advice, related to the closing of a loan of redevelopment funds that finances the rehabilitation of the historic Silverado Ballroom Building in City Heights. The completed project will revive the unique Art Deco/Moderne style at the intersection of Euclid and University Avenues and include a second floor ballroom available to the general public as a studio, meeting room, and hall space.

Provided legal advice and transactional support related to the continued redevelopment of the former Naval Training Center, now known as Liberty Station. Recent transactions have allowed for the rehabilitation of additional buildings in Liberty Station, and for the lease or sale of

those buildings to various tenants or purchasers. One recent purchaser, High Tech Elementary, is currently constructing a new elementary school facility due to open in 2015.

Drafted documents and provided legal advice related to the QuartYard Project involving a creative concept for short-term use of City-owned land for outdoor activity and retail indoor space using retrofitted shipping containers.

Provided legal advice and transactional support related to the Gaslamp Hotel project – a Montage hotel anticipated to include 317 units, ground floor retail space, meeting rooms, a ballroom, and underground parking. This project is currently under construction.

Provided legal advice related to the demolition of the former Valencia Park Library in Southeastern San Diego, which is expected to enable the City to fulfill long-standing plans for redevelopment of the site.

Affordable Housing

Provided legal advice in connection with updates to the Council-approved Affordable Housing Master Plan, which outlines priorities and strategies for effective use of the City's housing assets toward production of affordable housing.

Coordinated with City staff to ensure compliance with complex affordable housing requirements in Senate Bill 341 and other legislation affecting the City as

Housing Successor to the former Redevelopment Agency.

Provided legal advice and drafted documents related to the Atmosphere affordable housing project, which will feature a 12-story apartment building with approximately 202 affordable rental units (43 of which will be supportive housing for the homeless and special needs population), ground floor retail space, and underground parking.

Drafted an Owner Participation Agreement with a nonprofit affiliate of the San Diego Housing Commission, providing a City loan of \$3 million to help finance the substantial rehabilitation of the historic Single Room Occupancy hotel known as Hotel Churchill, which is in significant disrepair. All rehabilitated dwelling units will be supportive housing units available for the special-needs population who are homeless or at risk of homelessness.

Drafted documents and provided legal advice related to three grants of housing funds under the Naval Training Center Homeless Agreement, enabling the rehabilitation of properties to provide transitional housing to homeless persons.

Provided legal advice and transactional support in connection with a settlement transaction related to the property located downtown at 500 West Broadway, which resulted in repayment to the City of over \$2.1 million in outstanding debt to be used by the City for future affordable housing projects.

Drafted a Fourth Implementation Agreement to the Disposition and Development Agreement with Vietnam Veterans of San Diego (VVSD), which allowed the City to loan approximately \$1.7 million for construction of the Veterans Village Phase V Project, a 16,300 square foot building with 20 transitional beds and community facilities (female counseling center, dental clinic, storage, commercial laundry, and weight room). The Fourth Implementation Agreement facilitates the final build-out of the master plan for the VVSD campus.

Provided legal advice and transactional support related to the refinance of numerous affordable housing units, including multi-unit affordable housing projects funded in part by the former Redevelopment Agency (such as the historic Southern Hotel in downtown San Diego) and individual homes purchased with the aid of a homebuyer assistance program facilitated by local agencies. In some instances, these transactions have involved a substantial time extension on long-term affordability covenants for the City's benefit or the borrower's early repayment of loan obligations, resulting in the allocation of substantial funds to the City as Housing Successor that will be used to finance future affordable housing projects.

Real Property and Land Use **Section**

The ten attorneys in the **Real Property and Land Use Section** provide legal advice to the City on issues involving the management and leasing of the City's extensive real estate portfolio, and public and private development projects. Primary areas of responsibility include the Airports, Development Services, Facilities Financing, Housing, Neighborhood Code Compliance, Park and Recreation, Planning, Real Estate Assets, and various Stadium facilities, including Qualcomm, PETCO Park, and the Valley View Casino Center (Sports Arena). The lawyers frequently draft memoranda of law, opinions, reports, resolutions, and ordinances for the City departments, as well as draft and review property-related contracts, documents, and correspondence. Additionally, these lawyers staff and provide advice to the Planning Commission, Historical Resources Board, Hearing Officers, Airport Advisory Committee, Smart Growth and Land Use Committee, Park and Recreation Board, and the Housing Authority of the City of San Diego. They also provide the City departments with advice on conflict of interest, Ralph M. Brown Act (open meeting law), and Public Records Act issues.

Real Property

The Real Property attorneys assist staff in the City's Real Estate Assets Department in managing the City's extensive portfolio of owned and leased property. The attorneys negotiate, draft, and review numerous real

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

Land Use

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

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

Highlights for 2014

Real Property

Assisted with the purchase of additional property for the Multiple Species Conservation Program.

Assisted with the transfer of property rights to other federal and state agencies to support the San Ysidro Land Port of Entry Pedestrian Border Crossing.

Assisted with project documents to facilitate renovations and activities in Balboa Park in anticipation of the 2015 Centennial Celebration.

Advised on complex issues arising from nationwide changes in telecommunications law.

Assisted with negotiating and drafting the amended and restated lease for Belmont Park.

Assisted with numerous agreements with government entities, non-profit organizations, and for-profit organizations to perform brush management services on the more than 900 acres of City Open Space property.

Advised staff on numerous topics of public interest, including the Naval Training Center Aquatic Center, the senior project at San Diego Square, the Fairbanks Ranch Country Club, and Qualcomm security and janitorial contracts.

Land Use

Drafted and reviewed legal documents associated with various public and private development proposals, including Carroll Canyon Commercial Center, One Paseo in Carmel Valley, Saint John Garabed, Santa Luz Assisted Living Facility in the Black Mountain Ranch Community Planning Area, Marian Catholic Residential subdivision in the Otay Mesa/Nestor Community Planning Area, and the Inn at Sunset Cliffs.

Provided legal review and guidance related to numerous Community Plan updates, including Barrio Logan and Otay Mesa.

Assisted staff in updating Public Facilities Financing Plans for various communities throughout the City, which identify potential funding sources for critical public infrastructure including the Rancho Penasquitos, College, and Otay Mesa Communities.

Processed numerous amendments to the San Diego Municipal Code, addressing issues such as medical marijuana, food truck regulations, La Jolla Children's Pool, CEQA appeal provisions, various updates to the Land Development Code, and the Housing Impact Fee.

Provided legal review and guidance related to the City's proposed Climate Action Plan.

Advised staff on numerous topics of public interest, including the Children's Pool, Medical Marijuana, Creation of Parklets, San Diego Rescue Mission, the Natural Resources Management Plan for the Black Mountain Open Space, enhancements to the City's graffiti tracking and removal program, and actions related to the Emergency Homeless Shelters.

Public Safety Section

Public Safety Section

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

Police Department

Advising on discipline, labor, employment, equal opportunity, and disability issues.

Drafting ordinances, resolutions, memoranda of understanding and contracts.

Drafting and presenting reports to the Mayor and Council, drafting legal opinions and memoranda of law.

Interpreting statutes, including the Public Safety Officers Procedural Bill of Rights Act, and other legal documents.

Responding to subpoenas and requests for public records.

Monitoring and advising on new case law and new legislation.

Litigating administrative matters involving police permits, discipline, alcohol license-related matters, and appeals from those hearings.

Representing the Police Department in court on *Pitchess* motions seeking access to confidential police personnel records, on petitions seeking retention of seized firearms, on motions seeking the return of seized property, and handling writs and appeals related to those motions.

Fire-Rescue Department and Office of Homeland Security

Advising on discipline, labor, employment, equal opportunity, and disability issues.

Drafting ordinances, resolutions, memoranda of understanding and contracts.

Drafting and presenting reports to the Mayor and Council, drafting legal opinions and memoranda of law.

Interpreting the Firefighters Procedural Bill of Rights Act, and statutes relating to ocean safety and maritime law.

Responding to subpoenas and requests for public records.

Monitoring and advising on new case law and new legislation.

Advising the Office of Homeland Security, including participating in regional efforts to maximize emergency preparedness while efficiently using and sharing resources.

Highlights 2014

Attorneys representing the Police Department appeared in court on approximately 77 *Pitches* motions. The attorneys also handled four writs; filed 25 firearms petitions; reviewed approximately 477 subpoenas; conducted four Civil Service hearings and two Administrative hearings; and updated approximately 29 policies and procedures.

Attorneys provided legal updates and training bulletins on a variety of issues including the need to obtain a search warrant to search the contents of a cell phone incident to arrest, an issue decided by the U.S. Supreme Court; guidelines for enforcing the City's new Oversized Vehicle Ordinance and Food Truck Ordinance; and changes in California law brought about by Prop 47, which reduced the classification of

most non-serious, non violent property and drug crimes from felonies to misdemeanors.

Attorneys assisted the Police Department to secure grant funds, including \$340,985 from the Department of Justice for the FY 2014 DNA Backlog; \$32,307 from the Coverdell Forensic Science Improvement Project to assist the Crime Lab reduce case backlog and improve turnaround of forensic cases; \$100,000 from the California Governor's Office of Emergency Services for the Internet Crimes Against Children (ICAC) task force; \$1.1 million dollars from the California Board of State and Community Corrections for AB-109 Front Line Intervention Services; and \$280,000 from the San Diego Police Foundation to purchase laptop computers for police vehicles.

Attorneys reviewed and finalized MOUs, MOAs, and contracts with many different organizations including Volunteers of America for a sobering center; Rady Children's Hospital for forensic exams and interviews of sexual assault victims; SANDAG for graffiti tracker; FOCUS Psychological Services for counseling services to SDPD employees; POST for reimbursement of emergency vehicle training classes; a service-level agreement with the City's Public Utilities Department for police helicopter services during significant rainfall events; and agreements with partner organizations for providing homeless outreach and youth diversion services.

Significant projects undertaken by the Public Safety Unit include:

Deputy City Attorney Paige Folkman worked with the Vice Administration/Permits and Licensing Unit of the Police Department to amend the Municipal Code for massage therapists, secondhand dealers, and alarms, to stay current with state laws. Ms. Folkman also assisted the Department's Crime Lab to respond to an audit by the California State Auditor concerning the processing and analysis of sexual assault evidence kits by local law enforcement agencies and their respective crime labs.

Ms. Folkman also worked on two contracts for the Police Department's Communications Division for the Computer Aided Dispatch (CAD) project. The new CAD system significantly enhances the City's ability to prevent, respond to, manage, and analyze situations threatening the safety and property of citizens, and provide other critical emergency services. An appropriately integrated CAD will lay the foundation for intelligence led policing, enhanced criminal justice, informed fire suppression and emergency medical services, and overall strategic public safety resource deployment.

In parallel with the CAD project, Deputy City Attorney Michelle Garland worked with the Police Department's Communications Division to secure funding and enter into contracts for a 911 Call Manager and a Radio Logger, for a combined contract value of about \$3 million. This project involved obtaining approval from Sacramento to work with a new 911 Call Manager vendor. Contracting with a new vendor will align SDPD with the

Fire Rescue call managing system and allow for greater coordination and back-up operations between the two departments. The project will also create an emergency back-up dispatch site. The second aspect of the project was a new and improved radio logger, which records phone and radio communications. The new logger will replace outdated infrastructure and allow for consolidated recording services between the Police and Fire Rescue Departments.

Ms. Garland also worked closely with the Police Department to address issues of importance to the community, like medical marijuana and homelessness.

Working with staff from the offices of Council members Emerald and Kersey, Deputy City Attorney Linda Peter drafted an ordinance to amend the Municipal Code to regulate the retail sale of electronic cigarettes. The sale of electronic cigarettes is now restricted in the same manner that sales of tobacco products are restricted. And sellers of electronic cigarettes are now required to obtain a police permit.

Ms. Peter also worked with the Police Department to successfully roll out the use of body worn cameras (BWC). This included reviewing contracts and license agreements with Taser International and Evidence.com, working through a pilot project, and developing policies and procedures for the use of the cameras and for retention of the video. The use of body worn cameras will improve communication, streamline case management with file sharing, and enhance criminal investigations resulting in favorable prosecution outcomes. It is believed there will be a marked

improvement in officer safety, while protecting officers from false complaints and ensuring accountability of police officers and citizens alike.

Deputy City Attorney Noah Brazier assisted the Office of Homeland Security to secure federal and state grants that provided millions of dollars to City and regional homeland security projects. In 2014, due to the City's competency in managing grant funds, the State awarded the City additional grant funds from previous years that would have otherwise gone unspent. Mr. Brazier provided legal review of the documents and drafted the necessary Resolution to accept these additional funds within a short timeframe.

When the Fire-Rescue Department responded to the May 2014 San Diego wildfires, Mr. Brazier prepared an emergency declaration for the Mayor within minutes of the activation of the City's Emergency Operations Center.

Mr. Brazier updated several mutual aid agreements, including a new agreement allowing the City to recover costs when the City's Fire-Rescue helicopters are requested by other jurisdictions.

Mr. Brazier reviewed the competitive process and final agreement for the City's Project Heartbeat contract with Cardiac Science, Inc., which provides automated external defibrillators (AEDs) throughout the City.

Working with the Lifeguards Division, Mr. Brazier drafted new contracts with City

beach Surf Camp concession holders; and guided the Lifeguard Services through the purchase of a new boat that will be used to fight maritime fires and conduct rescue operations. Last but not least, Mr. Brazier advised Lifeguard Services of the City's legal obligations regarding a whale carcass that washed up on a City beach.

Public Services Section

The Public Services Section consists of eight attorneys offering legal advice on public services such as water, sewer, trash collection and recycling, and other support services such as energy efficiency, regulatory compliance, and the purchasing of goods and services. This section advises the departments of Transportation and Storm Water, Environmental Services, Information Technology, Public Utilities, Purchasing and Contracting, Equal Opportunity Contracting, Communications, and the Office of ADA Compliance and Accessibility. This section also advises the Committee on the Environment.

Highlights 2014

Obtained a favorable settlement with BAE, NASSCO, and thirteen insurance carriers in Regional Water Quality Control Board Cleanup and Abatement Order No. R9-2012-0024 and *City of San Diego v. National Steel and Shipbuilding Co, et al.*, which involves pollution at shipyard sites now occupied by BAE and NASSCO and dates back nearly 100 years. This section's work began nearly a decade ago and

involved mediation, litigation, and countless presentations to Council in closed session.

Served on the Open Data Advisory Group and assisted in drafting a policy that makes City data available online using open standards.

Provided time-sensitive legal research regarding access to televised emergency information during the May 2014 fires.

Worked with staff to respond to the Department of Interior's investigation of an Americans with Disabilities Act complaint regarding the accessibility of Balboa Park's parking and trams. The DOI determined in less than four months that Balboa Park's parking and trams are in compliance and no further action is required.

With the Office of ADA Accessibility and Compliance, reinstated quarterly Access Requirements Coordination meetings with City Departments to facilitate inter-department communication about accessibility concerns and to proactively address potential accessibility issues in the City.

Amended San Diego Municipal Code Chapter 2, Article 2, Division 42, to clarify and strengthen enforcement of the Living Wage Ordinance.

Amended San Diego Municipal Code Chapter 2, Article 2, Divisions 5, 30, and 32, to authorize the delegation of authority to department heads to approve small value purchase orders for goods and services, to increase the Purchasing Agent's spending authority to \$3,000,000, and to clarify the prerequisites for using a cooperative procurement contract awarded by another agency.

Created twenty-seven standardized templates for use by the Department of Purchasing and Contracting when procuring goods, services, and contracts. City staff previously created a contract for each solicitation or contract award since there were no approved contract templates. This effort will substantially reduce time spent on solicitations and contract awards and reduce the City's exposure to liability.

Settled a living wage ordinance complaint against Jani-King resulting in recovery of more than \$20,000 in back pay by affected employees.

Successfully negotiated a settlement with the Navy concerning the withdrawal of acreage from the City's Miramar Landfill Ground Lease for use by the Kinder Morgan Tank Farm. The City obtained use of an additional parcel of land in the Miramar Landfill Ground Lease area that the

Environmental Services Department can use for future projects.

Assisted in the successful negotiation of a settlement with the San Diego Regional Water Quality Control Board relating to a Notice of Violation for deficient storm water best management practices at public and private development projects.

Reviewed and revised portions of Chapter 7 of the 2015 edition of the California Municipal Law Handbook relating to public contracting.

Coordinated a comprehensive eighteen-session new deputy city attorney training on municipal law and City structure.

Employment Services Section

The Employment Services Unit, under the supervision of lead Deputy City Attorney Joan Dawson, provides legal services in a variety of areas, including employment, labor relations, and retirement. Deputy City Attorneys Bill Gersten, Mike Giorgino, Gregory Halsey, and Roxanne Story Parks provide legal support to the City's administrators, who manage the City's large and diverse work force. Client Departments and Boards and Commissions include the Human Resources Department, Personnel Department, Risk Management Department, the SPSP/401(k) Board, Citizens' Review Board on Police Practices, Human Relations

Commission, and the Managed Competition Independent Review Board. Unit members are members of the Americans with Disabilities Act Committee, Labor and Advisory Committee, and Threat Assessment Team. Unit members also handle special projects, including advising on complex citywide Public Records Act requests.

Highlights 2014

In 2014, the Unit provided legal support to the City Council, which proposed and adopted a local minimum wage and earned sick leave ordinance. The ordinance will be presented to City voters in June 2016, following a successful referendum of the Council action by opponents of the measure. Unit attorneys advised on various aspects of the ordinance, including legality of the ordinance, compliance with state and federal laws, and enforcement of the ordinance. The Unit wrote a legal opinion on the application of California Labor Code section 351, which prohibits employers from using a tip credit to supplement state minimum wage, to a local minimum wage ordinance. The Unit also wrote a memorandum of law on whether the City must pay its employees the state's minimum wage, which was increased by California Assembly Bill 10. Unit attorneys are presently advising the City on issues related to the state's new paid sick leave law for employees in California.

Attorneys continue to advise on implementation of the Affordable Care Act, and to update and revise all of the City's defined contribution retirement plans and employee benefit plans. The Unit wrote a memorandum on the requirement for actuarial valuation of retiree health benefits under the City's fifteen-year memorandum of understanding with each of its recognized employee organizations. Unit attorneys advise on employment and benefits-related tax issues, and provide legal support to the City's labor negotiations team in ongoing labor relations matters under the Meyers-Milius-Brown Act.

Unit attorneys drafted legal documents necessary to implement the Mayor's San Diego Works program and to grant California peace officer status to permanent City lifeguards. Attorneys also worked with City management to update numerous administrative regulations, including regulations related to electronic cigarettes in the workplace, industrial disability and leave, and dismissal of employees. The unit wrote reports to the Mayor and Council on annual leave caps for City firefighters and the proposed employment of Civic San Diego to provide certain services related to former Redevelopment Agency properties. The Unit continues to advise on the City's managed competition program.

Unit employees advised the City's Citizens' Review Board on Police Practices, the City's board that oversees police officer conduct. The Unit continued to protect the

workplace from violence perpetrated against City employees, by obtaining temporary restraining orders and preliminary injunctions when necessary. Unit attorneys are presently working on two appeals following trial court rulings on restraining orders. Unit attorneys responded to work-related discrimination complaints and charges filed by employees with various government agencies, involving employment conditions. The Unit assisted in the defense of lawsuits, alleging employment discrimination and harassment, and violations of the California Public Records Act involving employee email.

The Unit continues to advise the City's human resources staff in managing the City's large work force, including advising on issues related to due process, the accommodation process, and disciplinary actions.

Criminal Division

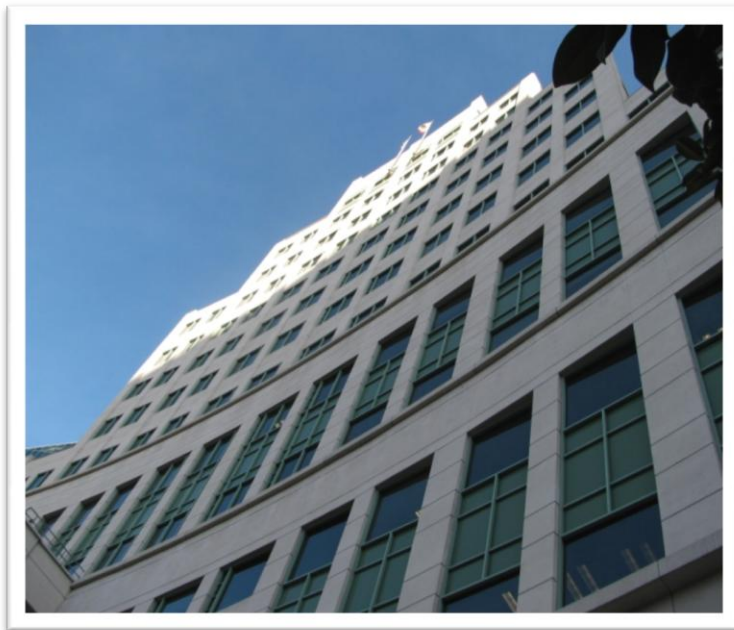
The Criminal Division prosecutes criminal misdemeanors and infractions committed within the City limits. The Criminal Division is divided into five units: Case Issuance, General Trial, Domestic Violence, Neighborhood Prosecution and Appellate and is under the leadership of Assistant City Attorney Marlea Dell Anno. Ms. Dell'Anno is



a career prosecutor who joined the City Attorney's Office in 2009, after gaining fifteen years of trial experience including the trial of rape, homicide, domestic violence, sexual assault and sexually violent predator cases.

General Trial Unit

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



In 2014, the Trial Unit was led by Chief Deputy City Attorney Eric Pooch. The Trial Unit consisted of 15 to 19 full-time trial attorneys, 1 paralegal, 2 legal secretaries, 2 investigators, 3 trial support assistants, and 17 clerical staff and supervisors in the Discovery and Records and Information Units.

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

Effective prosecution of these misdemeanor cases is vital to the quality of life in San

Diego. Cases that made up the work of the Trial Unit in 2014 included:

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

Highlights 2014

Jury Trial Statistics

Most of the cases handled by the Trial Unit result in a criminal conviction based upon a guilty plea before trial. Trial deputies appear at the plea and sentencing hearings to make sure the correct plea is entered and to argue for appropriate sentencing terms based upon

the defendant's conduct. The Trial Unit has continued the effort to argue for additional sentencing terms in cases that warrant punishment beyond the standard sentencing guidelines.

For cases that do not reach a disposition, each case set for jury trial was reviewed by a supervising prosecutor and prepared for trial. The process of trial preparation includes interviewing witnesses, sending subpoenas to witnesses, preparing exhibits, obtaining police reports, ordering documentation from several crime laboratories, and securing physical evidence such as photographs, 911 recordings, weapons, and drug paraphernalia. Once this process is completed, many cases still resolve with a guilty plea to all charges on the day of trial.

In 2014, 6,076 defendants pled not guilty at arraignment and their cases required additional work by the Trial Unit. In addition, 821 cases did not reach a disposition until the day of trial, which required a significant effort by the attorneys and staff to prepare each case to take before a jury. In 2014, there were 115 cases that proceeded to jury trial. For cases where a verdict was rendered, 91 cases (90%) resulted in a guilty verdict on at least one count of the complaint and 10 cases (10%) resulted in an acquittal. The remaining 14 cases resulted in a hung jury and mistrial. Those cases were subsequently resolved by a plea bargain or a dismissal. These outstanding trial statistics are a testament to the training and skills of the deputies of the Trial Unit. In addition, the Trial Unit prosecuted more jury trials than in 2013

with a significantly higher trial conviction rate and maintained an over-all conviction rate of 88.6%.



Driving Under the Influence of Alcohol and/or Drugs:

In October, 2014, the Trial Unit was the proud recipient of an Office of Traffic Safety grant in the amount of \$263,000 to establish an Alcohol and Drug Impaired Driver Vertical Prosecution Program. The grant funds a prosecutor and an investigator who will focus on preventing impaired driving and reducing alcohol and drug-involved traffic fatalities. By vertically prosecuting these cases and sharing information with peers and law enforcement personnel, the Trial Unit hopes to educate the public on the dangers of drug impaired driving and establish protocols to hold these dangerous drivers accountable for their negative impact on public safety.

In order to reduce recidivism, the Trial Unit recently implemented a policy of requiring Ignition Interlock Devices (IIDs) for all Driving under the Influence of Alcohol (DUI) defendants with high blood alcohol concentrations or other aggravating

circumstances. Due to this new sentencing request, 1,170 DUI defendants were ordered to install IIDs in 2014, compared with just 58 in all of 2012. Electronic monitoring is a powerful deterrent that is expected to further reduce incidents of this preventable crime in 2015.

In addition, the Trial Unit has worked closely with the Superior Court to implement the policy of short-setting DUI arraignments on cases where the defendant presents an increased risk to public safety.

The deputies in the Trial Unit continue to receive highly-specialized training on DUI cases, learning how to properly review the police reports, order necessary documentation from various crime laboratories, and interview police officers, civilian witnesses, and criminalists. Many of these cases involve collisions with other vehicles or property, and some include injuries sustained by drivers, passengers, and pedestrians.



Our court department and trial deputies review thousands of these cases a year. In 2014, the Trial Unit received dispositions on 4,792 DUI cases, a slight decrease from the

4,884 cases handled in 2013. Due to the training and expertise of the prosecutors in the Trial Unit, we maintained the remarkable 99.36% conviction rate on these serious cases.

Notable Driving Under the Influence cases that resolved in 2014 include:

People v. Brown (M186684) – Defendant collided with two parked vehicles and attempted to escape. Witnesses called police and reported Defendant’s unsafe driving. SDPD Officers were able to find Defendant and evaluate him for DUI. Defendant’s blood alcohol concentration was a .26%. He was sentenced to 5 years of probation including a multiple conviction program and 240 days of custody with electronic monitoring.



his Porsche could not have reached 100 MPH in the short distance observed, and that he suffered from a digestive disease that would cause the .14% BAC breath test to read incorrectly. Despite flying in an expert from Canada, Defendant was convicted on all counts, sentenced to 5 years of probation with a First Conviction Program, \$5,000 in fines and 100 hours of volunteer work service.

People v. Fain (M111856) – Police received a call of DUI driver on Interstate 5 at Sea World Drive. Officers arrived to find Defendant driving erratically and making unsafe lane changes. Defendant’s breath test showed a BAC of .17%. Because of his history of license violations, prior DUI offenses, and the grave risk he posed to public safety, he was sentenced to 365 days of custody and was not granted probation.

People v. Zuban (M179555) – An SDPD Officer observed defendant travelling approximately 100 MPH with his headlights off during darkness. At trial, he claimed that

Crimes against Peace Officers

Crimes with Peace Officers as victims may take a variety of forms and the level of conduct can run the spectrum from lying and obstructing an investigation to assaultive and life-threatening behavior. Often, officers have to endure violence, racial slurs and other belligerent behavior while continuing to conduct a thorough investigation of the underlying crimes. The Trial Unit received convictions on over 500 cases involving Peace Officers as victims during 2014. Of the 8 Resisting Arrest or Battery on a Peace Officer cases that went to trial, we obtained Guilty verdicts in 7 of them, with the final

case resulting in a hung jury, leading to a guilty plea. Despite the difficulty of these cases, the Trial Unit was successful in holding perpetrators of these crimes accountable while protecting the safety of officers and the public

Human Trafficking

Although Trial Unit deputies rarely prosecute perpetrators of human trafficking (a felony crime), they frequently need to assess whether defendants in prostitution cases may be victims of human trafficking. As active participants of the San Diego County Regional Human Trafficking and Commercial Exploitation of Children Advisory Council, Trial Unit deputies have a heightened awareness of the many challenges facing trafficking victims. Our collaboration with law enforcement, victim services, child welfare services, and professionals from the education and research sector continues to provide opportunities to identify best anti-human trafficking practices.

The Trial Unit maintains policies to increase awareness about the dangers and risks of prostitution for first-time customers of prostitution through collaboration with the Prostitution Impact Panel (PIP) and education-based plea agreements. Survivors of the Street (SOS) offers also provide first-time prostitutes with the opportunity to earn reduced charges after participation in the educational program. However, the Trial Unit continues to take a firm stance on repeat perpetrators of these crimes that deeply impact our communities.

Electronic Harassment

With the increased access to digital communications, cases of harassment by email, cellular phone, and text messages have become more prevalent. These repeated and threatening contacts can terrorize victims and leave them feeling unsafe in their own homes. Although these cases may be complex and require preparation of voluminous amounts of evidence, deputies in the Trial Unit have been effective in holding offenders accountable and protecting innocent victims.

People v. Conforth (M182260) – Defendant began contacting a writer at the Union-Tribune approximately 10 years ago. His calls became more frequent, angry, and vulgar. Defendant increased his harassment even though the victim repeatedly requested that he stop calling her. Despite a restraining order and the initiation of criminal charges, Defendant continued his threatening behavior. The jury found Defendant guilty of five counts of Disobeying a Court Order. Defendant was sentenced to 3 years of supervised probation, custody, and was ordered to receive a mental health evaluation.

People v. Carroll (M186593) – Defendant sent numerous threatening and vulgar emails to his neighbor and her son, despite her requests to stop. Despite his testimony denying much of the conduct, Defendant was convicted of four counts of Harassment

by Electronic Contact. After trial, the court immediately remanded Defendant into custody.

Victim Restitution

A critical component of the work of the Trial Unit involves seeking restitution for victims of crime. Trial deputies handle restitution hearings as part of their duties, which involves the need to contact victims and subpoena civilian witnesses and police officers to prove the amount of financial loss, and then obtain a court order to enforce judgments. A criminal restitution order can require significant effort and skill to obtain, but it has the unique feature that it cannot be discharged in bankruptcy court, thereby providing the victim some measure of restorative justice. In 2014, Trial Unit deputies were able to successfully advocate for court orders in the amount of \$795,439.40 on behalf of crime victims. Our attorneys and staff continue their pursuit to ‘make victims of crime whole’ through reimbursement by restitution orders.

In addition to restitution orders, we were also able to help support victims by employing the assistance of the Victim Compensation and Government Claims Board and victim advocates to guide the victims through the criminal justice system. Since the implementation of Marsy’s Law, our trial deputies have worked diligently to be cognizant of victims’ rights and to vigorously seek restitution as required by law.

Electronic Data Management

The Trial Unit has proactively implemented new technologies to improve attorney access to evidence and police reports. Attorneys continue to work closely with the San Diego Police Department to streamline procedures for accessing body-worn camera videos and making them available through electronic discovery. Processing this massive amount of electronic data has proven to be a considerable task. With the help of Trial Unit staff and the SDPD, we are already reaping the benefits of this powerful new evidence.

In addition, our electronic discovery system has freed attorneys and support staff from many of the burdens of a physical case file, allowing users in the Trial Unit to reference detailed case information from their computers. Through these procedures, the Trial Unit continues to make important steps in updating the technology used in the day-to-day operations of the office.

The Criminal Case Management system (CMS) continues to be a resource for gathering a variety of statistics, capturing the different trends of cases, and collaborating with the San Diego District Attorney’s Office. We are better able to ascertain whether our policies and procedures, including offers and dispositions, are sound. The use of different modules in CMS allows our office to observe the practical effects of our policies

and procedures and allows for efficient changes as needed.

Summary 2014

The attorneys and staff members in the Trial Unit demonstrated their commitment as advocates for the People by vigorously prosecuting criminal cases in San Diego and achieving outstanding results in 2014. The Trial Unit will continue to make informed and proper decisions at each stage of the criminal process in order to achieve our primary goals of enhancing public safety and maintaining the citizens' quality of life through the thoughtful prosecution of misdemeanants.

Appellate Unit

The Appellate Unit provides legal support for the Criminal Division. The Appellate Unit consists of two deputy city attorneys, supervised by Senior Chief Deputy City Attorney Mark Skeels, and is supported by a legal secretary and appellate clerk. The Appellate Unit handles pre-and post-trial motions, writs, and appeals for both the General Trial Unit and the Domestic Violence Unit. Most appeals are handled in the San Diego Superior Court Appellate Division, but the Appellate Unit also handles cases in the Fourth District Court of Appeal and the California Supreme Court.

The Appellate Unit initially reviews and assigns pre-trial motions to the deputies in the General Trial Unit. Typical pre-trial motions include motions to suppress

evidence as per Penal Code section 1538.5, motions to compel discovery, motions to strike prior qualifying convictions, and motions to dismiss on speedy trial grounds. These motions are drafted by deputies in the General Trial Unit, and then proofread and filed by staff in the Appellate Unit. The Appellate Unit also reviews and assigns defense motions to terminate and/or modify probation to deputies in the General Trial Unit.

The Appellate Unit handles post-trial motions such as motions to withdraw guilty pleas, motions to vacate judgment, and motions to seal and destroy arrest records. In addition, appellate deputies respond to post-conviction appeals filed by defendants which allege either prosecutorial or judicial error. We also appeal judicial decisions to grant pre-trial motions when there is a factual and legal basis to do so. Deputies in the Appellate Unit also respond to a variety of writs, such as writs of habeas corpus, writs of mandate, and writs of coram nobis. When appropriate, our deputies also file writs of mandate to correct judicial error. Lastly, appellate deputies respond to appeals filed by petitioners convicted of traffic infractions who are alleging that there was either a legal or procedural error made during their bench trial in traffic court.

The Appellate Unit serves as a legal resource for deputies who have questions on criminal law and procedure. Trial deputies, case issuance deputies, and calendar deputies regularly seek advice on how to evaluate legal issues impacted by the Fourth, Fifth, and Sixth Amendments to the United States Constitution.

Highlights 2014

In 2014, the Appellate Unit faced challenges in the prosecution of new and pending DUI cases following the 2013 United States Supreme Court decision in *Missouri v. McNeely*, 133 S. Ct. 1552 (2013). In *McNeely*, the United States Supreme Court reversed forty-seven years of jurisprudence that allowed police officers to take a person's blood following a driving under the influence arrest without either consent or a search warrant. This change in the law suddenly required police officers to seek warrants and placed pending cases with forced blood draws in jeopardy of losing vital evidence of the defendant's impairment.

The Appellate Unit successfully defended cases that were pending at the time the *McNeely* decision was published. The defendants were claiming that their blood results should be suppressed despite the officers following the controlling United States Supreme Court case of *Schmerber v. California*, 384 U.S. 757 (1966) as interpreted by California Supreme Court and Court of Appeals. These prior cases unanimously held that warrantless blood draws were permitted when a person was arrested for driving under the influence. This issue was raised in six appeals: *People v. Danner* (M168004), *People v. Hurst* (M157856), *People v. Pinner* (M158159), *People v. Roll* (M156328), *People v. Sway* (M161545), and *People v. Phelan* (M090869). Deputy City Attorney Shelley Webb successfully argued these issues to the San Diego Superior Court Appellate

Division and no evidence was suppressed as a result.

The Appellate Unit also resolved a large number of appeals involving people convicted of running red lights caught by the use of a "red light camera." The People had a large number of appeals that were stayed pending the decision by the California Supreme Court in *People v. Goldsmith*, 59 Cal. 4th 258 (2014). In *Goldsmith*, the red light offender challenged the admissibility of the packet containing the pictures and videos of the violation. The California Supreme Court upheld the lower court's usage of this evidence and found it did not violate the Confrontation Clause of the Constitution. Once this decision was handed down, approximately 25-30 pending appeals were successfully handled by deputies in the Appellate Unit and no traffic convictions were reversed.

Lastly, the Appellate Unit also successfully defended the ability of prosecutors from the Criminal Division of the San Diego City Attorney's Office to prosecute offenses committed within the City of Poway. In the case of *People v. Jordan Souza* (M181879), the defendant claimed that the City Attorney did not have the jurisdictional power to prosecute a DUI case where the offense was committed within the city limits of Poway. Prosecutors argued that deputy city attorneys have lawfully acted as de facto prosecutors on Poway cases since 1975. This historical realignment of prosecutorial functions which was memorialized in 1975 between the San Diego County District Attorney's Office and the San Diego City Attorney's Office has been reaffirmed at

various times over the last four decades, and prosecutors were most recently cross-deputized by District Attorney Bonnie Dumanis at a swearing-in ceremony in October 2014. As such, the court denied the defense motion to dismiss and found that prosecutors from the City Attorney's Office were lawfully deputized and authorized to execute their prosecutorial function on cases where the crime occurred in Poway.

Neighborhood Prosecution Unit

The Neighborhood Prosecution Unit (NPU) is composed of 4 attorneys, 1 investigator and 2 staff members. NPU partners with the San Diego Police Department (SDPD) and community organizations to creatively prosecute crimes that impact quality of life. These include prostitution, graffiti, vandalism, gang offenses, disturbing the peace, alcohol and drug offenses, and transient offenses. NPU's goals are to improve quality of life in targeted neighborhoods and hold offenders accountable to both the criminal justice system and the community. Neighborhood Prosecutors are assigned to six of the nine SDPD command divisions: Central, Eastern, Mid-City, Northern, Southeastern, and Western².

In 2014, Neighborhood Prosecutors screened 5,985 cases submitted by SDPD at their assigned police divisions. Their focus

² Neighborhood Prosecutors serve as liaisons to SDPD's Northeastern and Northwestern Divisions as necessary. Southern Division misdemeanors are primarily handled by the District Attorney's Office.

is to review cases involving chronic offenders in their assigned communities and/or cases that need special attention or alternative sentencing options. In addition, Neighborhood Prosecutors serve as liaisons to the police divisions and to their assigned communities. They attend community meetings and events to relay information on quality-of-life crime problems to SDPD and the City Attorney's Office. NPU Investigator Julio DeGuzman attended 265 community meetings in 2014.

NPU participates in problem solving courts which use restorative justice principles to address quality-of-life crimes. These courts include: Beach Area Community Court, Behavioral Health Court, Homeless Court, Veterans Treatment Court and San Diego Community Court. NPU also oversees the Prostitution Impact Panel (PIP), an alternative sentencing program, and supports the Serial Inebriate Program (SIP) and SDPD's Homeless Outreach Team (HOT).

Accomplishments

Cases: In addition to cases handled in the problem solving courts outlined below, NPU screened 5,985 cases in 2014, which is an increase from the 4,946 cases reviewed in 2013.

Problem Solving Courts

Beach Area Community Court: A pre-filing court launched in 2006, which requires low level offenders to participate in a community impact panel and to restore the harmed community through community service. BACC is a collaborative effort

between the City Attorney's Office, SDPD, Park & Recreation Department and Discover Pacific Beach. The program serves the Pacific Beach, Mission Beach, and Mission Bay Park communities.

- BACC hosted 11 court sessions in 2014; BACC addressed 400 participants and facilitated 1,600 hours of community service in the beach area.
- Instant Justice: Additionally, BACC hosted one special Instant Justice session in July, 2014, allowing people who received eligible citations to immediately complete community service and resolve their citation. The community, local businesses and SDPD partnered to host the event. The 57 participants completed 342 hours of community service.

Behavioral Health Court (BHC): A post-filing court launched in 2010 dedicated to address problems presented by mentally ill offenders. It combines the resources and expertise of the mental health and criminal justice communities to hold accountable, stabilize and reduce recidivism in the target population. In March, a defendant with a City Attorney case graduated from BHC after two years of treatment through the program.

In 2014, 76 defendants were referred to BHC and Exodus screened 64 clients.

Throughout the 11 Court sessions, 57 of the 64 screened candidates were accepted into program.

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

In 2014, HC addressed approximately 500 defendants with approximately 1,168 City Attorney cases.

200 homeless veterans pre-registered to participate in the Stand Down court proceedings in July, 2014. Of those 200 veterans, 93 actually participated in the court proceedings, resulting in a total of 335 cases adjudicated in one weekend.



Veterans Treatment Court (VTC): VTC is a collaborative court formed in 2011 for former and current US military members convicted of criminal offenses that are eligible for probation under Penal Code section 1170.9. Program participants must show they suffer from a medical conditions related to military service. Participants

undergo extensive personalized treatment programs which teach and encourage substance-free and crime-free life coping skills.

The VTC team is comprised of mental health providers, substance abuse counselors, program mentors and criminal justice professionals. The VTC team closely monitors every participant's progress at weekly organizational meetings and review hearings.

At the end of 2014, there were 27 active participants in the program including three active City Attorney cases.

San Diego Community Court (SDCC):

San Diego Community Court is a post-plea diversion program for people who commit low-level misdemeanors³. Defendants will get their case dismissed if they complete conditions that include two days of community service within 60 days. The community service must be completed through either Alpha Project or Urban Corps of San Diego County. These organizations are experienced at linking participants with resources and services appropriate to their situation, including alcohol and drug addiction programs, mental-health services, and job training.

A Community Court case typically proceeds this way:

³ Not all misdemeanor offenses are eligible, and the City Attorney's Office has prosecutorial discretion to not offer Community Court to defendants based on criminal history, lack of remorse, or other factors.

At his first court appearance, the offender (a male for purposes of this example) is given the option of Community Court. This is the only time the offer will be made.

If he accepts, he pleads guilty to the misdemeanor and agrees to conditions that include two days of work service through an approved community-service provider and payment of a \$120 administrative fee to cover that provider's costs.

The court then gives him a sentencing date in approximately 90 days, and he is released upon his promise to appear for sentencing.

Once the provider notifies the court that the defendant has completed all terms and conditions, he has earned a dismissal of the charge. The sentencing date is vacated and the case is administratively dismissed, meaning it won't appear on the defendant's record.

If, however, the defendant fails to complete the terms and conditions, a sentence will be imposed at the sentencing hearing: either five days in jail or two days in jail and three years of probation. There are no exceptions.

Alternative Sentencing Options, Prevention Programs and New Strategies/Developments

Human Trafficking and Child Exploitation

The San Diego Violent Human Trafficking and Child Exploitation Task Force (VHTCE) is a newly formed task force of various local, state and federal law enforcement and prosecution agencies.

Although the City Attorney’s Office rarely prosecutes perpetrators of human trafficking (a felony crime), deputies frequently need to assess whether defendants in prostitution cases may be victims of human trafficking.

The goal of the VHTCE is to create a coordinated law enforcement system to investigate and prosecute human trafficking and related crimes, as well as identify, rescue, and provide support to victims through social and legal networks.

In 2014, NPU also participated in the San Diego Regional Human Trafficking and Commercial Sexual Exploitation of Children Advisory Council. As active participants, deputies have a heightened awareness of the many challenges facing trafficking victims. Our collaboration with law enforcement, victim services, child welfare services, and professionals from the education and research sector, continues to provide opportunities to identify best anti-human trafficking practices.

Prostitution Impact Panel (PIP)

PIP is an educational community-based victim impact panel designed to inform offenders who solicit or agree to engage in prostitution activity (“Johns”) about the far-reaching impact of prostitution on a community. The panel consists of former prostitutes, former offenders, a health practitioner, SDPD vice officer and community members.

In 2014, 7 PIP sessions were conducted, addressing 181 defendants.

Family Health Centers of San Diego provided HIV testing and counseling to 123 defendants.

Serial Inebriate Program (SIP)

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

Crime-Free Multi Housing Management Training: On June 17 and December 9, 2014, NPU provided training on the topic of quality of life crimes in support of Social Advocates for Youth (SAY) San Diego and



the San Diego Police Department.

Case Issuing Unit

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

The Case Issuing Unit files three types of charges:

Felony Wobblers

Crimes that may be prosecuted either as misdemeanors or felonies at the discretion of the prosecutor. The District Attorney's Office elects to send certain felony cases to the City Attorney's Office for misdemeanor review.

Misdemeanors

Crimes punishable by a fine and one year or less in the county jail.

Infractions

Crimes punishable only by a fine.

Over 1,400 cases are received and processed each month of which 1,000 complaints are filed. Each case is reviewed by an attorney who decides whether charges should be filed. Once criminal charges are filed, the case is prepared for arraignment. The Unit is

jointly responsible with the Trial Unit for ensuring the arraignment is in accord with the procedures of the court, rights of victims and the rights of the persons accused.

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

Staffing of the Case Issuing Unit

The Case Issuing Unit is headed by Chief Deputy City Attorney Heily Hernandez and supported by nine deputy city attorneys, one paralegal and twenty-five staff members. The staff members within the Unit are divided into three groups: Case Intake, In-Custody Cases, and Complaints/Data Entry. Each group is tasked with a unique set of responsibilities within the case issuing process.

Cooperation with Law Enforcement Agencies

The Case Issuing Unit receives cases from a variety of law enforcement agencies. Attorneys and staff work closely with each agency to ensure successful prosecution of each charged case. These agencies include:

San Diego Police; San Diego County Sheriff; California Highway Patrol; San Diego Harbor Police; San Diego State University Police; University of California – San Diego Police; San Diego Community College Police; San Diego City School Police; Department of Animal Services; The Humane Society; Department of Health Services; Department of Fish and Wildlife; San Diego Park Rangers; San Diego Lifeguards; Metropolitan Transit District and the Department of Alcoholic Beverage Control.

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

Case Issuing Statistical Information

In 2014, the Case Issuing Unit received approximately 17,914 cases from law enforcement agencies and the District Attorney’s Office. This represents approximately 81 percent of the criminal cases submitted to the City Attorney’s Office as a whole. The Case Issuing Unit transfers some cases to other units for vertical prosecution and often receives cases from other vertical units for our review. In 2014, complaints were filed in 12,815 cases including cases received in late 2013. The cases that our office received in late 2014 are still under review.

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

In 2014, Case Issuing filed approximately:

4,471 driving under the influence of alcohol or drugs cases (DUI)

17 of these cases were ‘felony wobbler’ DUIs with injury cases

326 vehicular ‘hit and run’ cases

227 prostitution related cases

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

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

The Case Issuing Unit assigns a deputy city attorney to the San Diego Police Department as part of the San Diego Traffic Offenders Program (S.T.O.P). In 2014, the S.T.O.P. position was filled by both Markecia Simmons and Howard Guess. The S.T.O.P. deputy appears in court on vehicle impound and forfeiture hearings generated by the

unlicensed driver enforcement component of the San Diego Police. The assigned deputy reviews and prosecutes all driver license citations issued by San Diego Police Traffic Division motor officers.

In 2014, the S.T.O.P. deputy reviewed 641 cases, including some cases submitted in late 2013. Charges were filed in 611 cases, which amount to approximately 95 percent of the total. S.T.O.P. cases remain assigned vertically to the S.T.O.P. deputy for all stages of the case. In 2014, the S.T.O.P. deputy prepared a speed contest case for jury trial that pled on the day of trial. The S.T.O.P. deputy reviewed and issued a criminal case for unlawful solicitation of tow services, which resulted in a misdemeanor conviction.

In addition to prosecutorial duties, in 2014, the S.T.O.P. deputy conducted six civil vehicle impound hearings and forfeited thirty-one vehicles pursuant to various procedures in the California Vehicle Code. Depending on the nature of the case, the proceeds from the sales of forfeited vehicles are either split evenly between the state and the city or are donated to the San Diego Youth & Community Services, Mid-City Community Center.

Additionally, the S.T.O.P. deputy prepared and filed two civil forfeiture hearings for vehicles without the proper serial numbers. Destruction orders for either the entire vehicle or the component part missing the serial number was granted in one of those cases.

Overall, the S.T.O.P. deputy acts as a liaison between the City Attorney's office and the

San Diego Police Department's Traffic Division. The assigned deputy handles matters that arise from the Tow Administration Unit and the Auto Theft Unit. The S.T.O.P. deputy assists the Traffic Officers on how to present evidence at Traffic Court. Finally, the S.T.O.P. deputy serves as a great resource to other deputy city attorneys on DMV, traffic, and other vehicle related matters, including preparation for a 'driving on a suspended license' trial.

Highlights of 2014

Notable Cases

Theft/Embezzlement of an Employer

The University of California, San Diego Police Department submitted a case involving an employee who committed fraud against her employer, a restaurant located on campus. The case was initially submitted to the District Attorney's Office for review of felony charges. The case was rejected by the District Attorney's Office and referred to our office for misdemeanor review almost eleven months after the incident date. Misdemeanors must be filed within one year of the offense date per the statute of limitations.

The incident occurred between October and November 2013, where a manager at a restaurant located on campus clocked one of the restaurant's employees in and out on the company time clock. This generated paid hours for the employee when the employee wasn't there. Through an arrangement with the employee, the employee went to the

restaurant on two occasions and picked up his paychecks, cashed the checks, and delivered the money to the suspect. The suspect and the employee were fired based on the embezzlement/theft. The Issuing Deputy contacted UCSD police to obtain additional documents and interview statements needed for prosecution. The case was promptly filed within the one year statute of limitations and the suspect pled to one count of petty theft. This efficiency and expediency of the issued case under a time-constraint is an example of the outstanding collaboration between the City Attorney's Office Issuing Unit and our partnering law enforcement agencies.

Battery Case Redirected to the District Attorney's Office

Battery cases, particularly involving a love triangle, are often some of the most difficult cases to prosecute. In 2014, the Case Issuing Unit received a case involving a battery committed against the lover of the suspect's wife. The suspect and his wife came out to San Diego for a business opportunity. The suspect and wife were separated and flew out on separate flights. On one of the nights, the suspect got suspicious and suspected his wife might be with the victim, the wife's ex-boyfriend. The suspect went to the victim's apartment on a hunch. The suspect found his wife in bed with the victim. The suspect became enraged and punched the victim. The victim was transported to the emergency room and required eight stitches in his ear which was split in several places. The victim was also diagnosed with a concussion. The victim has since had to

have his ear drained and has a permanent scar on his lip which was punctured and may subsequently require plastic surgery for the damage to his ear. After much work on part of the Issuing deputy in trying to obtain information regarding the victim's injuries, the case was redirected to the San Diego District Attorney's Office to review for felony prosecution.

Community Court

On November 3, 2014, the City Attorney's Office launched the 'Community Court' pilot project. Community Court is an innovative approach to handling low-level misdemeanor offenses. The Case Issuing Unit attorneys were tasked with evaluating each case to determine whether a case was eligible for Community Court diversion.

The deputies were also tasked with selecting from one of two service providers based on the type of offense and the particular needs of the offender. An offer to divert an eligible case to Community Court is made by the Case Issuing Unit deputies and made available to the offenders at their initial Court Appearance. The Issuing deputies made 358 Community Court offers during the months of November and December 2014.

Proposition 47

On November 4, 2014, the voters in California passed Proposition 47, an initiative that, among other things, reduced various theft-related, forgery and drug

possession crimes previously prosecutable as felonies to misdemeanors. Proposition 47 took effect the day after the election which in turn generated an increase in the Issuing Unit's case load.

In light of the passing of Proposition 47, our office now handles three new types of crimes, which include simple possession of select controlled substances (cocaine, heroin, etc.), pursuant to California Health & Safety Code section 11350(a); shoplifting, pursuant to California Penal Code section 459.5 and grand theft, pursuant to California Penal Code section 490.2. Additionally, petty theft crimes with three or more prior convictions are now misdemeanors (formerly felonies) handled by our office.

Our office has collaborated with the District Attorney's Office to create and adopt sentencing guidelines for the new misdemeanor offenses, which can be punishable up to one year in county jail instead of years in state prison.

Training and Law Enforcement Outreach

Training and outreach is an important part of Case Issuing. In 2014, the Unit provided training for all criminal deputy city attorneys on the different types of weapons offenses, which included a weapons demonstration by an investigator, a San Diego Police Department officer and a San Diego Police Department Sergeant.

In September 2014, the Issuing Unit was invited to provide training to the new Animal Control Officers. The training focused on report writing, case submission

and drafting affidavits in support of arrest warrants.

In October 2014, several Issuing attorneys attended the San Diego County 2014 DUI Symposium training which provided education on techniques, programs and the best practices in San Diego County that support impaired driving prevention.

In November 2014, the Issuing Unit implemented new procedures to have law enforcement submit affidavits in support of arrest warrants in a timely manner resulting in fewer cases being dismissed by the court. During the months of November and December 2014, the Unit provided training to the San Diego Police Department and the San Diego State University Police Department on how to draft affidavits in support of arrest warrants.

Time was also spent collaborating with the San Diego Police Department to create procedures and protocols to ensure that San Diego Police officers properly submit cases involving body worn cameras to the Issuing Unit.

Collaboration with the District Attorney

This year also brought a continued partnership with the District Attorney's office. Approximately 156 cases were referred to the District Attorney's office by Issuing attorneys for felony review. In addition to case referrals, issuing attorneys maintained relationships within all the county branches of the District Attorney's Office in order to exchange information on cases and defendants of mutual interest.

Outlook for 2015

For the first time in many years, Case Issuing experienced many changes, which included the selection of a new Chief Deputy, the implementation of Community Court and the passage of Proposition 47. The Unit continued to be fully staffed in 2014. A terrific team of attorneys and staff members working in harmony produced a quality work product and improved public safety for the citizens of San Diego, Poway, and 4S Ranch.

The Issuing Unit looks forward to utilizing new technology to implement a more efficient way in which to process cases and provide discovery to defense counsel. The Unit looks forward to continuing the current staffing levels. Case Issuing will continue to foster relationships with local justice partners and diligently work to put forth strong cases for prosecution. Case Issuing will continue to work in harmony with the other units in the Criminal Division to effectively handle the cases that are issued by the Unit, resulting in effective and efficient prosecution.

Domestic Violence and Sex Crimes Unit

The San Diego City Attorney's office recognizes the serious impact that family and sexual violence have on the public safety. In recognition of the fact that early meaningful intervention can dramatically impact victim safety and target recidivism,

the office dedicates significant resources to ensuring that these offenders are held accountable for their crimes through both punishment and rehabilitation.

In recognition of the incredible legal difficulty and complexity of these cases, the City Attorney maintains a specialized unit to handle their prosecutions. These cases are handled vertically from the pre-issuing phase, all the way through trial and any future violations. The Domestic Violence and Sex Crimes Unit (DVSC Unit) reviews, issues, and tries all misdemeanor domestic violence, child abuse, elder abuse, stalking, and sex crimes that occur within the City of San Diego, Poway and 4S Ranch. DVSC is also tasked with ensuring that individuals who have to register as sex offenders pursuant to Penal Code Section 290 continue to comply with their registration obligations. The DVSC Unit is comprised of 13 vertical prosecutors, three investigators, two victim witness advocates and nine support staff. In this vertical prosecution format, one attorney handles each case from beginning to end with the assistance of a specially designated team consisting of a Victim Service Coordinator and Investigator. The goal of this system is to give each victim a sense of consistency throughout the process, and to ensure that repeat offenders do not slip through the cracks.

The DVSC Unit is led by Assistant City Attorney Marlea Dell'Anno and Senior Deputy City Attorney Michael Ficken. Deputy City Attorney Emily Garson acts a full-time liaison to the Family Justice Center, where she works closely with the

detectives to ensure the quality of investigations.

2014 was a successful year for DVSC: Of the 2,300 cases submitted to our office for review, 889 of these were prosecuted. In addition to filing new cases, we redirected 197 cases to parole, probation, or the District Attorney's office. With an average disposition period of 22 days, 811 cases reached dispositions this year. The overall conviction rate was 96.1%.

DVSC deputies took 50 cases to trial in 2014, resulting in a 78.3% conviction rate. This number is exceptional considering the difficulty inherent in the types of cases prosecuted by the unit.



Domestic Violence

The DVSC Unit has embraced a multi-faceted approach in our efforts to target all forms of family violence in our community. While the central focus is to hold batterer's accountable for their actions and to ensure

victim safety, our unit is committed to combating violence in a variety of other ways. This includes specialized education and outreach to raise awareness in our community in collaboration with our community partners.

Of all of DVSC's agency and community collaborations, the High Risk Team is the most important. The High Risk Team arose out of the acknowledgement that certain victims are at significantly higher risk of being murdered by their partner. In order to better target the specific safety needs of these victims, the High Risk Team, led by ACA Marlea Dell'Anno, is built on a collaborative model. It brings together advocates in the community, both our office

and the District Attorney's office, probation, SDPD the SDSO and other community partners and advocates to quickly share information and coordinate our efforts so that we can prevent DV Homicides. All of the attorneys in the DVSC Unit and the Victim Service Coordinators are

trained to identify these often subtle risk factors and can refer a victim to the High Risk Team.

Specialized training highlights:

In April and again in October, DCA Miriam Milstein conducted training for volunteers at the YWCA and at Family Justice Center to educate service providers about the manner in which domestic violence cases are handled within the criminal justice system. Ms. Milstein also conducted a fifty person training for our partners at Center for Community Solutions which was hosted by the Office of the City Attorney. The purpose of these training is to assist our community volunteers with, in turn, assisting victims.

In December, Assistant City Attorney Marlea Dell'Anno trained prosecutors across the state in Ethics at the California District Attorney Association conference on Domestic Violence that was held locally in San Diego. Ms. Dell Anno's training was very well received and highlighted the many difficult issues that are daily presented to

our attorneys.

During October's Domestic Violence Awareness Month, Marlea Dell'Anno organized the second annual rally for survivors called "Never be Forgotten" this rally brought together family members of victim's killed by their abusers. It was attended by nearly all of the DVSC Unit.

Elder Abuse Prosecution

Elder Abuse crimes are classified as crimes against a victim who is 65 years of age or older, or is a "dependent adult" due to a physical or mental disability. The DVSC Unit prosecutes these cases vertically because elder abuse victims are particularly vulnerable and benefit greatly when a single, dedicated prosecutor is assigned to their case. Elder Abuse crimes carry increased sentences and more stringent probation conditions under the law. These probation conditions are monitored more effectively in a vertical prosecution unit. In addition to "typical" assault and battery crimes, DVSC aggressively prosecutes all other categories of crimes against elders and dependent adults, including but not limited to: restraining order violations, destruction of property (vandalism), criminal threats, and theft-related crimes. Any of these crimes can be equally intimidating and devastating to vulnerable victims, and are therefore prosecuted with utmost diligence and attention. Highlights of some of the City's elder abuse prosecutions can be found in the quarterly "Safe Seniors" newsletter published by the County of San Diego's



District Attorney's Office and Aging and Independent Services.

Child Abuse Prosecution

The DVSC Unit handles all misdemeanor child abuse cases in the City of San Diego, Poway and 4S Ranch. These cases are handled vertically by prosecutors, investigators and advocates with the specialized knowledge of the juvenile court system and skills needed to build a rapport with child victims and support them throughout the court process. Many of these cases require additional work because our office also has to work with Child Welfare Services as well as the Police. Children victims are referred to the "Kids in Court" program in order to familiarize them with the courtroom setting and to help alleviate the fear of testifying against an abuser. DVSC prosecutors attend bi-weekly meetings with child abuse detectives and other law enforcement representatives in order to ensure that all child abuse cases are handled effectively, efficiently and conscientiously within our community.

Sexual Assault Prosecution

The DVSC Unit is committed to the diligent prosecution of sex offenders in our community. Our prosecutors work hard to ensure that all offenders committing sex crimes against adults and children in our community are punished to the fullest extent of the law. While many of our cases require mandatory lifetime sex offender registration upon conviction, some sex crimes leave the

decision of whether or not to impose lifetime sex offender registration to the discretion of the judge presiding over the case. When facts and circumstances warrant it, our prosecutors have been successful in arguing for and obtaining orders for discretionary lifetime sex offender registration from the court. Of the 265 cases submitted to our office we issued 49.4% of them, with many convictions resulting in life time sex offender registration.

In order to combat sexual violence in our community, the best response is a coordinated response that includes every law enforcement and prosecution agency in our community. When these partnerships are strong, communication and information sharing between agencies is enhanced to the detriment of offenders. Our prosecutors work closely with the San Diego Police Department's Sexual Assault and Sex Offender Registration units and other law enforcement agencies to aggressively prosecute sex offenders and ensure that they are in compliance with sex offender registration requirements.

Notable Cases handled by the Domestic Violence and Sex Crime Unit in 2014:

People v. Johnson

Deputy City Attorney Jeffrey Brooker prosecuted this defendant for domestic violence and battery in an incident where the defendant smashed the victim's laptop and took her keys. By the time the case went to trial, the victim could not be located, so Mr. Brooker went forward with nothing more than the broken lap top, a 911 call, and the testimony of the victim's sister. After a half-

hour of evidence, the jury convicted the defendant of all charges.

People v. Chavez

Deputy City Attorney Miriam Milstein prosecuted this defendant for illegally recording twenty-seven different women using the bathroom, without their knowledge or consent. After committing these crimes for a period of several days, he was arrested at City College when a female student caught him videotaping her on his cell phone while she urinated in a stall in the women's bathroom. When the police searched his phone incident to his arrest, they discovered that the defendant had videotaped multiple other victims performing the most intimate bodily functions imaginable. The defendant also had a prior conviction out of Santa Monica for similar conduct. On the day of trial, the defendant pled guilty to all fifty-four counts of the complaint. He was sentenced to 48 days in custody and then was placed on formal probation with GPS monitoring, and transferred out of the County to Los Angeles.

People v. Hershberger

Deputy City Attorney Nicole Crosby prosecuted a case in which the Defendant arrived at his girlfriend's house in the middle of the night and entered through the backdoor. The next morning he refused to go to his drug counseling, as required by his felony probation terms. He refuses to leave his girlfriend's home, attacks her, and tells her not to call the police. She called the police and they respond. Defendant refuses to come out of the house and had to be

forcibly removed. After trial by jury he is found guilty of assault and resisting arrest. The Judge sentenced him to one year six months in custody and a three year protective order.

People v. Borcena

Deputy City Attorney Michelle Ryle prosecuted this defendant, a former member of the military who was essentially stalking his ex-wife, undeterred by his prior domestic violence convictions. Although already enrolled in Veterans Treatment Court Defendant would reapply and reenter the program after each new offense without receiving additional punishment. DCA Michelle Ryle was able to force the Defendant back into regular criminal court where he ultimately pled guilty to a new crime of domestic violence with the same victim,. He was sentenced to 300 days plus probation and the 10 year protective order.

People v. Woods

Deputy City Attorney Miriam Milstein prosecuted this defendant who had been stalking his ex-girlfriend for an extended period of time in violation of the stalking protective order that was put in place to protect her after multiple prior convictions for similar conduct. DCA Miriam Milstein received a phone call from the victim who was terrified that the defendant was re-offending. Ms. Milstein worked collaboratively with Poway Sheriffs to investigate the case and have the defendant arrested. He ultimately pled guilty and was sentenced to 600 days in custody.

People v. Mosley

Deputy City Attorney Jill Cristich prosecuted this defendant for strangling his wife and destroying her property. On the day of trial, defendant pled to the highest charge, assault by means likely to produce great bodily injury, and was sentenced to 270 days in custody.

People v. Vieyra

Deputy City Attorney Patricia Miranda prosecuted this defendant for punching the victim and holding a knife to her throat. The case was set for trial for three different dates, but kept getting pushed out because the defendant was tampering with witnesses prior to trial, and violating the protective order. After dealing with multiple issues of witness intimidation, including witnesses not appearing for trial, DCA Patricia Miranda convicted the defendant for domestic violence against both his ex-girlfriend, as well as his current girlfriend. Defendant was convicted at trial. As to incidents involving his current girlfriend, Defendant was denied probation and ordered to serve 365 days in custody. As to incidents involving Defendant's past girlfriend, Defendant was placed on probation and ordered to complete DVRP.

People v. Serna

Deputy City Attorney Mary Strickland prosecuted this defendant who punched his girlfriend in the face with enough force to cause her tooth to pierce through her cheek. The victim was six months pregnant with his child at the time of this incident, and her injury required several stitches. The victim told officers on scene that she hit the Defendant first, was uncooperative, and

recanted on the stand at trial. DCA Mary Strickland determined just before trial that Defendant called Victim from jail in violation of the CPO, and successfully moved to amend the complaint the morning of trial after extensive opposition from defense counsel. The jury convicted the Defendant on all counts.

People v. Bell

In this case prosecuted by Deputy City Jeff Brooker the defendant was masturbating as he was walking through an alley and cut through some houses, stumbling upon two elementary school kids playing next to their house. Defendant was initially deemed incompetent to stand trial because of his mental state, but there were two conflicting expert reports regarding the defendant's competency. The People conducted a competency trial and the Judge agreed the Defendant was competent. After restoring criminal proceedings, DCA Brooker conducted a second trial to prove the indecent exposure and lewd act in public. The defense evidence yielded that the defendant suffers a 10 year history of paranoid schizophrenia with auditory hallucinations. The jury heard all about the documented history of psychiatric care and specific instances where the defendant had previously lit himself on fire because the voices in his head compelled him. The jury found the defendant guilty of the lewd act in public but hung on the indecent exposure with a split of 9-3 for guilty. The judge ordered discretionary sex registration on count 2 and sentenced the defendant to 354 days in custody.

People v. Kielbasa

Deputy City Attorney Nicole Crosby prosecuted this defendant for exposing himself and ejaculating in front of an 18-year old coworker at a senior assisted living facility. He had no criminal history, but had also exposed himself while working as a massage therapist in Coronado. Defendant pleaded guilty to indecent exposure, was placed on probation, required to register as a sex offender for life and a 10-year protective order was issued for the victim.

People v. Duterval

Deputy City Attorney Michelle Ryle prosecuted this defendant for child abuse that occurred at the DMV. While in a line that wrapped around the door, the defendant hit her three year old son on top of his head with her knuckles so hard people around could hear the hits. Only three people out of the dozen or so in line came forward to law enforcement and each had a slightly different version based on their perspective. The jury ultimately convicted the defendant of child abuse. She was sentenced to 30 days of custody, 4 years of probation, and a year-long child abuse class.

People v. Garcia

Deputy City Attorney Patricia Miranda prosecuted this defendant for following the victim and forcibly grabbing her breasts and buttocks on a public street. At trial, the victim testified about all the efforts she made to get the defendant to stop following her, and the lewd statements he made to her as he persisted. The defendant was convicted at trial of multiple sexual batteries and ordered to register as a sex offender for the rest of his life. He was also ordered to

serve 172 days in custody on one count and placed on three years formal probation on another.

People v. Gorski

Deputy City Attorney Mary Strickland prosecuted a defendant who strangled his wife as part of a murder-suicide plan that was foiled when the victim broke free from the defendant's headlock and called police. The defendant pleaded to the sheet the morning of jury trial without any indicated sentence from the court. The Court, upon recommendation of DCA Strickland, ordered that the defendant be held without release, waiving all credits, until he was accepted into an inpatient mental health treatment program for at least two weeks. Eventually the defendant was accepted, and after his release, he failed to appear at his next court date because he attempted suicide in a place where he knew the victim would discover him. The Court then sentenced him to 365 days in custody.

People v. Bello

Deputy City Attorney Miriam Milstein prosecuted this defendant for stalking the victim across multiple jurisdictions. The defendant met the victim, a total stranger to her, in Chicago. She found his profile via Facebook and contrived a ruse in order to meet him by way of hiring him to build her a website. When he rebuffed her romantic advances, the defendant followed him from Chicago to Australia to San Diego, where he finally obtained a restraining order against her. Despite that restraining order, the defendant continued to harass the victim with incessant phone calls and emails, and

then ultimately flew back to San Diego where she was arrested outside of his house. The defendant pled guilty to stalking, was ordered to serve 180 days in jail, and was ordered to stay out of the City of San Diego for the next five years.

People v. Rosengrant

Deputy City Attorney Jeffrey Brooker prosecuted this defendant, a convicted child molester, for sexually assaulting multiple new victims. After spending nearly a decade in prison, the defendant used an online job application to lure underage-looking women to a building after hours for a fake interview. He would pick up the victims in his vehicle, take them to a professional building that was closed after hours, lock the women inside and alone with him, then coerce them to undress while taking pictures and groping the victim's breasts and behind. The victims felt, based on the defendant's size and the lack of any escape means that they had to comply or they would be harmed, though no specific threats were made. The defendant's camera phone identified hundreds of other pictures with other victims taken at the same location. These victims appeared underage, though they were never identified. The defendant pled to sexual battery and false imprisonment, where he was sentenced to the maximum custody confinement of 365 days.

Consumer & Environmental Protection Unit



Overview

In 2014, the Consumer & Environmental Protection Unit (CEPU) received double the amount of complaints from the public, law enforcement and regulatory agencies than in 2013. The attorneys resolved 48 cases (40 criminal and 8 civil) on behalf of the People of the State of California, all involving unlawful business practices affecting consumers or the environment. The attorneys in CEPU handle all aspects of prosecution whether in civil or criminal courts, including law and motion, trial and appellate arguments. The civil cases resulted in defendants paying penalties and costs to prosecuting and investigative agencies and restitution totaling over \$21 million. In the criminal cases, offenders were ordered to pay fines, serve time in jail or to do work service in the community. The criminal cases resulted in restitution orders for \$40,000 and fines of \$17,649. CEPU accomplished the following in 2014:

Investigated and prosecuted cases of misleading advertising, false or misleading packaging, and scanner overcharges;

Foreclosure Crisis Recovery Fund Grant awarded to handle loan modification and foreclosure counselors fraud prosecution;

Investigated and prosecuted complaints of mortgage loan modification and foreclosure consultant fraud;

Investigated and prosecuted businesses violating laws that deplete or endanger marine resources;

Worked with prosecutors throughout California to resolve large civil cases against retailers for unlawful disposal of household hazardous wastes;

Secured convictions in theft cases, including online scams;

Prosecuted individuals for a variety of unlicensed and unpermitted professional activities;

Continued enforcement of laws regulating tow companies;

Trained law enforcement and regulatory agencies;

Maintained relationships with law enforcement and regulatory agencies through attendance at task force meetings;

Provided information to the public through media outlets, a consumer phone bank, speeches, and the publication of monthly newsletters on various consumer and environmental protection topics.

December " 'Tis The Season To Be Wary: Protect Yourself From Holiday Scams "

November "Mobile Mechanics" (PDF)

October "Tattoo Taboo: A Frightening Perspective on the World of Body Art" (PDF)

September "Warranties: What are my rights under State law?" (PDF)

August "Warranties: What are my rights under Federal law?" (PDF)

July "Green Guides: Compostable v. Biodegradable" (PDF)

June "How to Protect Yourself After a Wildfire" (PDF)

May "Options for Financing Your Education" (PDF)

April "For-Profit Colleges: How to Defend Your GI Bill Benefits" (PDF)

March "Mobile Apps and Privacy: How to Keep Yourself Protected" (PDF)

February "News Laws for 2014" (PDF)

January "When is "Free" Free?" (PDF)

False Advertising

The Consumer & Environmental Protection Unit resolved cases either through pre-filing negotiated settlements or through successful litigation involving various forms of false or misleading advertising by businesses and individuals selling goods or services.

People v. AirGas USA, LLC was a civil case filed in San Diego Superior Court in which defendant was alleged to have added certain fees to the prices of some goods without adequately disclosing either the existence of the fees or their nature and purpose. The complaint also alleged that defendant lacked displays and disclosures required by law at check-out stands at its stores throughout California. AirGas agreed to correct the alleged violations and was ordered by the Superior Court to pay \$625,000 in civil penalties, costs, and restitution.

Two settled cases involved major retailers who advertised one price on store shelves or in printed ads and charged a higher price at the time of checkout. These cases are referred to as “scanner overcharge” cases and were investigated by the County of San Diego Department of Agriculture, Weights and Measures. The investigations involved violations statewide which incorporated other counties’ weights and measures reports of violations.

People v. Whole Foods Market California, Inc. was a civil case brought by the Santa Monica, Los Angeles and San Diego City Attorneys’ Consumer Protection Units alleging Whole Foods Market stores charged more at the time of checkout than what was posted in advertisements and on items in the store. In addition, prosecutors alleged that the stores failed to deduct the weight of containers before charging consumers in self-serve food areas, provided product in less weight than stated on the label, and sold kebabs and other prepared deli foods by the piece instead of by the pound, as required by law. The company paid civil penalties,

investigative costs, and cy pres restitution totaling \$798,394 and is prohibited from committing future violations. Whole Foods Market also agreed to several new procedures which will audit practices and ensure the stores are complying with injunctive terms.



People v. CSK Auto, Inc. (O’Reilly Auto Parts) was a civil case brought by the San Diego City Attorney along with the District Attorney Offices in San Bernardino, Santa Clara and Santa Cruz Counties. CSK Auto, Inc. agreed to pay \$1,550,000 in civil penalties, investigation costs and restitution for alleged scanner price and injunction violations. The settlement follows an investigation by several county weights and measures departments into alleged pricing violations including sales prices and discounts not being applied at checkout and a failure to comply with the terms of an injunction issued against CSK/Kragen pursuant to a 2008 stipulated judgment. O’Reilly agreed to maintain a “\$5 Off or Get It Free Program.” This program, and other similar programs instituted throughout California at the request of prosecutors, is an instant reward to vigilant consumers who

point out pricing errors and a reminder to store employees to protect consumers. Any customer who discovers an overcharge can obtain \$5.00 off the price of the item; or, if the item price is less than \$5.00, O'Reilly has agreed to give the item to the customer for free. O'Reilly also agreed to post a 23.5" x 48" sign in each California store notifying consumers of the program and to appoint a corporate representative to oversee a Compliance Program and to designate a Price Auditor for each retail location.



Loan Modification Fraud

The Consumer & Environmental Protection Unit applied for and received a grant from the California Department of Justice allowing the Unit to expand enforcement of

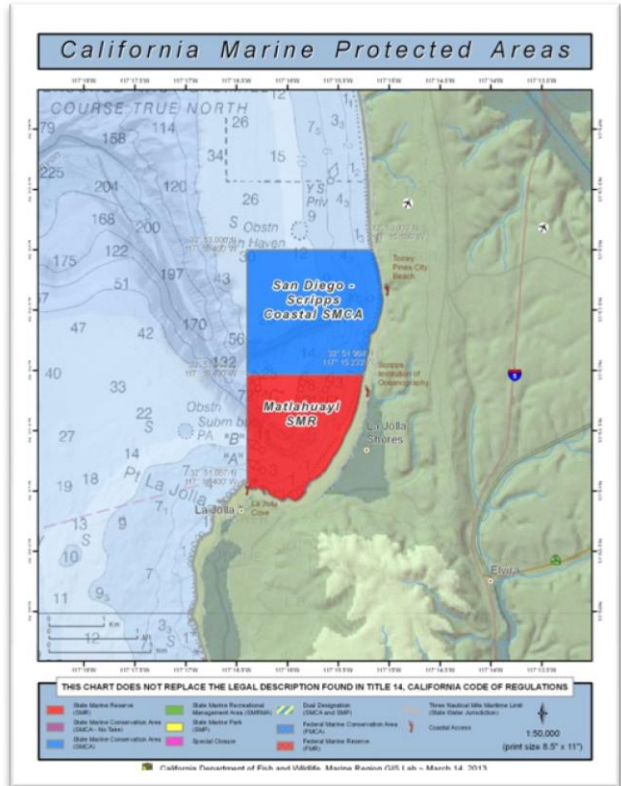
the laws regulating businesses that offer to modify mortgage loans on better terms for homeowners. State law prohibits these businesses from receiving an advance fee for their services. The grant was used to hire an attorney to prosecute these cases. CEPU accepts complaints from the public and referrals from other law enforcement and regulatory agencies.

The home foreclosure crisis in California has led to a wave of unscrupulous loan modification businesses cropping up to prey on distressed homeowners. These businesses promise homeowners they can "save their home" by negotiating better loan terms with the lender. These businesses often require illegal up-front fees of several thousand dollars and do little or no work on behalf of the homeowner. CEPU has targeted businesses taking illegal up-front fees in an attempt to shut them down quickly, before too many homeowners become victims of the fraud. This year, CEPU prosecuted Rajesh Manghani for unlawfully charging an upfront fee for loan modification services and also mailing a phony government look-alike notice to homeowners struggling to make their mortgage payments. Manghani pleaded guilty to two criminal offenses and was placed on three years informal probation and ordered to pay a \$5,000 fine, complete 10 days of Public Work Service and pay restitution to the victims of his crimes. Manghani operated under the business names of Secure Horizons Law Counsel, Secure Horizons Investment Counselors, and Universal Relief Advocacy in Poway, CA.

People v. Victoria Herrera was a criminal case against a woman who owned and operated Asset Law Center, which offered loan modification services to the public via the Internet and phone solicitations. Herrera required an up-front fee for her services. (In California, it is unlawful to charge or receive any money for a loan modification until all services have been provided.) The victim never received a loan modification, nor did it appear Herrera did any work on the matter before she closed the business. A San Diego Superior Court jury found Herrera guilty of theft (by false pretenses). The judge placed Ms. Herrera on probation to the court for three years and ordered her to pay fines, restitution, complete public work service and further ordered her not to own, operate, manage, or work in any capacity in any business that offers loan modification, loan forbearance, or debt relief services.

Protecting Marine Resources

The Consumer & Environmental Protection Unit obtained convictions in cases involving individuals who violated laws regulating our marine resources. *People v. James Kinkade*



was a criminal case against a man who allegedly took sea urchins from Matlahuayl State Marine Preserve which is off of the coast of La Jolla. No commercial or recreational fishing is allowed in the marine protected areas.

In *People v. Scott Dinwiddie*, defendant removed lobsters from a commercial trap belonging to another person. Dinwiddie pleaded guilty to two counts of California Fish and Game Code section 2000, unlawful taking of lobsters, and was sentenced to probation and ordered to pay fines and restitution.

Disposing of Hazardous Materials

CEPU joined prosecutors in San Diego County and other California District

Attorney and City Attorney Offices in several law enforcement actions against major retailers alleging unlawful handling and disposal of hazardous wastes and materials. Settlements were reached with The TJX Companies, Inc. (operator of T.J. Maxx, Marshalls and HomeGoods stores throughout California), Lowe's Home Centers, LLC, and Albertson's. LLC. The settlements required defendants to pay civil penalties and other monetary relief in excess of \$23.6 million, and also included injunctive relief requiring defendants to adopt and implement policies and procedures designed to eliminate the unlawful disposal of hazardous waste products in California.

People v. Thanh Vu, and People v. Darren Boyd were cases in which the defendants transported and dumped into the Miramar Landfill materials containing friable asbestos. The City's landfill is not permitted to accept friable asbestos. Vu and Boyd pleaded guilty to unlawful disposal of hazardous waste. Both defendants were ordered to pay fines and be were placed on probation for three years.

Theft Cases

The internet continues to tempt thieves selling everything from non-existent apartment rentals to airline tickets. *People v. Cirilo Rocero Urmeneta*, was a case in which defendant advertised the sale of frequent flyer airline miles for "Cheap Roundtrip Tickets" on Craislist.com in May 2013. Urmeneta met with the victims and agreed to purchase legitimate round-trip

airfare with the use of his frequent flier miles in exchange for \$350.00 cash per ticket. After the tickets were purchased, Urmeneta sent confirmation emails to the victims with the flight information. Within twenty-four hours of the purchase Urmeneta cancelled the tickets, sending his rewards credit back to his frequent flier miles account. Uninformed of the cancellation, the two separate victims checked the airline's website to find that their tickets had been cancelled and Urmeneta had stolen their money. Urmeneta pleaded guilty to misdemeanor petty theft and was placed on probation and ordered to pay court fines and restitution to the victims.



Unlicensed Activities

The Consumer & Environmental Protection Unit works with state and local agencies that license and regulate various professions.



Approximately 85 percent of the criminal cases filed by the Unit are unpermitted or unlicensed professional activity. CEPU obtained convictions in cases involving many different professions, including law, cosmetology, contracting, dentistry, auto sales, auto repair, and sale of liquor.

People v. Stephanie Strong was a criminal case against a San Diego woman who pleaded guilty to misdemeanor crimes of practicing law without a license and grand theft. Stephanie Strong, also known by the last name “Overstreet,” had previously been convicted of practicing law without a license in 2012. Her current conviction carried a mandatory term of 90 days in jail. Strong was allowed to serve home detention and was placed on probation for three years and will pay court fines and restitution.

People v. David Connor was a criminal case against an unlicensed contractor who took approximately \$55,000 from three separate homeowners for landscaping improvements that he started but abandoned. Connor pleaded guilty to a misdemeanor crime and was placed on probation for three years and ordered to pay fines and restitution.

Tax Evasion

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

Community Outreach and Public Education

One of the goals of CEPU is to reduce incidences of fraud by educating the public to recognize fraud before becoming a victim. To meet this goal, CEPU provides information through media outlets, public speeches, and newsletters. In 2014, CEPU staff appeared at local consumer awareness events such as Federal Trade Commission’s Tax Identify Theft Awareness Week and on television news programs discussing specific consumer issues. In March, as part of National Consumer Protection Week, CEPU was recognized by the San Diego City Council for outstanding work to protect the public and educate consumers about unfair business practices and scams. On March 4, 2014, the San Diego City Council proclaimed “Consumer Protection Week” in the City of San Diego.



Code Enforcement Unit

The Code Enforcement Unit (CEU) works in close partnership with the San Diego Police Department, the Code Enforcement Division of Development Services Department, and the community to address a variety of code enforcement and public nuisance cases throughout the City. Violations addressed in 2014 included problem properties negatively affecting neighborhoods, substandard housing, illegal construction, fire and safety violations, destruction of environmental and historical resources, and numerous zoning violations. Public nuisance cases with drug or prostitution activity were prosecuted using specialized enforcement statutes. Code deputies worked closely with community members, police officers, and code inspectors to achieve a long term solution to properties attracting nuisance activity and jeopardizing the safety of neighborhoods. CEU investigators and staff assisted code enforcement inspectors with investigations, provided trainings, and obtained inspection warrants as necessary.

In 2014, CEU filed:

- 57 civil complaints
- 12 criminal complaints

In 2014 CEU collected the following monies:

Civil Cases

- Actual Civil Penalties to be paid (not including stayed amount) = \$454,988.53

- Investigative Costs for City Departments = \$72,173.98

Criminal Cases

- Fines = \$3,500 with \$11,500 additional fines stayed
- Investigative Costs = \$11,525

Some of the cases resolved by CEU in 2014 are highlighted below:

Marijuana Dispensary Litigation

In 2014 the City Attorney continued to aggressively shut down marijuana dispensaries operating in violation of the City's zoning laws. 45 dispensaries were shut down in 2014 as a result of CEU obtaining civil injunctions against property owners and dispensary operators. The dispensary cases prosecuted by CEU typically had crime occurring at the property due to the large amounts of cash at the dispensary and large amounts of high grade marijuana (with values from \$3,000 to \$4,000 per pound). Many of the cases had incidents of violent crimes such as assaults, robberies and burglaries. One case involved the shooting of a security guard during an attempted robbery. The guard then shot and killed the suspect. Concerned parents, residents, and school officials regularly complain to the police and the City Attorney's Office about the negative effects caused by marijuana dispensaries in their neighborhoods, especially those that are located near schools. Typical complaints are that school children witness drug sales in

parking lots and the smoking of marijuana in public or that children are forced to regularly walk by loiterers in front of the dispensary businesses. Another legitimate concern of law enforcement is the manufacturing of hashish oil which involves the use of heat and highly flammable solvents, resulting in several recent explosions, injuries, and deaths.

City v. Nobel, et.al. – this defendant property owner was a repeat offender and had been named in numerous dispensary complaints filed by the City Attorney’s Office, even dating back to 2011. Some notable cases involved dispensaries that opened soon after the previous dispensary at the same address was raided by the Drug Enforcement Administration or shut down by CEU.

Due to four civil complaints filed against Mr. Nobel for maintaining 4 dispensaries at one of his properties in Point Loma, he agreed to file unlawful detainer actions against all dispensaries to which he was leasing throughout the City. After additional civil complaints were filed throughout the year, Nobel agreed to enter into a global settlement of all his pending cases involving the following eleven dispensaries:

- Fresh Alternative Consulting, Inc., 3045 Rosecrans #208, Case No. 37-2014-00005595-CU-MC-CTL
- Green Wellness Association, Inc., 3045 Rosecrans #207, Case No. 37-2014-00005601-CU-MC-CTL

- SB Health, Inc., 3045 Rosecrans #310, Case No. 37-2014-00005597-CU-MC-CTL
- S.C.C.G., Inc., 3045 Rosecrans #214, Case No. 37-2014-00005582-CU-MC-CTL
- PB 45 CAP, Inc., 4688 Cass Street, Case No. 37-2014-00008699-CU-MC-CTL
- Organic Roots Delivery, Inc., 2603 University Avenue, Case No. 37-2014-000300015-CU-MC-CTL
- Lemoin Corp, 936 Garnet Street, Case No. 37-2014-00031058-CU-MC-CTL
- Patient Med Aid, 2015 Garnet Avenue, Case No. 37-2014-00031902-CU-MC-CTL
- Dank on Turquoise, Inc., 841 Turquoise Street, Case No. 37-2014-00032879-CU-MC-CTL
- San Diego Organic Wellness, 1150 Garnet Avenue, Case No. 37-2011-00102929-CU-MC-CTL
- Golden West Collective, 2603 University Avenue, Case No. 37-2011-00103254-CU-MC-CTL

The settlement required Mr. Nobel to pay \$550,000 in civil penalties, with \$300,000 of that amount suspended so long as he complies with the Court order which permanently prohibits him from maintaining dispensaries at his properties. The penalties include \$80,000 of a \$120,000 judgment that previously was awarded the City on one of the above cases. Mr. Nobel was also

required to reimburse the City \$8,000 in investigative costs.

City v. Stance, et al. –CEU filed a civil complaint against the property owners of 4255 Market Street who were leasing to an illegal dispensary named “Market Greens”. The identity of the dispensary operator was not known at the time of the filing. As part of its case, CEU used as evidence the purchase of \$45 worth of concentrated marijuana “wax” by an undercover narcotics detective. After the filing of the City Attorney’s action, San Diego police executed a search warrant at the property and seized the following guns and drugs: a Springfield .40 Cal. Handgun with a loaded magazine and .40 Cal. ammunition; a Smith and Wesson .40 Cal. Handgun with .40 Cal. Ammunition; a loaded Smith and Wesson .38 Cal. Revolver; and 4.59 grams of rock cocaine. Four individuals were arrested. Despite the arrests, Market Greens opened back up. CEU then obtained a court order against the property owners and the dispensary operator who was now named in the action, prohibiting all parties from leasing to a dispensary at the property. A final resolution of the case is still pending.

Subsequently, the District Attorney’s office filed felony drug charges against one of those arrested and on November 25, 2014, the U.S. Attorney’s office obtained a Grand Jury Indictment against him, alleging a federal weapons violation, including Felon in Possession of a Firearm.

City v. RM-USE, LLC, et al – CEU obtained 3 court ordered injunctions against the property owner and the dispensary operators of two marijuana dispensaries operating at a commercial building at 2110 Hancock which is situated less than 600 feet from a school. Two armed robberies had already occurred at the suites where dispensaries were operating. The property owner entered into a stipulated permanent injunction which does not allow him to maintain any unpermitted use, including a dispensary, at this property or any other property in the City of San Diego. The owner also agreed to pay \$12,000 in civil penalties with an additional \$88,000 suspended on the condition he abide by all terms of the settlement. He was also required to pay \$516 in investigative costs. The operator of the dispensary “Green Nectar” which had been conducting business in one of the suites, entered into a similar permanent injunction, paying \$10,000 in civil penalties with another \$10,000 suspended on the condition he complies with the injunction. The case against the second dispensary is still in litigation.

Redlight Abatement Cases

CEU regularly utilizes California’s “Red Light Abatement Act” against property owners and lessees who allow prostitution activity at their place of business. This state statute, embodied in Penal Code sections 11225 and 11227 authorizes the City Attorney to file a nuisance action to abate the nuisance activity, seek penalties, and ultimately close down the building if the

nuisance continues. A significant Red Light Abatement case filed in 2014 by CEU is:

People v. Mission Valley Travelodge Joint Venture, et al. – the San Diego Police Department conducted several undercover operations and inspections at this hotel over a year period. During their investigations, they found numerous females advertising themselves for sex on internet websites which then directed the detectives to the Mission Valley Travelodge. Over 20 prostitution related arrests were made at the hotel, including arrests for violations of California Penal Code sections 236.1, “Human Trafficking”, and 266(h), “Pimping”. The pimp of two of the prostitutes was also arrested and over \$20,000 in cash was found in his vehicle parked on the hotel property. Evidence also indicated that the pimp was depriving the two prostitutes of food, drink, cell phone access, and proper medical care.

CEU filed a Red Light Abatement action in January 2014 against the property owner and hotel management and the case resulted in a permanent injunction against all defendants. Pursuant to the settlement terms, the hotel was required to: increase the hours for onsite security guards; install additional security cameras; post signs to deter criminal activity; significantly improve their registration policies including the photocopying of all guest and visitor identification cards and registering of all guest and visitor vehicles; increase the required cash deposit for all rooms rented with cash; continue to maintain a “Do not Rent” list of known individuals arrested for

prostitution related-activity on or off the property; and limit visitor hours.

The injunction permanently enjoins the defendants from conducting, allowing, permitting directly or indirectly, the occurrence, continuance, or reoccurrence of acts of lewdness or prostitution, solicitation, or human trafficking upon the premises of the property; permitting any violations of the San Diego Municipal Code section related to hotels, motels, Inns, etc.; maintaining any violations of the Red Light Abatement Act at the property; and maintaining, causing or permitting at the property the existence of a public nuisance as defined by California Civil Code sections 3479 and 3480. The owner was also required to work closely with the Police Department and the City Attorney’s Office in implementing improved procedures at the hotel, monitor the activity at the hotel, and provide the City Attorney’s Office with copies of weekly security logs and incident reports pertaining to the hotel for 6 months. In addition, the owner and hotel operator were required to pay \$18,526 in investigative costs to the City. \$25,000 in civil penalties is stayed, pending successful compliance with the terms of the settlement.

Drug Abatement Response Team (DART)

CEU is an important member of the City’s Drug Abatement Response Team (DART). Other team members are San Diego Police DART detectives, narcotics teams, and code inspectors. The team focuses on problem properties with ongoing narcotic activity; develops an appropriate long term strategy to abate the nuisance activity; and ensures

that all code violations are corrected. When a property owner fails to address narcotic activity at the property, CEU's DART deputy regularly files a civil action under California Health and Safety Code Sections 11570-11587, a specialized public nuisance statute designed to make property owners and managers civilly liable for illegal drug activity conducted on their premises. Problem properties resolved by the Drug Abatement Response Team in 2014 include:

People and City v. Pavlicek – Northern Division Police officers referred a public nuisance case involving multiple narcotic arrests at 2227 Denver Street. Unfortunately a homicide occurred at the property when the property owner's roommate was murdered by a work associate. As the property was located near a school, parents were concerned for the safety of their children. CEU's DART Deputy and the police met with the property owner who agreed to enter into Stipulated Judgment which included a standard term of drug abatement actions - that the owner would vacate the property if the drug activity were to reoccur. Months later, the property owner was arrested at the property for possession of a controlled substance and ordered to vacate, pursuant to the judgment. The property was eventually sold and all code violations corrected.

2880 Nye Street - this property was a source of constant neighborhood complaints due to continual public nuisance activity and narcotic arrests. Squatters, including

children, had taken over the vacant substandard structure at the property which had no running water. Neighbors had legitimate concerns for safety so a coordinated effort was made by the City's code inspectors, narcotics detectives, and CEU's DART deputy. The property was posted with a Notice and Order to Vacate, and the squatters were arrested by SDPD for refusing to leave. As a result of the DART team's efforts, the property owner properly secured the property and corrected the significant code violations. The property is now habitable and is in productive use.

People and City v. Field – a Drug Abatement action was brought against the property owner of 2129 31st Street who had a longstanding case with code inspectors for unpermitted construction throughout the property, including an illegal tent that was being used as habitation at the rear of the property. Several narcotic arrests were made at the property and flyers had been posted throughout the community by concerned citizens, indicating that the property was occupied by drug dealers. The property owner chose to settle the matter and entered into a stipulated permanent injunction requiring him to keep the property free of drug activity and timely correct all code violations. \$10,000 in civil penalties was stayed on the condition the defendant comply with all terms of the injunction and he is required to reimburse the City \$2,532 in investigative costs.

People and City v. Meshefski – another Drug Abatement action was brought by CEU against the property owner of 4573 Tivoli Street where there were numerous calls for service and narcotic and public nuisance arrests. The property owner actually lived at the property. After meeting with the DART team, the owner entered into a stipulated permanent injunction requiring him to keep the property free of drug and nuisance activity and timely correct all code violations. \$10,000 in civil penalties was stayed on the condition he comply with all terms of the injunction and he is required to pay \$2,800 in investigative costs.

4550 Illinois Street – the tenants at this property had a large “marijuana grow” and had built a fortress like fence around the property. Police officers executed a search warrant and arrested the tenants, recovering guns. CEU’s DART deputy contacted the property owner who agreed to immediately evict the tenants and remove the illegal fence.

Substandard Housing Cases

An important function of CEU is to ensure that citizens are living in safe decent housing and that landlords are held accountable to keep their rental units in compliance with the requirements of the California Health and Safety Code. A case that was enforced by CEU this past year is described below:

4151 Nordica Avenue – the conditions at this property were deplorable. The property owner had created a virtual shanty town, renting out small plywood shacks in the backyard which had no foundation. There was no plumbing so the tenants used buckets as toilets and dumped feces in the yard. Plastic tarps were used as roofs, and electrical hazards existed throughout the property. For these deplorable conditions, the owner charged \$400 - \$600 monthly rent! CEU worked with code inspectors to organize a game plan, conducted the investigation, inspected the premises, and assisted with drafting a Notice and Order, including its translation. The CEU deputy met with the owner who agreed to comply with the Notice and Order. She was required to pay relocation costs of \$9,930 to the tenants, demolish the shacks and correct the other substandard housing violations found on the property. Incredibly, the owner was also the payee for one of the tenants who were mentally disabled. CEU ensured the tenant received assistance from Adult Protective Services, reported the situation to the Social Security Administration and referred the case to the District Attorney’s Office for potential abuse charges.

General Public Nuisance Zoning, Building, and Fire Violations

People v. Gonzalez – a criminal complaint was filed against the property owner of 3284 Newton Avenue who had a shockingly large amount of commercial storage at the 6 parcels on this lot, in violation of zoning laws. He had also encroached onto City property. The storage consisted of items

such as cranes, trailers, tractors, and a variety of large industrial and commercial equipment. The owner pleaded guilty to three misdemeanor counts, paid a \$1500 fine with another \$1500 suspended on the condition he complies with all terms of his 3 year probation, and paid \$1400 in investigative costs. His probationary terms require him to remove all of the unpermitted storage under strict timelines and remove unpermitted structures with proper permit. As the defendant owns other properties in San Diego which have had code violations, he is required to keep all of his properties free of violations.

People v. Avila – the property owner of 342 Cates had a long history of noncompliance with zoning laws, dating back to 2001. A CEU investigator had to obtain a forcible inspection warrant as the owner was non cooperative with inspection efforts by the City. Items not incidental to the residential use of the property were packed so tightly in his backyard that inspectors had to climb over the items to take pictures. Despite reasonable plea bargain offers, the case went to a jury trial. The defendant was convicted of 11 misdemeanor counts of violating zoning and building laws and ordered to reimburse the City \$2,300 in investigative costs and pay \$4,500 in fines with \$4,000 stayed on the condition he comply with terms of probation. The judge declared the property to be a public nuisance and established deadlines for the property to be cleaned and all violations corrected. The property is in compliance today.

People v. Papas – the property at 1855 Soledad Avenue in La Jolla was a challenge to city inspectors and the source of many community complaints. For 8 years the property owner had in an unfinished state, intended to remodel it. The “perennial remodel” was located in a visible location and was an eyesore to the community. CEU filed a criminal complaint for failure to obtain a building permit and finalize the development and was given the option to demolish or develop the project. He pleaded guilty, paid \$1,000 fine and \$500 for investigative costs. His probationary terms require him to finish the project under proper permits and in a timely manner.

People v. Kane – After exhausting all efforts to resolve a very longstanding public nuisance case out of court, CEU had no choice but to file against the son of an elderly hoarder who had allowed her two residential properties to become a significant health hazard, fire hazard and general nuisance to the neighborhood due to the huge amount of items hoarded on the property. Her son, who did not reside with her, worked as a realtor and had his name on the deed for both properties. A criminal complaint was filed and he pleaded guilty to three misdemeanor counts which included maintaining a public nuisance. He paid \$2,284 in investigative costs and agreed to have \$3,000 of suspended fines which could be imposed if probationary terms were not met. The initial clean up involved the disposal of 1.8 tons of trash at the landfill! The properties are now in compliance.

743 Emerald Street – CEU assisted the Fire Department and building inspectors to address a “party” hostel in Pacific Beach which had become a nuisance to the community. Fire, building and zoning inspectors identified multiple serious violations on site, including improper egress. The hostel initially refused to comply with orders to vacate and shut down their business. CEU was able to immediately track down the newest co-owner of the business, the property owner, and their new contractors and negotiate an agreement to close the hostel immediately and not reopen unless and until they complied with all permitting requirements and made the structure safe.

Violations of the City’s Environmental Resource Regulations

City v. Halgren, et.al.– the property owner of 4933 Jumano Avenue illegally graded his property and a portion of the slope behind his property, destroying environmentally sensitive lands in the process. In order to restore the property or continue with the development, the Municipal Code required that he obtain certain discretionary permits. CEU settled the matter with the owner who entered into a stipulated civil injunction and agreed to obtain all required permits before continuing with the development, pay \$15,000 in civil penalties with \$70,000 stayed pending compliance and \$1,838 in investigative costs. He was also required to restore vegetation to the adjacent property which was graded.

City v. Cabaj - similarly, the property owner of 5713 Desert View Drive did significant grading in the back slope area of his property without required permits and performed construction at his residence also without permits. CEU prosecuted the case by civil injunction and the owner agreed to settle it via a stipulated permanent injunction. He paid \$25,000 in civil penalties with \$145,000 additional penalties stayed pending compliance. He also paid \$1,400 in investigative costs. He must submit plans, obtain proper discretionary permits and approvals for the illegal grading and construction, and implement proper erosion control.

Trainings and Presentations

CEU regularly attends community meetings and provides training on specific topics to law enforcement, code inspectors, volunteers, and community groups. Some presentations provided by CEU in 2014 are:

Training to zoning, building, housing, code and fire inspectors on Enforcement Remedies; Investigation Techniques; Case Preparation; Courtroom Testimony;

Training to zoning, building, housing, code and fire inspectors on Abandoned Properties;

Training by DART on the use of the Drug Abatement Act and nuisance laws to combat drugs and crime at problem properties. The training was for property owners and

property managers as part of the Crime Free Multi Housing Training series;

Trainings for SDPD narcotics detectives and code enforcement inspectors to educate them about the DART team and appropriate cases for referral;

Training for code inspectors on How to Handle a Substandard Housing case under the California Health and Safety Code;

Training for County Animal Control Supervisors and officers on code enforcement, substandard housing, and how to effectively handle hoarding cases.

Training on the use of Red Light Abatement laws to criminal division deputies

Training to narcotics teams on enforcement against illegal marijuana dispensaries