The City of San Diego
Office of the City Attorney

SAN DIEGO CITY ATTORNEY'S

ANNUAL REPORT 2006

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Office of
The City Attorney
City of San Diego
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MEMORANDUM

DATE: April 30, 2007

TO: Honorable Mayor and City Councilmembers

FROM: Michael J. Aguirre, City Attorney

SUBJECT: **OFFICE OF THE SAN DIEGO CITY ATTORNEY 2006 ANNUAL REPORT**

I am proud to present for your review, the Office of the San Diego City Attorney's 2006 Comprehensive Annual Report. The scope of work and accomplishments of each Unit in the Criminal and Civil Divisions are contained in this report.

The Civil Division of the City Attorney's Office defends the City in civil lawsuits and advises the City Council and City Departments on matters of law. The Criminal Division engages its public safety mission by prosecuting misdemeanor offenses that are committed in the City of San Diego and the City of Poway.

Since taking office, one of my primary objectives has been to strengthen our law firm by hiring able attorneys from the private sector having specialized legal expertise. These areas of law include Environmental (California Environmental Quality Act, National Environmental Act, and Endangered Species Act), Intellectual Property, Redevelopment, and Public Finance & Securities.

In 2006, the San Diego City Attorney's Office has been effective and successful on several significant fronts.

Civil Division

U.S. Securities & Exchange Commission Settlement

On November 14, 2006 the United States Securities & Exchange Commission (SEC) announced that a settlement had been reached with the City of San Diego in the largest municipal securities fraud case in the nation. This course of action, a separate settlement between the City and SEC, was first advocated by the City Attorney's Office in February, 2005.

The SEC order required the City to retain an Independent Consultant to conduct a review of the City's policies and internal controls with respect to financial reporting and other matters. The City Attorney is working with the Independent Consultant to ensure that the City complies with the SEC order.

Roque De La Fuente Judgment

This past January, the California Supreme Court refused to review a lower court's ruling that overturned a $94.5 million judgment against the City in a case brought by developer Roque de la Fuente (*Border Business Park v. City of San Diego*). With the inclusion of court costs, interest, and fees, the City of San Diego is no longer facing an accumulative judgment of $150 million.

The City Attorney's Office played an active role in attempting to settle the case with outside counsel and provided critical strategic advice on the oral arguments of the appeal. A new trial will be held on the alleged breach of developer agreement claim ($29.2 million) against the City, which the City Attorney's Office will also vigorously defend.

Mt. Soledad Veteran's War Memorial

The City Attorney's Office successfully defended Proposition A, the voter-approved donation of the Mt. Soledad Veteran's War Memorial to the federal government which faced significant court challenges in 2006. Recently, the California Supreme Court declined to hear the case on behalf of the late Philip K. Paulson (*Philip K. Paulson v. Charles Abdelnour, et al.*), who sought to reverse the appellate court ruling that upheld Proposition A.

Critical to the litigation was the San Diego City Attorney's successful motion filed in July 2006, with the United States Supreme Court. Justice Anthony M. Kennedy agreed to suspend a Federal Court's ruling that ordered the removal of the Mt. Soledad Cross by August 3, 2006, in order to allow concurrent state and federal appeals to proceed without the threat of fines for not removing the cross. The Court was acting on the original federal lawsuit filed in 1989 by Paulson challenging the display of the cross on City property.

The federal government acquired the property via eminent domain on August 14, 2006. That legislative action is currently being challenged by Attorney James McElroy in federal court in the matter of *Steve Trunk, et al. v. City of San Diego, et al.* However, if the City were to reacquire ownership of the memorial, the City is now free to donate the property to the federal government as a result of the California Supreme Court action.

Pension Case

On December 14, 2006, Superior Court Judge Jeffrey B. Barton issued his proposed statement of decision in the City's pension case. The case seeks to roll back enhanced retirement benefits which were granted in 1996 and 2002 without a funding source identified and which were

approved in violation of Conflict of Interest Laws, *(San Diego City Employees' Retirement System v. City of San Diego).* In his ruling, Judge Barton characterized the handling of the case by the City Attorney's Office in the following manner:

> The legal principles the City uses to challenge the benefits in this action appear to be one of the few available mechanisms to do so under the remedies available in the state court system. Despite the creative use of these principles and the excellent presentation of the case at trial by the City, previous inconsistent positions taken by the City before the filing of the cross-complaint raise significant obstacles to the City's current effort to undo the remaining pension benefits.

The previous "inconsistent positions" taken by the City have hindered the ability of the City Attorney's Office to challenge the unfunded benefits. However, the City has filed a petition requesting that the California State Supreme Court hear the matter.

Revenue Recovery

In 2006, the Civil Division's Plaintiff's Litigation Section (PLS) recovered over $7.5 million in settlements, judgments or other recoveries. Monies recovered by the PLS went back to the General Fund, Metropolitan Wastewater Department, Environmental Services Department, Water Department, and the Airports Fund, among others.

On November 28, 2006 the City netted $2.89 million in a settlement with Callan Associates, Inc., a San Francisco pension consulting firm hired by the San Diego City Employees' Retirement System (SDCERS).

The Callan settlement brings the total net recovery from lawsuits filed by the City Attorney's Office against professional firms advising SDCERS to $3.98 million

Legal Advisor to City

The Office of the San Diego City Attorney regularly provides opinions and analysis concerning core municipal functions relating to the City Charter, San Diego Municipal Code, open meeting laws, public records, ethics, and boards and commissions. In 2006, the City Attorney's Office prepared more than 350 resolutions and drafted 36 memoranda of law and reports.

Since 1931, the City of San Diego has operated under a City Manager form of government. On January 1, 2006, the City of San Diego changed from a Council-Manager form of governance to a Mayor-Council (Strong Mayor) form of governance as mandated by voters in November of 2004.

During 2006, the City Attorney's office provided advice to the Mayor and City Council on the authority and limitations of the new executive and legislative branches of the City of San Diego. Some of the issues addressed during the past year include advice concluding:

- Mayor cannot veto an ordinance passed by City Council to place a measure amending the Charter on the ballot;
- The City Auditor and Comptroller retains independence under the Mayor-Council form of governance;
- The ordinances implementing Proposition B (requiring a City-wide vote for retirement increases) and Proposition C (allowing managed competition) cannot be introduced at City Council until the election results approving those Charter amendments are certified by the Registrar of Voters and the City Clerk;
- The Council may not meet in closed session to discuss confirmation of Mayoral appointment of City officials;
- Recommendations by Kroll related to changes in the City's auditing and financial reporting structures will require changes to the City Charter and Municipal Code; and
- The Mayor may participate in appointments of representatives to City corporations under the Mayor-Council form of governance;

The new government system continues to pose challenges and requires the City Attorney's Office to provide legal guidance as the five-year trial period proceeds.

Criminal Division

The Criminal Division prosecutes misdemeanors occurring within the City of San Diego, and Poway. Cases are submitted to the City Attorney's Office from a variety of law enforcement agencies including the San Diego Police Department, San Diego County Sheriff, California Highway Patrol, Harbor Police, San Diego State University Police,

University of California San Diego Police, San Diego Community College Police, San Diego City School Police, Department of Animal Control, Department of Health Services, Department of Fish and Game, Park Rangers, San Diego Lifeguards, and the Department of Alcoholic Beverage Control.

In 2006, the Criminal Division of the City Attorney's Office received over 40,000 cases for processing and review. Cases included theft, fraud, identity theft, drugs, battery/assault, vandalism, trespassing, driver's license, and weapons cases. Charges were filed in 31,265 cases, which included 5,710 driving under the influence cases and 2,042 felony wobbler cases, (a felony wobbler is a crime that may be charged either as a felony or a misdemeanor).

The Neighborhood Prosecution Unit (NPU) works in partnership with the San Diego Police Department (SDPD), other governmental agencies, and community organizations to aggressively and creatively combat crimes that impact quality of life. Neighborhood Prosecutors are working in more than 25 neighborhoods, which include the additions of San Ysidro in 2006 and the Southeastern part of the City in 2007.

Michael J. Aguirre
City Attorney

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CIVIL DIVISION

BUSINESS AND GOVERNMENTAL AFFAIRS UNIT

UNIT SCOPE OF WORK

The San Diego City Attorney's Business & Governmental Affairs Unit advises the City's elected and appointed officials to ensure government decision making is conducted in an open and lawful manner with public participation. Led by Chief Deputy City Attorney Catherine Bradley, the unit regularly provides opinions and analysis concerning core municipal functions relating to the City Charter, San Diego Municipal Code, open meeting laws, public records, ethics, boards and commissions.

The Business & Governmental Affairs Unit consists of three full-time deputies and two part-time deputies. The Unit provides regular advice and legal support to the Mayor's Office, City Council, City Clerk, Office of Ethics & Integrity, Library, Funds Commission, Civil Service Commission and the Family Justice Center. During 2006, the Unit prepared more than 330 resolutions and drafted 36 memoranda of law and reports.

The Unit's scope of work includes:

- Drafting ordinances creating new boards and commissions
- Drafting ordinances amending the Permanent Rules of Council
- Drafting ordinances amending the San Diego Municipal Code
- Advising on City Charter interpretation, including the new Mayor-Council form of governance
- Advising on state and local election laws
- Advising on state open meeting and public records laws
- Advising on conflicts of interest, including the City's conflict of interest code
- Advising on state mass mailing laws
- Advising on civil service rules and procedures
- Drafting resolutions approving contracts, acceptance of grants, appointments to boards and commissions, and other Council actions
- Drafting reports to Council Committees

HIGHLIGHTS 2006

Mayor and City Council; Strong Mayor Trial Form of Governance

On January 1, 2006, the City of San Diego changed from a Council-Manager form of governance to a Mayor-Council (Strong Mayor) form of governance. During 2006, the Business & Governmental Affairs Unit regularly provided advice to the Mayor and City Council on the authority and limitations of the new executive and legislative branches of the City of San Diego. Some of the issues addressed during the past year include advice concluding:

- Mayor cannot veto an ordinance passed by City Council to place a measure amending the Charter on the ballot

- The City Auditor and Comptroller retains independence under the Mayor-Council form of governance

- The ordinances implementing Proposition B (requiring a City-wide vote for retirement increases) and Proposition C (allowing managed competition) cannot be introduced at City Council until the election results approving those Charter amendments are certified by the Registrar of Voters and the City Clerk

- The Council may not meet in closed session to discuss confirmation of Mayoral appointment of City officials

- Recommendations by Kroll related to changes in the City's auditing and financial reporting structures will require changes to the City Charter and Municipal Code

- The Mayor may participate in appointments of representatives to City corporations under the Mayor-Council form of governance

- The Council may waive Council Policy 000-13 to permit the reappointment of a Unified Port District Commission member for a third consecutive term

In addition, the Unit works with other attorneys in the office related to ongoing management issues including reorganization, managed competition, and transfer of department responsibilities.

City Council Committees; Charter Commissions; Elections Task Force

The Business & Government Unit regularly provides advice to the City Council, Council committees, Charter-created commissions and City task forces including:

- Committee on Rules, Open Government, and Intergovernmental Relations
- Committee on Public Safety and Neighborhood Services (portion of 2006)
- Civil Service Commission
- Salary Setting Commission
- Select Committee (a subcommittee of the Rules Committee)
- Funds Commission
- Elections Task Force

Business & Government Unit attorneys are a resource during meetings and provide follow-up research and reporting on legal issues or concerns.

Support to City Clerk; City Departments; Boards and Commissions

Through research, advice, memoranda and reports from the Business & Government Unit, City officials, departments and the public are provided with legal advice on a variety of significant issues including:

- Drafting ordinances related to calling of elections and placing matters on the ballot
- Drafting the impartial analysis for ballot measures
- Advising that implementation of instant run-off voting would require changes to the City Charter
- Advising that mail only ballots may be used for special elections
- Advising on initiative measures and redistricting;
- Advising that an ordinance banning the sale of foie gras in the City may be preempted by State laws
- Assisting boards and commissions with obligations under the open meeting laws (the Brown Act)
- Assisting with revisions to administrative regulations and other policies
- Advising on compliance with public records requests
- Advising on conflicts of interest and recusal from voting
- Advising Community Planning Groups and the Community Planners Committee on compliance with open meeting laws

As part of its bi-annual review, the Unit assisted with a comprehensive examination of the conflict of interest codes for all City departments, boards and commissions, and agencies. These conflict of interest codes form the basis for determining appropriate reporting of financial interests by City employees and consultants on the annual Statement of Economic Interest forms. More than 35 departments, boards and commissions, and agencies required amendments to their conflict of interest codes. The Unit continues to advise Departments and City officials on these issues and the implementation of policies and procedures related to filing requirements for designated employees and consultants to the City.

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LABOR AND EMPLOYMENT UNIT

UNIT SCOPE OF WORK

The Labor and Employment provides legal services in a variety of areas such as:

- Employment
- Labor Relations
- Retirement
- Fire and life safety services

The Unit Chief is Deputy City Attorney Debora Buljat. The Unit Attorneys provide legal support and counsel on labor relations matters, including advice to the meet and confer process with the five labor organizations representing municipal employees. The attorneys in this group also defend the City against unfair labor practices in actions before the Public Relations Board. Moreover, the group serves as legal advisors to all City departments regarding a range of personnel related issues, such as discipline, leave, Equal Employment Opportunity laws, and the Americans with Disabilities Act.

The unit provides specific legal support to the Auditor and to the Risk Management and Personnel Departments on a variety of matters, including payroll benefits such as SPSP and 401(k), and background checks. The unit also assists these departments in responding to public records requests related to personnel matters and provides training to city-wide departments on such topics as the Family Medical Leave and the Health Insurances Portability and Accountability Act.

In addition, the ESSU serves as legal advisor to the City on matters related to the San Diego Fire Rescue Department and the City's Emergency Medical Services program. The scope of services includes advice and supervision of legal issues that deal with personnel, contracts, public records requests, and other special projects.

HIGHLIGHTS 2006

During the last fiscal year, the major projects of the employment attorneys included drafting the ordinances to implement the two ballot measures that were passed at the November 2006 general election. These two measures amended the San Diego City Charter to allow 1) the City to contract out services traditionally performed by Civil Service employees except in Public Safety Departments (SDDPD & Fire); 2) voter approval for enhancements to employee pension benefits.

In addition, the employment attorneys assisted the City in negotiating labor contracts with the Police Officers Association, International Association of Fire Fighters Local 145 and the Deputy City Attorney Association.

Finally, the unit is legal advisor to several City boards and commissions including the Human Relations Commission, the Citizens' Review Board on Police Practices, the Civil Service Commission and Public Safety and Neighborhood Safety.

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LAND USE AND ENVIRONMENTAL UNIT

UNIT SCOPE OF WORK

The Land Use and Environmental Unit (LUE) is a newly formed unit in the Civil Division of the City Attorney, created over eighteen months ago to more holistically address the environmental and land use needs of the City. The Unit is comprised of six attorneys and is headed by Shirley Edwards, the Unit Chief.

The Land Use and Environment Unit provides advice and counsel to the Planning Commission, the Hearing Officer, Natural Resources & Culture Committee, the Historical Resources Board, the Local Enforcement Agency, the City Development Services Department and the City Planning & Community Investment Department relating to all land use and environmental issues, including, but not limited to, the issuance of permits, zoning laws, the Land Development Code (LDC), community planning groups, discretionary review, public hearings, the Ralph M. Brown Act, the Political Reform Act, the Subdivision Map Act, the Permit Streamlining Act, the California Environmental Quality Act, the Endangered Species Act, the Coastal Zone Management Act, the California Coastal Act, the California Government Code, the California Health & Safety Code, the National Environmental Policy Act, the Clean Air Act, the Clean Water Act and other issues as they arise.

HIGHLIGHTS 2006

Applicability of Public Resources Code Sections 21166 and 21151(c) to the Navy Broadway Complex Project (October 2006). This memo confirms, with respect to the Navy Broadway Complex, the procedural requirements for determining whether additional environmental review under the California Environmental Quality Act [CEQA] is appropriate and the appeal process that follows after the environmental determination. CEQA does apply and the City remains the lead agency for CEQA compliance.

Eruv Line of Demarcation in Public Right of Way (June 2006). The authorization to erect an Eruv Line (as provided for in Jewish Orthodox faith) by the City does not violate the establishment clause of the Constitution. Furthermore, the granting of a Public Right-of-Way Use Permit for an Eruv Line does not constitute racial discrimination in the provision, sale, and/or lease of housing, nor does not implicate the Federal Fair Housing Act.

Published Memorandum of Law

Early Placement of Rope Barrier at Children's Pool--Change from January 1, 2007 to December 15, 2006 (December 2006). The extension of time for the placement of a rope barrier at the La Jolla Children's Pool was legally supportable under the Marine Mammal Protection Act and the San Diego Municipal Code in order to better protect the mother seals during the late stages of pregnancy, through the pupping season, and for a period of time afterward to protect the nursing pups after birth.

Emergency Authorization to Replace the Rope Barrier at the Children's Pool and Implement City Council's December 5, 2006 Resolution (December 2006). The emergency placement of the rope barrier was warranted in order to protect public health and safety and to mitigate for damage to life, health, and essential public services by preventing human-to-human conflicts and violence.

San Diego Municipal Code Regulations Pertaining to Sewer Group Pipeline Job 742 (November 2006). Regulatory and compliance concerns relating to the potential impacts within the Spindrift Native American burial site and archaeological district as they apply to City Projects and specifically the Sewer Group Pipeline Job No. 742. Current City practices are not enough to meet all applicable federal and state standards.

Voluntary Thematic Warehouse District (August 2006). While voluntary districts are legal, they are not recommended for best preservation of historic resources. Even within a voluntary district, CEQA and LDC regulations may require the City and other approving agencies to impose mitigation which would limit the development of properties meeting the threshold criteria for historicity or which limit development that alters an historic resource of a designated historic district.

In Relation to the Hearing of January 9, 2007 on the Appeals Challenging the Development Services Department's [DSD] California Environmental Quality Act [CEQA] 21166 Findings for the Navy Broadway Complex Project [Project] (December 2006). This Memo of Law sets out the requisite findings and applicable provisions of CEQA as they relate to the City Council hearing on the adequacy of the City staff environmental determination that no further environmental review is necessary under CEQA.

Public Notice Requirements for Administrative Appeals of City Environmental Determinations under CEQA and the Municipal Code (June 2006). This Memo of Law addresses, under City Municipal law and Constitutional law, the requirements for proper notice prior to the holding of City Council hearings on challenges to (appeals of) environmental determinations as they relate to condo conversions. A hearing notice posted in a newspaper alone is not sufficient to meet Constitutional and Municipal law requirements.

Characterization of Water and Land under section 55.1 of the City Charter (November 2006). This Memo of Law addresses the issue of whether wetlands or marshes, given

state and federal law characterization, should be considered "water" when applying the provisions of Section 55.1 of the City Charter to quantify how much land is available for lease for private use. Wetlands should be characterized as "water" for purposes of section 55.1 of the City Charter.

Published Interim Reports

Participated in the team that developed the *City Attorney Interim Report on Global Warming* (August 2006).

Letters

Participated in the team that drafted the Letter to the San Diego County Water Authority Commenting on the Environmental Impact Report [EIR] for SDCWA Mission Trails Flow Regulatory Structure (FRS) II (August 2006). The EIR was inadequate in that it failed to fully address significant impacts to archaeological resources, endangered or threatened species, wetlands, vernal pools and park use, among other concerns.

Ordinances

LUE assisted the Real Property Unit team with CEQA and other land use issues relating to the Large Retail Establishment Ordinance and Superstore Ordinance. The Ordinances that City Council approved prohibits, within City limits, the construction of stores of more than 90,000 square feet that use 10% of space to sell groceries and other merchandise that is not subject to sales tax.

Multiple Species Conservation Program

LUE assisted City Departments in interpreting and applying the recent U.S. District Court Order enjoining the City from approving development on property with Vernal Pools. *Southwest Center for Biological Diversity et al v. Jim Bartel, et al.*

Community Planning Group Training:

LUE worked with the City Planning & Community Investment Department to develop and provide training to Community Planning Groups on the applicability and use of the Ralph M. Brown Act at Community Planning Group meetings.

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POLICE LEGAL ADVISORS

UNIT SCOPE OF WORK

The Police Legal Advisory Unit is a subunit of the Business and Government Section of the Civil Division. The Unit provides legal advice to the San Diego Police Department.

Unit members work closely with the Police Chief and his Assistants, and with commanding officers, both sworn and civilian. Unit members respond to questions and assist with projects from all levels and members of the Department. The Unit's general practice includes the following subjects:

- Advising on discipline, labor, employment, equal opportunity, and disability issues
- Drafting ordinances, resolutions, memoranda of understanding, contracts
- Statutory interpretation, including the Public Safety Officers Procedural Bill of Rights Act
- Responding to subpoenas and requests for public records
- Litigating administrative matters involving police permits, civil service hearings, alcohol license-related issues, and the appeals from those hearings
- Representing the Department in *Pitchess* motions seeking access to confidential police personnel records, in motions seeking Department retention of firearms, and in motions seeking the return of property

HIGHLIGHTS 2006

The Unit handled 118 *Pitchess* motions, 18 firearm motions, several writs and appeals, and a termination hearing. The Unit successfully persuaded the California Supreme Court to review a lower court decision that allows public defenders to share confidential information from police personnel files obtained in a *Pitchess* motion with each other on unrelated cases. ***Chambers v. Superior Court (Appellate Division San Diego), S143491.*** It is likely the case will be heard later this year.

The Unit also successfully persuaded a trial court and the Fourth District Court of Appeal to uphold the SDPD's seizure of firearms from a mentally unstable yet high functioning individual.

Unit members also represented the PD in a variety of administrative matters, including the suspension and revocation of adult entertainment permits. Members are working closely with the Department in reviewing the granting of alcohol permits in areas of the City which are already overly saturated with alcohol establishments.

The Unit responded to approximately one thousand California Public Records Act requests and took action in response to approximately five hundred subpoenas on behalf of the Department. Unit members reviewed and revised numerous police department procedures.

Unit members are involved from the inception in many of the police department's major enforcement efforts such as the implementation of Jessica's Law and other programs to combat sexual predators, the use of video camera surveillance in high narcotic trafficking areas, combating the sales of tobacco to minors, and sales of toy guns by ice cream vendors. Unit members are also assisting the Department in exploring new ways to combat neighborhood problems such as loud parties, and problems caused by patrons of bars who invade residential neighborhoods after the bars close.

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PUBLIC, FINANCE, SECURITIES AND DISCLOSURE UNIT

UNIT SCOPE OF WORK

The Public Finance Unit provides legal advice to various City departments, including the City Council, regarding the legal obligations for the issuance of debt obligations, including the issuance of debt obligation by the Housing Authority, the Redevelopment Agency of the City of San Diego, the Wastewater Department, the Water Department and obligations payable from the City's General Fund.

The work of the Public Finance Unit is led by Chief Deputy City Attorney Mark Blake and includes two Deputy City Attorneys who were added to the Public Finance Unit to fulfill the obligations imposed on the City Attorney by Ordinance No. 19320 [Disclosure Ordinance]. The Public Finance Unit also provides structuring and legal advice to various other entities that have issued debt on behalf of the City including the Public Facilities Financing Authority, the San Diego Facilities and Equipment Leasing Corporation, the City of San Diego/Metropolitan Transit Development Board Authority, the Convention Center Expansion Authority, the Open Space Facilities District and the various community facilities districts and assessment districts.

The Public Finance Unit also assists the City in complying with the requirements of the City's Disclosure Ordinance through the administration of the Disclosure Practices Working Group [DPWG] ensure that all City financial disclosures, including financial disclosures contained in any disclosure documents, comply with federal and state securities laws.

The Public Finance Unit will also advise the newly established Audit Committee (which assumes the responsibilities of the Financial Services Oversight Board) of the City. To that end, the City Attorney's office has recently hired former San Diego Assistant Auditor Lawrence Tomanek whose duties will be, among other things, to work with the Public Finance Unit in providing advice to the Audit Committee.

HIGHLIGHTS 2006

During the 2006-07 Fiscal Year, the Public Finance, Securities and Disclosure Unit provided lead legal advice and support for the following activities of the City and its related entities:

Debt Financings:

City General Fund Financings

- $160,000,000 2006-07 Tax and Revenue Anticipation Notes (private placement with Bank of America, N.A.)

City Wastewater Enterprise Financings

- Restructuring of $152,000,000 Non-Transferable Subordinated Sewer Revenue Bonds, Series 2004 (private placement with Bank of America, N.A.).

- Amendments to $152,000,000 Non-Transferable Subordinated Sewer Revenue Bonds, Series 2004 (private placement with Bank of America, N.A.) to permit funding of additional SRF Loans.

Community Facility District Financings

- $16,000,000 Community Facilities District No. 3 (Liberty Station) Special Tax Bonds Series 2005 Series A of 2005 (private placement with Stone & Youngberg).

Redevelopment Agency of the City of San Diego

- $76,225,000 Redevelopment Agency of the City of San Diego Centre City Redevelopment Project Subordinate Tax Allocation Bonds Series 2006A (Public Offering)

- $33,760,000 Redevelopment Agency of the City of San Diego Centre City Redevelopment Project Subordinate Tax Allocation Bonds Series 2006B (Taxable) (Public Offering)

- $10,000,000 North Park Project Line of Credit

Housing Authority of the City of San Diego

- $20,500,000 Variable Rate Demand Multifamily Housing Bonds (Studio 15)

- $12,421,531 Multifamily Revenue Housing Bonds Del Sol Apartments

- $7,425,000 Market Street Square Apartments (Remarketing)

Tobacco Settlement Revenue Funding Corporation

- $105,400,000 City of San Diego Settlement Revenue Funding Corporation Tobacco Settlement Asset-Backed Bonds, Series 2006

Lease and Lease-Purchase Financings

- The DPWG reviewed several financing transactions for the lease and acquisition public safety equipment, including helicopters, fire trucks, the Motorola 800 MHz public safety radio upgrade, and related safety equipment.

Secondary Market Annual Reports

The Public Finance Unit assisted in the review of the continuing annual reports provided by the City and its related entities. Due to the ongoing work on the City's 2003 Comprehensive Annual Financial Report, the City did not file the required annual continuing disclosure reports for its bond obligations under the provisions of Rule 15c-2-12 of the Securities and Exchange Commission. The obligation to provide certain financial information to the national repositories and the state repository, if any, arises from undertakings that the City and its related entities make in connection with most of their bond issuances. The continuing disclosure reports require the updating of certain tables contained in the offering documents, together with the audited financial statements for the year in question.

Due to ongoing investigations and the uncertainty surrounding the soundness of the assumptions with respect to the actuarial valuations pertaining to the City's pension system, the DPWG determined that it had insufficient information to complete an appropriate disclosure regarding the pension system. Thus, the continuing disclosure reports for the General Fund and the Wastewater and Water Enterprises, all of which are affected by the funding status of the pension system, were not filed. However the DPWG completed the review of and authorized the filing of continuing disclosure reports for the Centre City Development Corporation and the South Eastern Development Corporation. Also, the DPWG completed the review of and authorized the filing of continuing disclosure reports for the San Diego Redevelopment Agency Tax Allocation Bond issues, Community Facilities District Special Tax Bond issues and Assessment Districts. All continuing disclosure reports filed were partially incomplete in that they do not include audited City financial statements.

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PUBLIC INFRASTRUCTURE AND RESOURCE RESTORATION UNIT

UNIT SCOPE OF WORK

In 2006, the Public Works Unit of the City Attorney's Office was divided into two different sections: the Public Infrastructure and Resource Restoration Unit and the Resource Conservation & Management Unit ("PIRRU" and "RCMU," respectively).

The PIRRU is led by Chief Deputy City Attorney Tom Zeleny. PIRRU assists City staff on legal issues related to the construction and maintenance of City infrastructure such as streets, water and wastewater facilities, libraries, parks, and buildings for public safety personnel.

Repairing and improving infrastructure is one of the City's most pressing needs. The City's water system, wastewater system, streets and storm drains all need critical upgrades to continue to provide reliable service to the citizens of San Diego. Attorneys with PIRRU have been working with the Mayor's office in support of his efforts to raise funds to repair water and wastewater facilities. Numerous water and wastewater projects must be completed to meet the requirements of the Environmental Protection Agency and the State Department of Health Services. PIRRU continues to actively assist the Mayor in his efforts to repair these and other vital infrastructure of the City.

HIGHLIGHTS 2006

Engineering and Capital Projects Department

PIRRU advises the Field Division of the Engineering Capital Projects Department, interfacing with many City departments and divisions for which the Field Engineers perform construction management services. PIRRU provides legal advice on administration and enforcement issues on numerous public works projects including libraries, fire stations, airports, sewer and water facilities, underground utilities, park and recreation facilities, and traffic signals. PIRRU provides training to departments on prompt payment and stop notice procedures and claims, and teaches at the Construction and Project Management Academy.

In Fiscal Year 2005-2006, PIRRU successfully mediated and defended the City against several contractor claims, resulting in over $850,000 in cost-savings to the City on several projects including the Mid-City Gateway Transit Facilities, and the Pacific Beach Lifeguard Tower. On the West Mission Bay Drive Bridge Retrofit Project, PIRRU assisted the City in recovering approximately $40,000 in a wage dispute relating to the status of a tugboat operator.

PIRRU advises the Water and Sewer Design and the Architectural Engineering Divisions of the Engineering and Capital Projects Department. PIRRU assists the department in awarding contracts for construction of libraries, lifeguard stations, fire stations, water and sewer group jobs and other public projects. Responsibilities also include reviewing contracts dispersing Transient Occupancy Taxes (TOT) and Community Development Block Grants (CDBG) funds, and helping the Arts and Culture Commission with public art projects and issues.

Water Department

The Water Department's overall budget exceeds $359 million, and the budget for the Capital Improvements Program for Fiscal Year 2007 is approximately $132 million. With a budget this size, the Water Department's activities generate extensive the need for legal support on both regulatory and construction related matters.

PIRRU provide legal support related to the City's Long-Range Water Resources Plan ("LRWRP"), such as utilizing ground water, reclaimed water, encouraging water recycling, and other water conservation programs.

PIRRU participates in negotiating and implementing contracts for the sale of reclaimed water produced by the City to other public and private entities. PIRRU assists the department in its efforts to obtain Proposition 50 funds to develop and implement experimental groundwater desalination projects.

PIRRU also assists in negotiating various property transactions pursuant to an agreement for the Emergency Storage Project, an important regional project that is designed to ensure the availability of water supply in the San Diego region in the event of an earthquake or other major disaster that interferes with water importation.

PIRRU assists the department in pursuing collection of substantial unpaid water bills, and resolving claims against the department for property damage caused by water main breaks.

PIRRU also provides legal support for the department's construction effort, which is ramping up in order to meet deadlines for drinking water standards established by the State Department of Health Services.

Metropolitan Wastewater Department

With major upgrades to the City's treatment plants mostly complete, the focus has moved to the sewage collection system where work is needed to repair old pipes or to accommodate growth. A significant amount of effort is also needed to mitigate the environmental impacts associated with repair and maintenance of sewer pipes located in canyons and other sensitive areas.

Last year, PIRRU successfully defended a lawsuit brought by a taxpayer group to halt the City's study of the feasibility of recycling wastewater to potable water standards (***Association of Concerned Taxpayers v. City of San Diego, Case No. GIC 857292)***. The taxpayer group asserted that the mere study of recycling wastewater was unlawful. PIRRU filed a motion to dismiss, explaining that the issue was a legislative matter within the exclusive purview of the City Council, but the plaintiffs abandoned their case before the motion was heard.

PIRRU has also been representing the City in litigation filed by environmental groups and the Environmental Protection Agency over past sewer spills ***(United States v. City of San Diego, Case No. 03-CV-1349)***. Due to the inability to obtain financing, the City entered into a second partial consent decree after the first partial consent decree expired on June 30, 2006. The second partial consent decree obligates the City to continue its enhanced sewer pipe maintenance and replacement program through June 30, 2007. A final settlement of the case has been negotiated, but approval has been postponed pending a sewer rate increase necessary to fund the repair projects that will be required of the City. If a rate increase is not approved, the case will likely proceed to trial.

PIRRU also assisted the Metropolitan Wastewater Department before the Integrated Waste Management Board regarding the past improper disposal of biosolids by a former City contractor. After a twelve year hiatus in regulatory attention to a disposal site in Riverside County, colloquially known as "Mount San Diego," the Integrated Waste Management Board has authorized State money to remedy what has become an illegal dump. As a generator of waste, the City is potentially liable for those costs. PIRRU is preparing a request to the Integrated Waste Management Board to forego recovery from the City, due to the circumstances surrounding the case.

Park and Recreation Department

PIRRU works with the Park Planning and Development Division of the Park and Recreation Department. The division identifies and develops parkland for the City, often in cooperation with other public agencies to share limited resources. PIRRU has been assisting the department in drafting and negotiating agreements to design, fund and build parks. Projects include right of entry agreements, grant documents, and joint use agreements with local schools.

Significant accomplishments include an agreement with the Greater Golden Hill Community Development Corporation which will implement a habitat restoration project supported by State grant money. An agreement negotiated with Sea World will provide an estimated $2.5 million walkway along South Mission Bay for use by the public.

ADA Compliance

PIRRU provides legal advice to the Community Services Division of the Community and Economic Development Department on issues related to the Americans with Disabilities Act ("ADA") and its State counterpart known as Title 24. This includes advising the

Disabilities Services Program and other City departments as the City updates and implements its transition plan to make services and activities accessible. Last year, PIRRU assisted staff in reviewing and implementing accessibility requirements for lifeguard stations, newsstands, parking meters, curb ramps, trash services, libraries, and even picnic tables.

PIRRU also advises staff in instances where service animals may be assisting individuals in areas where such animals are not permitted by local regulations, and help determine whether the animals should be permitted under the ADA.

PIRRU provides and assists in developing training on the requirements of federal and state access regulations to various City departments to ensure that they are sensitive to accessibility issues when designing programs, services, and activities, and when evaluating architectural plans.

General Services Department

PIRRU advises the Streets Division and the Storm Water Program of the General Services Department. Last year, the City's Storm Water Program returned to the General Services Department from the Metropolitan Wastewater Department.

PIRRU and the Storm Water Program staff successfully argued that the Regional Water Quality Control Board had not properly considered the non-water environmental consequences of a the proposed Total Maximum Daily Loading [TMDL] regulation regarding dissolved metals in Chollas Creek. The State Water Resources Control Board found that the San Diego Regional Board had improperly curtailed public review of the Regional Board's environmental analysis. The Regional Board, having now received full public input, is in the process of significantly expanding its environmental analysis. The Regional Board's analysis should help the City implement measures to meet the TMDL requirements.

In addition, the Regional Board just adopted a new Municipal Separate Storm Water Sewer System [MS4] National Pollutant Discharge Elimination System permit for the County. The City is one of 18 co-permittees responsible for implementing the requirements of this federally-enforceable permit. PIRRU will assist the City in complying with the new MS4 permit, and take the lead at representing the City in future proceedings to seek State funding, where appropriate.

PIRRU continues to work with the General Services Department Streets Division staff to examine past maintenance projects and develop a cohesive, cost-effective operations and maintenance program for future projects that balances the needs of public safety from flood waters with natural resource protection. This will be an ongoing project into the next fiscal year.

Information Technology and Communications Department

PIRRU advises the Information Technology and Communications Department on issues relating to technology and intellectual property. PIRRU negotiates and reviews technology licensing agreements, contracts with telecommunication companies, and interfaces with San Diego Data Processing Corporation, which meets most of the City's technology needs.

Last year, PIRRU negotiated a resolution with a Cox cable company for operating in the City in violation of state and local laws. PIRRU also enforced the City's trademark rights to "Think Blue" and the City's lifeguard logo.

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REAL PROPERTY UNIT

UNIT SCOPE OF WORK

The Real Property Unit of the City Attorney's Civil Advisory Division provides legal services on behalf of the citizens of San Diego to the Real Estate Assets Department, the Facilities Financing Division of the City Planning & Community Investment Department, the Park & Recreation Department, the Neighborhood Code Compliance Division of the Development Services Department, and the Economic Development Department. The Real Property Section staffs the Land Use & Housing Committee, the Park & Recreation Advisory Board, the QUALCOMM Stadium Advisory Board, the Airports Advisory Board, the Housing Advisory & Appeals Board, and the Parking Advisory Board.

HIGHLIGHTS 2006

Drafted significant legal memoranda:

- **Report to the Land Use & Housing Committee**
  That the Airports Advisory Committee members must disclose financial interests by filing Statements of Economic Interest.

- **Memorandum of Law**
  Analyzing the framework of current law related to governmental takings of private property for public use and the changes proposed by Proposition 90 on the November 2006 ballot. The key principles of condemnation law and the proposed limitations sought to be established were reviewed. Current law allows a public agency to enact laws and regulations to improve the quality of life of the citizenry. Proposition 90 would have required such a public agency to pay individual landowners for resulting limitations on the use of their private property. The City Attorney concluded that the California Attorney General's analysis of Proposition 90 was accurate in its conclusions that the proposed law would substantially alter the existing law of eminent domain and regulatory takings, potentially increase local agency liabilities for the regulation of property uses, and limit the ability of local municipalities to take private property for public use.

- **Memorandum**
  Responding to eight questions presented by Council District 8 regarding the legality of the City's Temporary Homeless Shelter Program and, specifically, the shelter located at 16th Street and Newton Avenue, and opining that the City acted

within its authority in establishing the Shelter Program and the Newton Avenue shelter.

- **Memorandum**
  Regarding the improper use of Special Park Fees to develop a road for the proposed Fox Canyon Park in City Heights.

Drafted ordinances enacting new or amending existing Municipal Code provisions:

- **Newsrack Ordinance**
  Creating a permitting process and regulations for the placement of news racks in the public right-of-way.

- **Large Retail Ordinance**
  Providing standards for the evaluation of large retail establishments relating to design, bulk, and scale to minimize the development footprint, create a pedestrian scale environment, and promote a diversity of uses in accordance with the General Plan Strategic Framework Element and City of Villages strategy.

- **Superstore Ordinance**
  Prohibiting large-scale discount stores that offer a diversity of consumer products and a sizable grocery department under one roof.

- **Smoking Ban Ordinance**
  Regulating smoking and the disposal of tobacco products at QUALCOMM Stadium.

- **Glass Bottle Ban Ordinance**
  Prohibiting glass beverage containers in the QUALCOMM Stadium parking facility.

- **Clean Syringe Exchange Ordinance**
  Authorizing the Clean Syringe Exchange Program in the City of San Diego, designed to minimize community impacts from the Program.

- **Parking Advisory Board Ordinance**
  Creating a Parking Advisory Board to enhance the effectiveness of parking options and solutions.

Drafted hundreds of legal documents for real property and other transactions:

- Leases
- Purchase and sale agreements
- Deeds
- Park property usage agreements
- Grants and grant funds usage agreements

- Section 108 Loan Program agreements
- Joint use agreements for parks and schools
- Multi-jurisdictional agreements for the development and use of park land

The Real Property Unit performs due diligence analysis on hundreds of real property transactions each year, and drafts legal documents for each transaction to protect the City from legal liability and assure compliance with the City Charter, the San Diego Municipal Code, City Council Policy, and State and Federal laws.

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REDEVELOPMENT AND HOUSING UNIT

UNIT SCOPE OF WORK

The Redevelopment Agency of the City of San Diego was created by the City Council in 1958 to alleviate conditions of blight in older, urban areas. The City Attorney's Redevelopment and Housing Unit works in conjunction with Agency Staff to accomplish redevelopment projects which are beneficial to the citizens of San Diego, whether they are located downtown or in outlying areas that have been designated as Redevelopment Areas. The Unit is led by Chief Deputy City Attorney Huston Carlyle.

Redevelopment of urban areas, if properly undertaken, induces efficient and optimal use of land. Redevelopment can play a crucial role in transforming blighted areas in the city, where property values are low, crime is prevalent, and financial incentive is weak with respect to investing development dollars. If properly implemented, with meaningful public input and public participation, redevelopment will work to renovate and revitalize areas.

The City gains from redevelopment, through the transformation of run down, unsightly and depressed areas into new and vibrant areas, the creation of housing, and the ultimate influx of tax dollars generated from the new growth, through property tax, sales tax, and transit occupancy tax. In addition, redevelopment creates the money it ultimately distributes to help projects, through a process called "tax increment" whereby a percentage of the increased tax revenues is directed back into the redevelopment funding mechanism. However, successful redevelopment is not merely defined as generating dollars, but must also include the critical components of public input and public participation, and a final project compatible with the vision shared by San Diegans.

The City Attorney's Office also advises the Housing Authority, which is made up of the eight members of the San Diego City Council sitting as the Housing Authority. The Authority is a state agency created pursuant to section 35200 et seq. of the California Health and Safety Code. The City Attorney's Office advises the Authority when it considers complex affordable housing financing proposals, investments in housing and first-time homebuyer programs, and on policies including the City's Inclusionary Housing program and the Housing Trust Fund.

HIGHLIGHTS 2006

In the past year, the City Attorney's Redevelopment and Housing Unit has worked with Centre City Development Corporation [CCDC], Southeastern Economic Development Corporation [SEDC], and the City's Planning and Community Investment Department –

Redevelopment Agency Division [City Redevelopment], in order to attract beneficial developer interest in blighted areas; negotiate development agreements, formulate redevelopment projects that are consistent with the law, city policies and objectives of redevelopment in eliminating blight; and financially assist in the development and completion of other meaningful projects. Some of these efforts include:

- **Centre Point Project**
  This pedestrian-oriented mixed use project in the Crossroads Redevelopment Project Area will create 312 for-sale residential units, of which 47 units will be designated as affordable units for low-income families.

- **Community Housing Works Face Lift Event**
  The Redevelopment Agency contributed up to $50,000 for the Community Housing Works Face Lift Event, in which owner-occupied homes in a one block radius of the City Heights Redevelopment Project Area receive a makeover with priority given to senior citizens, disabled persons, and low-income families.

- **Safe Routes to School Program**
  The Redevelopment Agency contributed up to $100,000 for this project to assist in the construction of traffic controlling public improvements at the Mary Lanyon Fay elementary School located within the City Heights Redevelopment Project Area.

- **Urban Corp WEER Program**
  The Redevelopment Agency contributed up to $50,000 for the Urban Corp of San Diego Weatherization Energy Efficient Rehabilitation [WEER] Program to provide rehabilitation services to homes of low-income families in the San Ysidro Redevelopment Project Area.

- **Pedestrian Bridge Project**
  This project is designed to create a bridge over the railroad tracks to allow direct pedestrian access from the downtown ballpark to parking facilities and other amenities on the other side of Harbor Drive.

- **La Entrada Project**
  This project is for the purpose of acquiring property and building 85 affordable rental housing units in the Barrio Logan Redevelopment Project Area.

- **Renaissance Project**
  This project will result in the creation of a Community Center in the North Park area to be available to the surrounding area for various civic and community events.

- **Southern Hotel Project**
  This project will result in the securing of 55 year very low-income rent restrictions on 50 of the 89 units at the Southern Hotel which is located in the downtown area.

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RESOURCE CONSERVATION AND MANAGEMENT UNIT

UNIT SCOPE OF WORK

The City Attorney's Civil Advisory Unit for Resource Conservation and Management (RCM) was formed in October of 2006. Previously, services that the City Attorney's Office provides for the People of San Diego in the areas of utility regulation, environmental services, and procurement had been provided within the Office's Public Works Unit. To intensify the City Attorney's focus on the City government's responsibility for stewardship of resources, these areas of law were consolidated into their own unit.

Chief Deputy City Attorney Michael Calabrese coordinates the efforts of the Unit, which is made up of attorneys who collectively draw on more than 50 years of legal experience to serve the People of San Diego.

The mission of this Unit is to preserve and enhance the City's natural, physical, and fiscal resources in a manner that ensures a livable San Diego for future generations. On a day to day, practical level, that means providing advice, guidance and oversight to: the City's Environmental Services Department in its conduct of refuse collection and landfill operations and its generation and procurement of energy; the City's Engineering and Capital Projects Division in its management of public streets and rights-of-way; and the City's Purchasing and Contracting Department in practically all of the City's procurement and contractual transactions. The Unit's Attorneys regularly draft contracts and other legal instruments, participate in litigation at the civil and administrative levels as needed, draft legislative documents for adoption by the City Council, and provide written advice to others in City Government to ensure that all of these activities proceed lawfully and ethically.

HIGHLIGHTS 2006

During the 2006 calendar year, attorneys with the RCM Unit (and, prior to October 2006, current RCM attorneys who were then within the Office's former Public Works Unit) provided the following services to the People of San Diego:

RCM attorneys authored Memoranda of Law ("MOLs") on the City's ability to contract out for refuse collection services, and on the City's Small Business Refuse Collection Standards. The Unit has also been involved in the implementation of the Business Process Reengineering efforts of the Environmental Services Department and the Purchasing and Contracts Department, and in restructuring the City Attorney's Office's efforts to adapt its own processes to meet the changing needs of these reengineered City

departments and the public that they serve. RCM Attorneys authored amendments to the City's Comprehensive Lead Hazard and Control Ordinance, and advised the City on options to fund this program via various new or increased fees. They have negotiated a contract with San Diego County for use by the County of the City's Household Hazardous Waste facility. They assisted the Environmental Services Department in successfully negotiating removal of Superior Mining Equipment from a City landfill.

They have reviewed and approved – often with the need for specialized modifications unique to each situation - literally hundreds of environmental insurance policies, purchase contracts, service contracts, requests for proposals ("RFPs") and many other agreements of various sorts.

RCM attorneys provided legal services toward objectives in Council Policies 900-2, 900-14, and 900-18 for the attainment of a reliable and sustainable energy future for San Diego. The RCM Unit's attorneys also serve as liaison with San Diego Gas and Electric Company and review matters relating to the utility's gas and electric franchises and SDG&E's regulation by the California Public Utilities Commission. In this role, they prepare contracts for energy efficiency and renewable energy projects in City facilities, and assistance in application for and administration of state utility incentives for energy efficiency, renewable energy, and distributed generation. In 2006, they managed the legal affairs of the 19 megawatts of renewable self-generation facilities owned or controlled by the City.

A recent example is a privatized one megawatt solar panel system that will serve the electric loads of the Water Department's Alvarado Treatment Plant for at least 20 years at favorable rates.

They have handled the legal affairs of the City's landfill and digester gas cogeneration projects from their inception. The projects, a mixture of public and privately owned and operated facilities, will save the City tens of millions of dollars over the project's life, and will promote a cleaner and more sustainable energy future for the City. More projects will be evaluated, planned, negotiated, and presented to the Council for consideration in the coming year.

In addition to their role as advisors to the City Council and various City departments, RCM attorneys are specialists in utility regulation, and in this role participate in litigation in both civil and administrative forums. They have intervened for the City in cases at the California Public Utilities Commission that will be significant to the region's energy future, or which affect tariffs on City accounts. Availability of reliable, cost-effective, and clean energy is an important economic and environmental consideration for the City's own accounts and interests, as well as those of its commercial and residential constituents. This advocacy has been focused from the City's perspective, as one of SDG&E's largest customers, and also the City's interest in regard to protecting the interests of residential and commercial customers.

Current proceedings include SDG&E's Long-Term Resource Plan case, the State Rate Stabilization case, a rulemaking proceeding for Distributed Generation, rulemaking cases for a Renewable Portfolio Standard and for Energy Efficiency and Public Goods Charge funds, and SDG&E's 2006 Rate Design Window application. In 2007-2008 RCM attorneys will also be reviewing and, if necessary, litigating SDG&E's application to build the Sunrise Powerlink, a 500 kV electric transmission line proposed by SDG&E to run from the Imperial Valley into the City of San Diego.

Other energy-related litigation currently directed by the Unit includes an ongoing complaint case at the CPUC arising from the formation of a utility underground district, a pending appeal in the Ninth Circuit Court of Appeals against the Federal Energy Regulatory Commission for errant orders stemming from the 2000 energy crisis, and Superior Court actions pending against natural gas wholesalers for market-rigging in 2000, and against SDG&E to enforce the conditions of the utility's franchise as it relates to the relocation of streets around Petco Park.

In August of 2006, RCM attorneys formed a vital part of a team that hosted a televised forum on local aspect of the global climate change problem. This forum brought together local scientists (from the Scripps Institution of Oceanography), policy makers, industry leaders and activists. Accompanying the forum, the Office released an Interim Report describing not only climate change science and its implications, but also exploring the ways that municipal attorneys and other local leaders can – and will – have an impact in addressing this vital issue.

Finally, RCM attorneys provide extensive assistance to the City's Engineering and Capital Projects Department ("EC&P"). For example, RCM attorneys have continued to assist and advise EC&P in implementation of the City's program to underground electric, cable, and telephone utility wires, work with utility providers as participants in that program, and assist in responding to citizen complaints and other issues that arise from undergrounding projects. These efforts were particularly instrumental in the fall of 2006 as RCM attorneys paved the way for undergrounding a 138 kV transmission line that runs through the City's South Park Community. This project, which faced significant practical and legal obstacles, will both beautify the community and provide increased protection from electromagnetic fields.

Also in their capacity as advisors to EC&P, RCM attorneys have assisted the department in presentation of the Regents Road/Rose Canyon bridge project to the City Council and the public, and authored a memorandum to prevent a violation of state and local conflict of interest laws. Similarly, the Unit assisted with a major regional transportation project at the I-5/SR-56 connector, including the coordination with the other stakeholder agencies of Caltrans and (SANDAG). In an overarching transportation initiative, they assisted E&CP in complying with the program rules to ensure continued participation in and funding from the TransNet program (Proposition 1A's increase in sales tax to fund regional projects). RCM attorneys also performed vital services related to the City's Flood Management Plan, paving the way for the City to obtain (FEMA) funds to perform an assessment of San Diego's flood hazards. They have continued to assist the E&CP

Department in their implementation of repair projects to address storm drain and slope failures resulting from the unusually heavy rainstorms during the 2004-2005 season. They have worked with E&CP, the community, and Council District 6 on the Balboa Avenue streetscapes improvement project to ensure that a community beautification and improvement project is completed as the community had envisioned. They have worked on numerous traffic safety and bicycle route improvement projects.

As they proceed through the new year, the attorneys in the RCM Unit look forward to continuing to serve the citizens of San Diego by providing legal services that will enhance the City's sustainable use of resources in the most efficient and responsible manner possible, while maintaining the Office's constant vigilance in matters of public integrity, ensuring a healthy, livable San Diego for both today and tomorrow.

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TRIAL UNIT

UNIT SCOPE OF WORK

The San Diego City Attorney's Trial Unit consists of the following sections: General Litigation, Eminent Domain and Land Use, Civil Revenue and Recovery, Construction Litigation, and Workers' Compensation. The Trial Unit, led by Assistant City Attorney Eugene P. Gordon, is responsible for defending the City of San Diego and its employees, officials and departments in civil actions, and bringing civil suits on behalf of the City, such as:

- Defending personal injury suits
- Defending challenges to the constitutionality of City ordinances and City policies or practices
- Defending employment-related suits which include claims of discrimination, harassment and retaliation
- Defending and initiating land use cases
- Defending other writs and 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
- Defending and initiating breach of contract and construction;
- Defending workers' compensation actions before the Workers' Compensation Appeals Board
- Representing various City departments in hearings before the Civil Service Commission
- Prosecute revenue and recovery
- Seeking reimbursement from third parties for workers' compensation payments the City made to employees because of injuries caused by the third parties

HIGHLIGHTS 2006

Approximately 300 civil lawsuits were filed against the City in 2006. Most of those cases were or will be resolved either without any monetary payment by the City, or by the payment of a nominal sum. Many of those cases were or will be disposed of by court orders granting motions filed by the City, voluntary dismissals, or after trial. Other cases were or will be resolved after settlement negotiations between the parties, settlement conferences, mediation, or arbitration.

Worker's Compensation, Revenue Recovery, and Construction Litigation

Chief Deputy City Attorney Sim Von Kalinowski oversees both the Workers' Compensation and the Civil Revenue and Recovery and Construction Litigation Sections of the Trial Unit.

Worker's Compensation Section

The Workers' Compensation Section works with the Risk Management Department by providing advice to 21 claims adjustors on workers' compensation claims, and by handling litigation at the Workers' Compensation Appeals Board. In addition, the unit litigates third party recovery cases.

The attorneys handle all aspects of litigation at the Workers' Compensation Appeals Board, including trials, mandatory settlement conferences, expedited hearings, appeals, medical liens, death benefits, petitions to dismiss, and declarations of readiness.

The unit also handles third party recovery cases to recover workers' compensation costs from outside parties.

In such cases in 2006, the unit recovered $341,504 in default judgments. As of December 2006, the unit had over 950 open, active workers' compensation cases.

Civil Revenue and Recovery, and Construction Litigation Sections

Trial Unit attorneys also handle recovery matters for the City. In 2006, the Civil Division plaintiffs' litigation and recovery matters resulted in over $7.5 million in settlements, judgments, or other recoveries. Attorneys in the specialized Trial Unit sections of Civil Revenue and Recovery, Construction Litigation, Workers' Compensation, and the General Trial section, resolved approximately 40 recovery matters in 2006. These matters include:

- ***City v. Callan Assoc.*** - $2,891,313 payment to the City in settlement of a professional negligence action regarding investment consulting for the pension fund;
- ***City v. McKinnon*** - $1,000,000 payment to the City in settlement of an action for breach of a development agreement;
- Black Mountain Rd. Pipelines Project (Archer Western Contractors) - $841,161 in contract funds retained by the City from the contractor for delay in completing the project was included in the settlement of construction contract claims;
- Brown Field Tenants - over $650,000 payment to the City, $208,400 in a onetime payment and approximately $450,000 collected in monthly fees, resulting from

unlawful detainer actions and subsequent negotiations for one year right-of-entry permits with tenants of City property at Brown Field;

- ***City v. Fax.com et al.*** - $428,000 stipulated judgment against the president of a company that sent the City junk faxes in violation of Federal law; the City has placed liens against multi-million dollar properties owned by Fax.com's president and is in the process of intercepting rent payments;
- Sewer Flow Monitoring and Event Notification Project (GEOtivity) - $365,615 in contract funds retained by the City from the contractor for inaccurate flow metering equipment;
- ***In re Hawthorn Suites*** - $260,999 payment to the City from negotiations with a hotel in bankruptcy for unpaid Transit Occupancy Taxes;
- ***City v. BORSTAR*** - (Dept. of Homeland Security) - $226,800 payment to the City from negotiations with U.S. Government for back rent owed for the lease of City property at Brown Field;
- ***City v. Kunzman*** - $207,375 to be paid by the County to repay the City for interest on City funds deposited in an eminent domain action;
- ***City v. U.S. Marshall's Office*** - $116,246 payment to the City from negotiations with the U.S. Government for Special Assessment District taxes owed on property seized by the United States which was used as the termination of an under-border drug tunnel;
- ***City v. County*** - $100,000 settlement from an action to recover City lab fees from money collected by the County in criminal prosecution;
- ***City v. Lilly*** - $55,000 payment to the City from settlement of an action brought to recover workers' compensation payments made by the City to a City employee, where the employee's injuries were caused by a third party's negligence;
- ***City v. Garcia and Hoover*** - $40,000 payment to the City from settlement of an action brought to recover workers' compensation payments made by the City to a City employee, where the employee's injuries were caused by a third party's negligence.

Land Use Litigation Section

Chief Deputy City Attorney Christine Fitzgerald is in charge of the Land Use Litigation Section of the Trial Unit.

The Land Use Section was highly successful in 2006 in protecting the public fisc.

Examples are:

- ***KB2S v. City*** - Plaintiff sought approximately $4,000,000 for an alleged violation of the Fair Housing Act. Plaintiff, a developer, alleged that the City violated the Act when it prevented his development of low income housing. The City filed a summary judgment motion which was granted by the court. The court's order stated that plaintiff lacked standing to bring the case because he failed to show "injury in fact," a standing requirement.
- ***McKean v. City*** - A developer filed claims for violation of equal protection and due process against the City after the City denied its request to begin a rezoning process. The City defended successfully on the basis that plaintiff could not satisfactorily allege those claims. The matter is now on appeal. At stake is approximately $100,000 in attorney fees.
- ***City of San Diego, et al. v. California State University (SDSU)*** - The City of San Diego challenged the certification of the Environmental Impact Report by San Diego State University in connection with the Campus Master Plan. The Campus Master Plan would greatly increase campus size in an effort to accommodate an anticipated increase in student population of approximately 25,000 full time equivalent students. The City pointed out that the EIR failed to address housing, population, and traffic impacts of the Project. SDSU also refused to address off-campus impacts. The court granted judgment on September 1, 2006, directing the Trustees to vacate their actions certifying the EIR and approving the Campus Master Revision Plan, and to set aside the EIR's statement of overriding considerations. In December 2006, the Court awarded the City over $40,000 for fees and costs.

General Litigation Section

Maria Severson is Chief Deputy City Attorney of the General Litigation Section of the Trial Unit.

The attorneys in the General Litigation Section were highly successful in negotiating numerous settlements of personal injury lawsuits that were favorable to the City. Many motions for dismissal or for entry of judgment in favor of the City were granted by the

courts, including a multi-million dollar traffic accident case where the court ruled that no dangerous condition of City property contributed to the accident.

The section was also successful in the cases it took to trial. Two of the biggest cases that resulted in jury verdicts favorable to the City were:

- ***Linda Morgan and Renee Hill v. City of San Diego*** - Plaintiffs, both police detectives, alleged that the City retaliated against them for reporting possible criminal acts by another detective. Trial lasted five weeks and more than forty witnesses testified. Plaintiffs asked the jury to award them in excess of two million dollars each, however, the jury returned a verdict in favor of the City.
- ***McGregor v. City of San Diego*** - Plaintiff was seriously injured when he put his fist and arm through a glass window thinking that two people he saw standing outside his house were intruders. In actuality, they were police officers who had responded to the home after a silent burglar alarm had been activated. Plaintiff filed a lawsuit against the officers, alleging that the officers were negligent in the manner in which they conducted their investigation. Plaintiff asked the jury to award more than $5 million. After a three-week trial, the jury returned a verdict in favor of the City.

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CRIMINAL DIVISION

APPELLATE UNIT

UNIT SCOPE OF WORK

The Appellate Unit provides legal support for the Criminal Division and is led by Head Deputy City Attorney Steve Hansen. The Unit handles all pre-trial motions and writs for cases in the general misdemeanor unit and post-trial appeals for both the general misdemeanor unit and the Domestic Violence and Special Victims Unit.

The Unit also provides training, research, and trial support for the Criminal Division. Appellate deputies periodically provide the office with case law updates and legal memoranda. They also conduct training in the areas of constitutional law, criminal procedure, and discovery. The Appellate Unit also plays a large part in training in the office. Deputy city attorneys assigned to the Unit train all new deputies on screening and arraignment, discovery, trial, and sentencing issues. Law students gain extensive experience while interning or volunteering in Appellate, and in exchange help with the Unit's workload.

The Appellate Unit provides a wide range of legal services to the Criminal Division, primarily involving legal research and writing. Unit responsibilities include the following:

Pre-trial Motions

The Appellate Unit handles all pre-trial motions on behalf of the General Misdemeanor Unit. Typical motions include defense motions such as motions to suppress evidence and motions to dismiss based upon the Fifth and Sixth Amendments.

Post-trial Motions

The Appellate Unit handles all post-trial motions on behalf of the General Misdemeanor Unit as well as the Child Abuse and Special Victims Unit. Typical motions include motions for new trial and motions to withdraw guilty pleas.

Appeals

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

Training

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

Legal Advice

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

In 2006 the Appellate Unit handled over 615 motions, winning 92 percent of the motions argued at hearing. Typical motion issues included suppression of evidence, speedy trial, plea withdrawal, invalidation of prior convictions, and demurrers. The Unit handles appeals and writs before both the Appellate Division of the San Diego Superior Court and the Fourth District Court of Appeal. The Unit handles more than 110 writs and appeals with more than 93 percent decided in the People's favor.

- The Appellate Unit handled a record number of pre-trial motions, resolving over 615 motions. The Unit enjoyed over a 92% success rate.

- The Appellate Unit handled more than 110 appeals and pre-trial writs. The Unit practiced primarily in the Appellate Division of the Superior Court but also handled cases in the Court of Appeal and the California Supreme Court. The Unit enjoyed an over 93% success rate.

- The Appellate Unit responded to over 1500 requests for assistance from deputy city attorneys needing help with trial issues, arraignment court problems, and screening and arraignment questions.

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

HIGHLIGHTS 2006

- The Unit helped defend the use of the new Intoxilyzer 8000, used by law enforcement to measure breath alcohol levels in drunk drivers.

- The Appellate Unit successfully defended the new, improved automated photo enforcement ("photo red light") in San Diego, as well as the automated system used in Poway.

- The Unit influenced court procedures so that defendants who fail to appear for motion hearings without good reason may not re-set the hearing.

- The Appellate Unit successfully defended the California Helmet Law, which requires motorcyclists to wear helmets while riding.

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CASE ORIGINATION UNIT (SCREENING AND ARRAIGNMENT)

UNIT SCOPE OF WORK

The Case Origination Unit, also known as the Screening and Arraignment Unit, operates within the General Criminal Prosecution Unit of the Criminal Division of the San Diego City Attorney's Office. The Screening and Arraignment Unit is responsible for receiving, processing, and reviewing all citations, arrest reports, and crime reports submitted by local law enforcement agencies. Staff members and attorneys in the Unit process and review misdemeanor and infraction violations occurring within the City of San Diego, and certain violations of state law occurring within the City of Poway.

The Screening and Arraignment Unit is headed by Deputy City Attorney Michelle Garland. The deputy city attorneys and the support staff assigned to the Unit worked diligently to maintain collaborative relationships with court personnel and law enforcement agencies. Together, we ensure that individuals charged with criminal violations are brought to justice and that victims of crime are treated with respect and compassion.

Thousands of cases are received and processed each month. In turn, thousands of complaints and citations are filed in court each month. Each case is reviewed by an attorney and an arraignment offer is made. Thus, the Unit is responsible for ensuring the proper arraignment of each individual charged with a violation of state, county, or municipal law such as:

- Theft
- Fraud
- Identity theft
- Drugs
- Battery/assault
- Vandalism
- Trespassing
- Driver license violations
- Weapons

Special programs and resources are also offered by the Screening and Arraignment Unit, including the Dispute Resolution Office and the Victim Services Coordinator. In addition, the Unit maintains several subject matter committees designed to handle certain types of cases in a manner consistent with the facts of each case and the unique requirements of the applicable law.

Finally, the supervisors within the Unit are responsible for the training and development of new attorneys and staff members. Attorneys are trained in the legal requirements of reviewing cases and issuing appropriate charges against an individual, as well as the appropriate handling of the

case in court. Staff members are trained to understand the office and court procedures used in order to correctly file a case in court. Some staff members are also trained to work in Misdemeanor Arraignment Court as vital assistants to the attorneys and courtroom personnel.

The Screening and Arraignment Unit receives cases from a variety of law enforcement agencies. We work closely with each agency to ensure successful prosecution of each viable case submitted to us. These agencies include: San Diego Police Department, San Diego County Sheriff, California Highway Patrol, Harbor Police, San Diego State University Police, University of California San Diego Police, San Diego Community College Police, San Diego City School Police, Department of Animal Control, Department of Health Services, Department of Fish and Game, Park Rangers, San Diego Lifeguards, MTDB, and the Department of Alcoholic Beverage Control.

HIGHLIGHTS 2006

In 2006, the Criminal Division of the City Attorney's Office received approximately 40,111 cases for processing and review. After attorney review of each case, we filed charges in approximately 31,265 cases.[1] This includes approximately 5,710 driving under the influence cases and approximately 1,972 felony wobbler charges.[2] During 2006, forty-seven firearm charges and 157 charges involving possession of non-firearm weapons were issued. In most weapons cases, court orders are sought forfeiting the weapon in an effort to improve public safety

Certain types of charges require specialized knowledge or handling. To this end, the Screening and Arraignment Unit has several subject matter committees. Committee cases include fraud/forgery cases, fish and game cases, gangs/graffiti cases, tuberculosis cases, prescription fraud cases, harassing telephone call cases, animal control cases, and restraining order violation cases. Deputy City Attorneys assigned to these committees issue charges and seek penalties in accord with the unique circumstances of each type of case. For instance, in graffiti cases, Defendants are ordered to pay restitution and a payment to the Graffiti Reward Fund in addition to the standard criminal fine. Additionally, graffiti defendants must perform community service.

Victim Services Coordinator

The Screening and Arraignment Unit also offers services to crime victims through our Victim Services Coordinator. The Coordinator, Lori Wheeler, makes contact with crime victims during the case review process. She ensures that each victim is willing to testify in court, explains the criminal case process, and helps victims to gather their out of pocket expenses incurred as a result of the criminal offense in order to recover restitution. In some cases, the Coordinator also conducts victim interviews in order to clarify factual questions affecting the nature of the charges filed. Additionally, the Coordinator contacts witnesses in order to obtain additional information

[1] These statistics represent the total number of cases submitted to the Criminal Division. They include cases submitted directly to specialized units in addition to cases submitted to the Screening and Arraignment Unit.
[2] A felony wobbler is a crime that may be charged either as a felony or a misdemeanor.

or evidence necessary for a thorough case evaluation by the deputy city attorneys. In 2006, 981 cases were referred to the Victim Services Coordinator for victim services.

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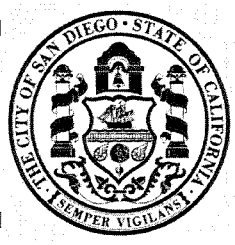
CASE RESOLUTION TRIAL UNIT



UNIT SCOPE OF WORK

The Case Resolution or Trial Unit, led by Head Deputy City Attorney Karen Li, conducts all the post-arraignment courtroom proceedings, including negotiating offers on the cases, reviewing each case to determine its provability at trial, trying the cases, and ascertaining what sentencing parameters are appropriate based on the defendant's conduct. Once a case is filed, our role is that of an advocate for the People.

The cases prosecuted and tried by the Trial Unit impact the public in their daily lives, and effective prosecution of these cases is vital to the quality of life in San Diego. Cases that made up the work of the Trial Unit in 2006 included:

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

Other types of cases that contributed to a significant portion of the Trial Unit's caseload included various Municipal Code violations, Fish and Game/animal violations, illegal lodging, drunk in public, trespass, failures to appear, furnishing alcohol to minors, and minors in possession of alcohol. We were often dealing proactively with chronic and nuisance problems in specific neighborhoods. This protected the citizens of the City, addressed the negative impact some crimes have on our environment, and saved the taxpayers' money.

HIGHLIGHTS 2006

Vertical Prosecution

2006 was the first full year in which the Trial Unit prosecuted all the cases vertically. We had a core group of screening or issuing deputies, which provided more consistency in the process. In addition to the core group, Trial deputies also rotated into the Screening and Arraignment Unit for four months at a time to gain experience and develop their issuing skills. When not in that rotation, Trial deputies were assigned trials as soon as the case was set for trial. They were then responsible for assessing the evidence, preparing the case for trial, which included developing the evidence and exhibits, negotiating the terms of any possible settlement, and trying those cases. Vertical prosecution thus provided the trial deputies with their own case loads, a sense of ownership, and a higher level of preparation on the cases.

In addition to the preparation and conducting of trials, Trial deputies were also assigned to appear at all of the courtroom proceedings and issued a minimal amount of weekly and Fraud Forgery Committee cases.

Trial Statistics

Most of the cases handled by the Trial Unit resulted in a criminal conviction based on a guilty plea before trial. The Trial Deputy City Attorneys appeared at the plea and sentencing hearings to ensure the correct plea was entered and to argue for appropriate sentencing based on the defendant's conduct. However, each month, over 150 cases were still set for trial. Each of those cases were reviewed and prepared for trial. The process of trial preparation included subpoenaing and interviewing witnesses, preparation of exhibits, and securing the presence of physical evidence such as photographs, 911 tapes, weapons, and blood vials, to name a few. Once this preparation was completed, many cases resolved with a guilty plea on the eve or day of trial.

Nonetheless, 242 cases went to trial in 2006, of which, over 220 went to jury trial. Over 470 cases went from the Trial Setting Department to a Trial Department on the day set for trial. From that number, about 36% resulted in a guilty verdict on at least one count of the case; about 37% pleaded guilty or no contest; less than 5% of the cases resulted in a dismissal for various reasons; about 6% resulted in a verdict of not guilty on all counts of the case; and about 16% of the cases were continued for different reasons or had a mistrial declared.

Victim Restitution

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

victimized. In addition to restitution ordered after a hearing argued by deputies, we were also able to help the effort towards making victims whole through the Victim Compensation and Government Claims Board. Some examples of cases where trial deputies successfully had restitution ordered include:

- *People v. Thithavy Phommasy* – Deputy City Attorney Angela Geisler was able to recover $10,370.02 for the victim, who was in a collision caused by the defendant while he was driving under the influence of alcohol. The victim traveled from Ohio to be present at the hearing. He sought restitution for his physical therapy bills and for his civil attorney's fees. After the hearing, the court ordered restitution for the above and victim's travel, meal, and hotel expenses.

- ***People v. Snowden*** – Defendant was driving under the influence of alcohol with two prior convictions of the same and driving on a suspended license. He rear-ended the victim and took away the victim's only source of transportation. Since the collision, the victim traveled everywhere by public transportation. Deputy City Attorney Gary McCarthy successfully argued for restitution, and the court ordered defendant to pay $12, 570.99 to the victim, with a lump sum of $2,500.00 to be paid in two months so that the victim could purchase another vehicle.

Money Saved

A few years back, in cooperation with the San Diego Police Department, our office developed a step-subpoena process with the goal of saving the City some money. This resource-saving device came to fruition from years of experience and the reality that generally, the jury trial process did not provide a prosecutor enough time on the first day of trial to call to the witness stand more than two law enforcement witnesses. Prosecutors had to argue pre-trial motions, put on evidence in any pre-trial evidentiary hearings, conduct the jury selection, and perform their opening statements before the first witness testified. Furthermore, on the day of trial, many defendants would plead guilty, fail to appear, or the case would be continued. Knowing that, we began subpoenaing the third officer (and any more officers) for the next day after the original jury trial date. If a case resolved on the date set for trial, we were able to call-off the second-day officers. By not having all the officers appear on the first day of trial, in 2006, this collaborative resource-saving process allowed 70 SDPD officers to be on the streets enforcing laws and protecting the public instead of sitting in the officers' waiting room for a few hours just to be told to come back the next day or that the case went away. This also prevented the City from having to pay overtime for those second-day-subpoena officers who were on the night shift and previously would have had to come straight to court on the first day.

Significant Cases

- ***People v. Frederick Hermann***
  Successful conviction of a defendant who was charged with criminal threats, brandishing a weapon, and harassing telephone calls: Defendant threatened the victim and his auto shop employees with physical violence as he brandished a golf club at them. Later, defendant called victim and threatened him on the telephone. Even after being convicted, however, the defendant still lacked any remorse whatsoever. Deputy City Attorneys successfully argued to the Court to remand the defendant into custody until the sentencing hearing. Ultimately, he received three consecutive years of custody stayed pending completion of forty-five days of public work service and three letters of apology to the victims and the officer.

- ***People v. Michael Ellis***
  Successful conviction of a defendant for possessing an undersized lobster: While on the face this appears to be a "nothing" charge, capturing undersized marine animals is detrimental to the environment and poses a severe threat to the food chain, which if left unchecked and unprosecuted, could eventually cause the extinction of certain species.

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CODE ENFORCEMENT UNIT

UNIT SCOPE OF WORK

The City Attorney's Code Enforcement Unit (CEU), established in 1984, is a specialized prosecutorial unit devoted to aggressively prosecuting a wide variety of code violations and public nuisances throughout San Diego. CEU deputies work in close partnership with code enforcement inspectors, community groups, and the Police Department to improve the quality of life in San Diego's neighborhoods.

The City Attorney's involvement in addressing code violations is essential so that violators are held accountable and problem properties are quickly put to legal productive use. Early involvement by CEU prosecutors ensures that code violations are timely and aggressively prosecuted so properties do not further deteriorate, attract crime, or diminish community pride.

Types of violations referred to CEU:

- Substandard housing to illegal businesses
- Building and zoning violations
- Public nuisance properties
- Illegal grading
- Fire hazards
- Graffiti
- Illegal dumping
- Destruction of sensitive resources
- Abandoned structures

CEU plays an integral role in maintaining a high quality of life for San Diegans by increasing public safety, preventing deterioration and blight in our neighborhoods, and protecting property values throughout the City. Cases prosecuted by CEU result in significant criminal fines and civil penalties; the recovery of investigative costs; and innovative creative sentencing terms. Creative sentencing requires that restitution be paid by code violators to the community harmed by the ongoing public nuisances and code violations. CEU also administers the City's "Spray and Pay Program" which offers rewards up to $500 to citizens providing information leading to the conviction of graffiti vandals.

Led by Head Deputy Diane Silva-Martinez. Each attorney carries a caseload ranging from 30 to 45 cases, many of which are complex civil cases involving protracted litigation.

In addition to prosecuting cases, other duties performed by the deputies include: attending community meetings; attending meetings with City Departments and Council Offices; drafting ordinances; advising Departments on enforcement issues; training code enforcement personnel;

working closely with the Police Department on identifying public nuisance properties; representing Departments at administrative enforcement hearings; and serving on task forces and projects important to the community. CEU investigators are essential to the prosecution of each of the cases referred to the City Attorney. In addition to gathering evidence and working up each case, CEU investigators provide support to the many City Departments in complex cases by tracking down violators; verifying property ownership and obtaining evidence; accompanying inspectors to sites; and obtaining inspection warrants. In the past year, through aggressive civil and criminal prosecution, the Code Enforcement Unit obtained court orders requiring code violators to pay the following monies:

HIGHLIGHTS 2006

- **$123,000 in civil penalties**. These civil penalties were paid directly to the City and are used for the continued enhancement of code enforcement efforts.

- **$55,850 in investigative costs.** As a requirement of settling both civil and criminal actions or through administrative hearings, violators were ordered to reimburse the City for time spent by inspectors in investigating and monitoring their cases.

- **$44,500 in donations.** As a creative sentencing requirement aimed at restoring the harm caused to the community by the violations, defendants were required to pay donations to community and non profit groups dedicated to improving the community where the violations occur.

- **$42,792 in relocation costs.** CEU prosecutors required property owners who allowed their tenants to live in substandard housing conditions to pay for the costs of relocating them to decent housing.

- **$19,283 in criminal fines**. The majority of these criminal fines were stayed pending correction of the violations. Instead the violators were required to pay restitution or reimburse the City for investigative costs.

Significant cases prosecuted by CEU this past year include:

SUBSTANDARD HOUSING

A top priority for all code enforcement personnel is to ensure that all of San Diego's residents are provided safe, decent housing. CEU staff works in partnership with inspectors, police, and the community to identify substandard housing and ensure that landlords are held accountable. A coordinated strategy is developed to relocate the tenants to decent housing and require the owner to rehabilitate the property. Below is one example:

- ***People v. Lacy* - District 8:** this unresponsive property owner divided her property into eleven units, including three illegally converted garages. All tenants were living in squalor and the structure badly needed repairs. Violations included broken windows, defective plumbing, lack of insulation, and inoperable smoke

detectors. The landlord was civilly prosecuted and required to pay $22, 896 in tenant relocation costs and $1200 in investigative costs.

CEU proactively seeks to ensure that San Diego's elderly community is provided safe, decent housing. DCA Daniele Davidian has an expertise in elder abuse issues and has been instrumental in obtaining needed services and assistance to elderly citizens with limited resources.

LEAD HAZARDS

CEU serves on the City's Lead Task Force established by Council Districts 6 and 8. CEU prosecutors and investigators work closely with inspectors and community groups to quickly respond to complaints of lead hazards and ensure they are timely abated. DCA Danna Nicholas prosecuted the following cases in 2006:

- ***People v. Talamantez*** – **District 3:** the person responsible for this rental property was criminally prosecuted for his failure to abate lead hazards. The plea bargain included reimbursing the City $1,222 in investigative costs; a fine of $283; a $2,000 donation to a lead poisoning prevention program and the requirement that all violations be corrected.

- ***In re Sweeney*** – **District 8:** the owner of an extremely substandard rental property challenged CEU's demand to pay relocation benefits to the tenants. The property was deplorable and three children living there had elevated levels of lead in their blood. The Administrative Hearing Officer found in the City's favor and the owner was ordered to pay relocation costs in the amount of $5,632.

ABANDONED VACANT PROPERTIES

Unfortunately, vacant abandoned structures exist throughout San Diego. They pose fire hazards to the surrounding neighborhood and attract crime. Transients often break into the abandoned structures and police typically respond to incidents of drug and alcohol use or prostitution. CEU works closely with the City's Vacant Properties Coordinator, the Police, and residents to quickly address crime at these properties and ensure they are properly boarded and secured. Equally as important is the timely rehabilitation of these properties which, in many cases, could otherwise provide affordable housing.

- ***People v. Miura Properties*** – **District 8**: five structures on this property located across from the St. Vincent De Paul Village, were vacant and continually unsecured. The police constantly responded to crime at the property which was occupied by transients. In early 2006, the Fire Department responded to a fire caused by a transient. In response to demands by CEU, the owner demolished four of the structures, but the remaining structure continued to attract

crime. CEU filed a criminal complaint and the owner pleaded guilty to five counts of maintaining a public nuisance with a $5,000 fine stayed, paid $500 in investigative costs, and was required to pay a $5,000 donation to the "HOT" Team (Homeless Outreach Team) of the San Diego Police Foundation. The remaining structure is now demolished and the $5000 donation can be used to help the homeless.

- ***People v. Edwards*-District 8:** Continual foot traffic, transients and drug activity plagued this vacant residential structure. Trash was strewn throughout the graffiti-ridden property and it presented a continual problem for the San Diego police. A criminal complaint was filed against the owner who failed to timely address the public nuisance problems. The owner pleaded guilty to nuisance violations and was required to rehabilitate the structure within 90 days or list it for sale with notice of the violations. The owner was also required to timely rehabilitate his other vacant structure down the street. $2,000 in fines was stayed to better allow the owner to rehabilitate his properties. As a creative sentencing requirement, the owner paid a $2,000 donation to the Neighborhood Resource Team of the Police Department.

To assist the City's efforts in this area, CEU brought forth code amendments in 2006 to strengthen the City's vacant properties ordinance. The amendments resulted in increased penalties and stricter requirements. CEU continues to serve as an adviser to the "National Vacant Properties Campaign", sharing best practices and lending assistance to other cities striving to manage their vacant property stock.

ILLEGAL GRADING/DESTRUCTION OF ENVIRONMENTALLY SENSITIVE LAND

CEU prosecutors and investigators continue to serve as integral members of the City's Grading Violation Assessment Team or "GVAT" which was created in 2003 in response to numerous citizen complaints that San Diego's protected resources, canyons, wetlands, and Environmentally Sensitive Land (ESL) were being destroyed by unpermitted grading and development. GVAT is charged with quickly responding to complaints of illegal grading, assessing what damage has occurred to ESL, and determining what mitigation is necessary. The majority of cases are referred to CEU. Through civil and criminal prosecution, developers and property owners are required to obtain proper permits, restore natural vegetation, and mitigate the harm caused to sensitive habitat. Civil injunctions and criminal plea bargains also require that erosion control measures are quickly put into place to protect further damage to slopes and natural habitat.

- ***City v. Gawle* – District 1:** CEU entered into a civil stipulation with the owner of a 19 acre vacant lot located in the Multiple Habitat Planning Area. The complaint alleged illegal grading and destruction of ESL. The owner agreed to restore and

revegetate the property and was required to pay $20,000 in civil penalties and $1,364 in investigative costs to the City.

- ***City v. Pepperview Canyon, LLC*** – **District 4:** the developer of this 2.36 acre vacant lot with ESL had formerly settled a case with CEU. The complaint alleged that the lot had been graded to build homes without any prior approval or permits. The developer then failed to timely submit plans as required by the settlement, so a contempt action was filed, resulting in civil penalties in the amount of $7,000 and quicker action by the developer to process his project.

FIRE VIOLATIONS

CEU works in partnership with the Fire Department to address Fire Code violations throughout San Diego. Overcrowding in nightclubs and bars continues to be a high priority so that patrons are not at risk if a fire were to occur.

- ***People v. Hennessey's Tavern, Inc.,*** – **District 3 -** CEU was successful in revoking the probation of this bar owner who had previously pleaded guilty and was fined for overcrowding violations. Due to additional violations, the owner was required to pay investigative costs and make a $2,500 donation to SDFD Foundation as a creative sentencing term.

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CONSUMER AND ENVIRONMENTAL PROTECTION UNIT

UNIT SCOPE OF WORK

The Consumer and Environmental Protection Unit (CEPU) prosecutes a wide range of criminal and civil consumer fraud and environmental offenses. In August 2006, City Attorney Michael Aguirre promoted Deputy City Attorney David Karlin to Head Deputy of CEPU. This appointment as well as others has added new energy and focus to CEPU as the Unit moves into 2007 and beyond.

CEPU cases originate from several sources, including:

Agency Referrals

CEPU receives cases directly from numerous law enforcement and licensing agencies, including the San Diego Police Department, National Internet Crime Complaint Center, California Department of Consumer Affairs, Contractors State Licensing Board, State Bureau of Automotive Repair, State Department of Fish and Game, County Department of Agriculture Weights and Measures, County Department of Environmental Health, City Storm Water Pollution Prevention Unit, and many others.

Citizen Complaints

CEPU received nearly 500 written consumer complaints from San Diegans last year. Each complaint was screened by an investigator and an attorney before it was investigated and/or prosecuted, referred to another agency, kept for future reference, or declined. In addition to written complaints, CEPU also operates a Consumer and Environmental Helpline which enables members of the public to report complaints directly to CEPU attorneys and staff. In 2006, the Helpline received approximately 800 calls.

By Invitation

Because of their proven expertise, CEPU deputies are invited to join other prosecutor offices throughout the state in multi-jurisdictional civil consumer and environmental protection litigation. The offices benefit through shared resources and statewide judgments.

Self Generation

CEPU members and office staff generate cases by reporting consumer and environmental offenses they observe or become aware of.

HIGHLIGHTS 2006

- CEPU partnered with several District Attorney offices and the State Attorney General's office on cases resulting in statewide judgments totaling more than $23.3 million in costs and civil penalties.

- CEPU obtained court orders totaling:

  - Nearly $1.5 million in costs and civil penalties to the City of San Diego[1]

  - More than $194,000 in restitution for consumer victims

  - More than $42,000 in criminal fines

- CEPU processed more than 175 internet fraud complaints. Many of the complaints were successfully resolved by the City Attorney's Dispute Resolution Office. The remaining complaints were either investigated and/or prosecuted by CEPU, referred to the appropriate agency, or kept for future reference.

CASE HIGHLIGHTS

- ***AT&T:*** Underground Storage Tank Violations
  In a joint prosecution by CEPU, the State Attorney General's Office and six District Attorneys' Offices, AT&T agreed to pay $25 million to settle a lawsuit charging the company with repeatedly failing to test and repair its underground storage tanks throughout the state. The settlement was the second largest in the nation involving underground storage tank violations.

- ***Joseph Randall:*** eBay Auction Fraud
  As part of CEPU's effort to protect consumers who use the Internet to buy or sell goods, CEPU prosecuted San Diegan Joseph Randall for defrauding several victims and eBay out of more than $25,000. Randall was convicted and banned

[1]Beginning in 2005, civil penalties obtained in false advertising and unlawful business practice cases are now restricted by law in their use. Pursuant to Business and Professions Code section 17206, these funds may only be used by the prosecuting agency for the "enforcement of consumer protection" laws. The City Attorney's Office has created a segregated Proposition 64 Consumer Protection Enforcement Fund in which to deposit these funds.

from buying or selling goods on the Internet while on probation for three years. He was also ordered to pay full restitution to his victims and complete 45 days public work service among other terms of probation.

- ***Leslie Farms:*** Pollution Violations
  The company, which operates an agricultural farm in Rancho Penasquitos, paid nearly $55,000 to settle a lawsuit filed by CEPU arising out of the unlawful storage and disposal of petroleum products on the farm. $15,000 of the judgment was provided to the *Friends of Los Penasquitos Canyon* for habitat preservation.

- ***Albertsons:*** Overcharging Consumers
  The grocery store giant agreed to pay $2 million to settle a case of overcharging customers brought by CEPU and three District Attorneys' Offices in California. The City of San Diego's share of the settlement was $350,000.

- ***Cytodyne Technologies:*** False Advertising
  The makers of a diet supplement product containing ephedra, Xendadrine-RFA, agreed to pay $1 million to settle a false advertising case brought by CEPU, the state Attorney General's Office and nine District Attorneys' Offices in California. The civil complaint alleged that the defendants, including the president of the company, made false and unsubstantiated claims touting the effectiveness of the diet supplement product.

- ***Sharper Image:*** False Advertising
  The electronics retailer agreed to stop selling a personal breathalyzer as part of a settlement in a case prosecuted by CEPU and the Monterey District Attorney's Office. The complaint alleged that the device did not accurately measure the user's breath alcohol level. As part of the settlement the company agreed to pay a civil penalty of $100,000, plus restitution which could total as much as $1.2 million.

- ***Wellington Pendell:*** Curb-Numbering Scam
  The owner of *City Addressing Service* was prosecuted by CEPU for using deceptive advertising flyers to market his curb-numbering business. The flyers appeared to be from the City of San Diego, which was not the case. Pendell agreed to pay $6,000 as part of the settlement.

- ***Smart & Final:*** Inaccurate Price Scanning
  The retailer paid $437,500 to settle a case filed by CEPU and three District Attorneys' Offices in California resulting from overcharges due to price scanner errors. Restitution in the case could total as much as $3.6 million.

- ***Unlicensed Business Practices***
  CEPU continues to successfully prosecute unlicensed individuals doing business in the City who cause harm to others. In 2006, cases included the unlicensed practice of law, dentistry, home improvement contracting, and auto sales. CEPU successfully prosecuted *Rodney Halstead* on charges of grand theft, forgery, and the unlicensed practice of law. Halstead was sentenced to 9 months in jail and ordered to pay restitution to his victims, among other terms of probation. In another case, CEPU prosecuted *Samuel R. Naff* for unlicensed contracting, dissuading a witness from contacting authorities, grand theft, writing a bad check, filing a fraudulent mechanic's lien, and impersonating a police officer. After a lengthy jury trial, Naff was sentenced to two years in jail and ordered to pay full restitution to his victims, among other terms of his probation.

Community Outreach

CEPU deputies continue to make themselves available to speak to public groups and other agencies on consumer and environmental topics, including internet fraud, identity theft, and other issues that impact the quality of life for all San Diegans.

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DISPUTE RESOLUTION OFFICE

UNIT SCOPE OF WORK

Founded in 1977, the Dispute Resolution Office manages cases where the interests of justice, the victims, and often the defendants, are better served by resolving the case outside of the courtroom. The cases are referred to DRO by the City Attorney's Screening and Arraignment Section.

Headed by Mike Littlefield, the Dispute Resolution Office (DRO) receives many types of cases, including battery, vandalism, restraining order violations, city permit cases, harassing telephone calls cases, animal control cases, consumer fraud cases, minor hit and run cases, family disputes, neighbor disputes, or other situations where the criminal conduct is the result of a larger underlying issue that would not be adequately addressed by the traditional criminal process.

Defendants are asked to complete various tasks in an effort to address the issues and resolve the case. If the assigned tasks are successfully completed, the case is closed and no charges are filed. Defendants may be asked, for example, to attend anger management classes, driving classes, Alcoholics Anonymous meetings, animal safety classes, perform community service, or pay restitution. During 2006, seventy-five potential defendants completed such tasks.

With the conclusion of the Parenting Project in 2005, the Dispute Resolution Office was able to focus exclusively on non-traditional case resolution methods. Thus, case referrals in 2006 increased by thirty-six percent, and the program was able to further expand its success.

HIGHLIGHTS 2006

- A total of 1,007 cases were referred to the Dispute Resolution Office in 2006.
- Ninety-eight percent of the cases referred were resolved or otherwise closed without further action, representing a slight increase over 2005.
- Approximately 1,110 victims received services through the program, and approximately $16,435 was collected in restitution.
- Additionally, the program continues to expand into consumer fraud cases. In 2006, the Dispute Resolution Office helped generate $15,706 in credits or refunds for victims of consumer fraud.

CASES REFERRED TO DRO
CALENDAR YEAR 2006

January 8, 2007

Month	# Ref.	Closed	Filed	Total
Jan.	70	86	1	87
Feb.	69	79	0	79
Mar.	95	81	5	86
Apr.	90	75	2	77
May	88	61	3	64
June	87	78	4	82
July	63	68	2	70
Aug.	108	54	3	57
Sept.	90	103	1	104
Oct.	118	77	0	77
Nov.	55	114	0	114
Dec.	74	57	0	57
Totals	1007	933	21	954

1. Referred during calendar year 2006	**1007**
2. DRO results for calendar year 2006	**954**
• Cases resolved or otherwise closed	(98%) 933
• Cases returned and filed	21
• Restitution paid to victim	$16,435
• Suspects completed conditions[1]	75
3. Consumer cases referred	**103**
• Did not respond or referred to small claims	64
• Cases resolved	39
• Product delivered, credit back or refund	$15,706[2]

Significant cases DRO handled include the following:

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[1] Includes for example, attending anger management classes, driving classes, Alcoholics Anonymous meetings, animal safety classes, community service, or paying fines and restitution

[2] In some cases complainants were made whole due to their own efforts or as a result of filing the complaint.

- 74 year-old woman who was caught keying a number of cars belonging to neighbors who were in the habit of blocking the sidewalk with cars parked in their driveways. Our case involved two incidents that were witnessed. The two victims were willing to work with the alternative dispute resolution process and wanted the elderly neighbor to pay for their damages. On advice of counsel, the woman paid to have the vehicles repaired. In the end, the elderly lady was able to learn a valuable lesson and avoid a possible criminal conviction, and the victims were able to get full restitution without having to wait through a possible trial or civil proceeding. The total restitution paid to resolve this case was $2,473.

- Another interesting case involved an incident that occurred at a bar in the beach area. The suspect was at the bar with a friend who had words with the victim over an incident that occurred at the same bar a week prior, where the victim reportedly made an inappropriate sexual advance toward the friend's girlfriend. The two had words, and the problem seemed to be resolved until later when the suspect and his friend again had words with the victim outside the bar. This time the exchange was less than friendly and ended with the suspect punching the victim in the face, resulting in injury. The victim turned out to be in the military, so his medical bills were covered. Given his military status and potential availability problem, he agreed to let DRO try to hold the suspect accountable through the alternative process. To avoid possible prosecution in this matter, the suspect completed 20 hours of anger management and 20 hours of community service. The case was closed after we received proof that all of our conditions were met.

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DOMESTIC VIOLENCE AND SPECIAL VICTIMS UNIT

UNIT SCOPE OF WORK

The Domestic Violence and Special Victims Unit, led by Head Deputy City Attorney Gina Rippel, is responsible for the prosecution of all misdemeanor domestic violence (including same sex cases), stalking, elder abuse and child abuse cases within the City of San Diego. In addition, the Unit actively participates in training, outreach and prevention efforts.

The Unit provides aggressive, comprehensive and early prosecution of domestic violence and child abuse cases with the goal of reducing violence escalation and homicides in the City of San Diego. The Unit uses the criminal justice system to change abusive behavior and to promote healthy relationships and families. The Unit's primary goal is to maintain victim safety while holding batterers accountable for their actions.

The City Attorney's Domestic Violence and Special Victims Unit is a founding partner of the San Diego Family Justice Center (FJC). Residing under one roof are both the domestic violence units of the City Attorney's Office and the San Diego Police Department, making it America's first comprehensive center for families dealing with domestic violence. More than twenty domestic violence service agencies also reside at the FJC. The FJC provides consolidated and coordinated legal, social, and health services to more than 15,000 victims per year. Founded in 2002, the FJC is located in downtown San Diego at 707 Broadway. The San Diego FJC is the model for the development of other family justice centers throughout the nation; recognized by President George W. Bush in 2003.

HIGHLIGHTS 2006

Child Abuse Prosecution

Prosecuting misdemeanor child abuse remained a priority for the Unit in 2006. These cases included child abuse and neglect, molestation, sexual battery, statutory rape and child pornography.

In addition to prosecution, the City Attorney's Office is also focused on improving the lives of children through participation in the School Attendance Review Board (SARB) and the Teen Relationship Violence Council.

SARB (School Attendance Review Board)

The Unit files Education Code violations arising out of referrals from San Diego City Schools. These cases involve parents who have not been complying with compulsory education laws in having their children attend school regularly. It is the parents' responsibility to get their children under 12 to school on a regular basis. If there have been numerous unexcused absences, and the parents have failed to cooperate with the School District's efforts to improve the attendance problem, they will be referred to the City Attorney's Office. The Unit files between 12-20 SARB cases per year. It is also responsible for attending any review hearings in juvenile court to ensure the parents are complying with all court orders and that the minor's school attendance has improved.

Domestic Violence Council – Teen Relationship Violence (TRV) Committee

A Deputy also served as the Chair of the Teen Relationship Violence Committee in 2006. This is a multi-agency committee which addresses issues in our community involving violence among teens in relationships. The TRV Committee is comprised of individuals from Probation, Law Enforcement, City Schools, County Schools, District and City Attorney's Office, Office of Violence Prevention, SANDAG and local community based organizations.

Additionally, the Unit does outreach to local high schools to teach teenagers about teen relationship violence. This early intervention is aimed at educating teenagers about the dynamics abusive relationships and resources to escape or prevent involvement in violent relationships.

Elder Abuse

The City Attorney's Office continues to not only prosecute domestic violence and elder abuse, but also focuses on the prevention of elder abuse. Through prosecution, the safety of elders in our community is at the forefront. The Office ensures that elders are educated about services that could aid in their safety and well-being.

The City Attorney's Office continues to participate in the Elder Abuse Council, a multi-disciplinary team that meets to discuss issues of elder abuse in the law enforcement community.

This year our efforts to provide victims with information and services increased through a generous grant from the Archstone Foundation. This grant provides for innovative wraparound services to address the needs of elderly victims of physical abuse, neglect and financial exploitation within San Diego. An attorney from the unit participates in the multi-disciplinary team that presents and screens potential victims for participation in this program. This provides an excellent opportunity for victims who need a more significant intervention than criminal prosecution, to obtain necessary social, legal and mental health services.

San Diego Family Justice Center

The Unit continued its strong partnership with the Family Justice Center this year. The Unit works closely with the FJC to ensure victims of domestic violence have access to services that

lead to their safety, as well as information to lessen the emotional toll of being a victim and going through the court process. Being an onsite partner of the FJC allows frequent contact with the Domestic Violence and Elder Abuse units of the San Diego Police Department. This consistent communication enables the Unit to receive investigative reports, learn vital information immediately and secure the necessary response if a victim is in imminent harm. In addition to nearly daily contact between members of our Unit and members of the FJC or SDPD, key unit staff attends biweekly "site committee" meetings with the FJC and SDPD to continue to improve communication amongst the partners, which ultimately leads to improved victim safety and more successful prosecution of criminal cases

SIGNIFICANT CASES:

- ***People v. Deonte Sharp*** (Domestic Violence): The victim went to Defendant's home to pick up her child. Defendant became angry with the victim and stormed up to her cursing at her. Defendant told the victim he was so angry at her he could beat her. Defendant grabbed the victim by the neck with both hands, causing the victim to start to black out. Defendant then kicked the victim down the stairs. He kicked her in her head, arm and back. Defendant fled the scene before police arrived. The victim sustained an injury to her head, had a bloody finger, a red mark on her arm and a small cut on her wrist. Defendant was charged with violating three counts of Penal Code section 243(e)(1), battery on a significant other. The court sentenced Defendant to 75 days custody, three years probation, a 52 week batterer's treatment program and ordered him to have no contact with the victim of the crime. Additionally, Defendant is barred from owning or possessing a firearm.

- ***People v. Gary Frazier*** (Domestic Violence): While watching a football game, Defendant became very intoxicated. The victim told him to stop drinking and threw some papers at him. Defendant got up from his chair and began punching the victim. When the victim tried to flee, Defendant threw her to the ground and punched her several more times. When the police arrived, the victim was upset, afraid and crying. She had bruises on her arms. The victim recanted at trial and did not want Defendant prosecuted for these crimes. Following two days of testimony, the jury convicted Defendant of violating Penal Code sections 273.5 – spousal battery with injury, and 243(e)(1) – battery on a significant other. Defendant was sentenced to public work service, three years probation and a 52 week batterer's treatment program. Additionally, he was ordered to

undergo an evaluation to determine the appropriate treatment for his alcohol problem. Defendant is barred from owning or possessing a firearm.

- *People v. Solomon Guerrero* (Child Pornography): A multi-agency task force executed a search warrant at Defendant's home as part of an investigation of individuals purchasing access to illegal child pornography websites. The officers seized three computers, each containing hundreds of images of child pornography. Defendant had a prior conviction of child molest. Defendant pled guilty to ten counts of violating Penal Code section 311.11(a), possession of child pornography. Defendant was sentenced to three years of formal probation, 120 days custody and a court monitored treatment program. Further, Defendant was ordered to have no contact with minors and must continue to register as a sex offender.

- ***People v. Leihuanani Kaihewalu*** (Child Abuse): The victim in this case was a 10 year old boy. His mother, Defendant, became angry because the victim broke a musical instrument. The victim was frightened and hid in the bathroom. Defendant dragged the victim out of the bathroom, threatened to kill him and held him against the wall by his throat, causing bruising to his neck. The victim could not breathe and started to black out. The victim's sister yelled at Defendant because she was afraid Defendant was going to kill the victim. Defendant was charged and convicted of violating Penal Code sections 273a(b), child endangerment; 242-243(a), battery and 422, criminal threats. She was sentenced to 30 days custody, with 60 additional days custody stayed, four years probation and a 52 week parenting program.

- ***People v. Ivan Rivera*** (Elder Abuse): The 84 year old victim met Defendant (24 years old) at a Salvation Army and allowed him to move in with her to act as her caretaker. Defendant soon became physically and mentally abusive towards the elderly victim. Defendant grabbed the victim by her arms and pushed her, causing bruising to her arms. He then pushed her on the bed and held her down. The victim was extremely reluctant to report the abuse because Defendant threatened to kill her and her dog if she told anyone about the abuse. After filing criminal charges, Defendant was convicted of violating Penal Code sections 368(c), elder abuse, and 242-243(a), battery. He was

sentenced to 180 days custody and placed on formal probation to include completing a 52 week elder abuse counseling program. He was also ordered to have no contact with the victim and is barred from owning or possessing a weapon.

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DRUG ABATEMENT RESPONSE TEAM

UNIT SCOPE OF WORK

The Drug Abatement Response Team (DART) targets nuisance properties and businesses throughout the City of San Diego using a multi-agency task force approach coordinated by DART prosecutors within the City Attorney's Office. Head Deputy City Attorney Makini Hammond is the supervising community prosecutor of the unit.

In addition to the City Attorney's Office, the principal members of the DART city-wide task force includes the San Diego Police Department (SDPD) and inspectors from the Neighborhood Code Compliance Division (NCCD). Additionally, DART prosecutors work with other various city, county, state, private agencies and departments depending on the specific problems that need to be addressed.

When negotiation and cooperation fail to achieve the abatement of a public nuisance, DART community prosecutors utilize a variety of legal enforcement remedies to achieve successful outcomes. Although criminal and administrative judicial remedies are utilized when appropriate, DART prosecutors primarily rely on civil nuisance abatement actions to obtain court-ordered injunctive relief. The type of problems DART prosecutors typically handle include:

- Gang and drug houses
- Houses of prostitution
- Nuisance motels
- Smoke shops
- Nuisance public pay phones
- Problem nightclubs and bars
- Gang abatements

DART prosecutors have had a substantial impact in helping to reduce calls for police service at specific problem locations while at the same time making San Diego communities safer and more secure. For example, working with Western division officers DART prosecutors were able to successfully abate a public nuisance caused by a mentally ill drug abuser who was single-handedly responsible for 100 calls-for-service to the SDPD and over 600 hours of out-of-service time within a recent two year time frame.

In an ongoing effort to address a variety of public nuisances, DART prosecutors helped to establish a Problem Liquor Establishment Task Force ("Task Force") to address problem establishments that serve or sell alcohol including liquor stores, nightclubs and bars. DART has partnered with various enforcement agencies including SDPD's Vice Unit, the California State Department of Alcohol Beverage Control (ABC), Fire

Marshals, and Neighborhood Code Compliance Department (NCCD) to comprehensively address a variety of alcohol and crime-related issue such as fights, assaults, batteries, public urination, public drunkenness, noise disturbances, and even homicides. In particular, the Task Force identifies and deals with businesses practices that contribute to chronic over-serving of alcohol, severe overcrowding, failure to properly regulate the crowds as required by law, and illegal expansion of premises without proper permits and approvals.

HIGHLIGHTS 2006

In 2006, DART prosecutors carried a caseload of over 200 open cases and opened more than 70 new cases. Police statistics in the past have shown that the DART partnership has resulted in significant reductions in both officers' calls-for-service and out-of-service hours at nuisance properties and businesses. Given the limited police resources, the work of the DART prosecutors is an invaluable resource to both the San Diego Police Department and San Diego communities. Several of the more noteworthy cases are as follows:

Council District 2:

- ***Liquor Establishments:*** In partnership with the Task Force members, DART prosecutors have met with several nightclub and bar owners in both the Gaslamp and Beach communities to cooperatively address business practices that were contributing to nuisance activity. In the past year, DART has met with several bar and nightclub owners to inform them of the particular problems and to require recommended action to improve their business operations.

- ***In the Matter of Luxor Café:*** When efforts to achieve voluntary compliance were unsuccessful, DART prosecutors with assistance from Task Force members took formal action against the business owners and obtained over $22,000 in civil penalties. The business owner operated his downtown restaurant, Luxor Café, as a nightclub without the requisite permits and licenses generating numerous noise complaints from residents in the area.

Council District 3

- ***Motel- City of San Diego v. Shrikant Sawant (Welcome Inn)***:In March 2006, DART prosecutors filed an action against the owners of the Welcome Inn Motel. This motel was the source of substantial community attention because of the drug and prostitution activity that was facilitated by the motel managers. As a result of DART's involvement working with Western Division's Nuisance Property Officer (NPRO) and the community, DART prosecutors obtained $25,000 in civil penalties as well as a court-

ordered permanent injunction against the owners of the Welcome Inn Motel which continues to be enforced against them.

- ***Gang House- City of San Diego v. Peter Mello (3673 Monroe Ave)***:DART prosecutors have been working to abate this infamous hangout of two gang sets, Mexican Devil Locos and Old Town National City. Frustrated with the gang members hanging out and intimidating residents, neighbors became alarmed when two drive-by shootings at the house and one walk-up shooting occurred two houses away. DART prosecutors filed against the property owners and gang members obtaining injunctive orders which included stay-away orders against the gang members who frequented the property.

- ***Smoke Shops***
  DART prosecutors continue to go after those involved in the illegal sale of drug paraphernalia. In the last year, DART prosecutors and the NPRO worked to stop the sales of illegal drug paraphernalia at four smoke shops: Franky's Smoke Shop, Reggae World, Puff-N-Snuff and 420 Smoke Shop.

Council District 4

- ***Retail Establishment, City of San Diego v. Kyoung Soo Lee (Fam Mart)***:
  In November 2005, the SDPD conducted a multi-agency raid with the assistance of U.S. Customs, the Recording Industry Association of America (RIAA) and the Motion Picture Association of America (MPAA) at Fam Mart, a local indoor swap meet, where they seized over $100,000 in pirated and counterfeit music, movies and clothing. DART prosecutors filed a complaint in January 2006 against the business owners of Fam Mart who intentionally catered to a gang culture which contributed to the lawlessness both inside and outside of Fam Mart. In May 2006, DART obtained a preliminary injunction against the Fam Mart owner. The case has recently settled with the Fam Mart business owner stipulating to a permanent injunction in addition to paying the city the amount of $150,000.

- ***Drug House City of San Diego v. Doris Boyd***:
  When the property owner at 5232 Trinidad Way left the state and abandoned her property for thirty years, it was not surprising when community members started complaining about the foot traffic and shootings involving at least two home invasion robberies at the property. After police officers continued to make arrests and the owner would not cooperate to abate the nuisance, DART prosecutors filed a lawsuit to evict the tenants, board and secure

the property, and put up for sale the property. The property recently sold and there have been no further complaints.

- ***Smoke Shop People v. Steve & Joandark Kassab (ABC Smoke Shop):*** In July 2006, the DART detective obtained the first-known search warrant against a local smoke shop in the City of San Diego after the store vendors refused to cease selling illegal narcotic paraphernalia. In fact, these same store vendors had been convicted by DART prosecutors in 2004 for illegally selling narcotic paraphernalia from their adjacent liquor store in the southeast part of San Diego. In addition to numerous scales and baggies, narcotic and Officers seized almost 600 crack and methamphetamine pipes as well as other miscellaneous items of drug paraphernalia from the ABC Smoke Shop. DART prosecutors filed a 19 misdemeanor count complaint against the store owners in October 2006. A trial date has not yet been scheduled.

Council District 8

- ***Westcoast Crip Gang Abatement Action, City of San Diego v. Westcoast Crip*:** After the culmination of a seven-month investigation and trial preparation, the DART prosecutor in partnership with the SDPD Gang Unit, filed a civil gang abatement action and obtained a permanent injunction against the Westcoast Crip (WCC) criminal street gang. The injunction prohibits criminal and nuisance activity and reduces violent crime caused by WCC in their home territory of Logan Heights, Sherman Heights and Grant Hills in the Council District 8, as well as the territory of their associate gang set, Neighborhood Crips, in the *Council District 4* communities of Mount Hope and Chollas View.

- ***Smoke Shops***
  DART prosecutors and the Central Division Neighborhood Resource Team officers have contacted several store owners demanding them to cease and desist from selling illegal drug paraphernalia in four community markets and one downtown discount store which include Max's $1 Store, Najor's Discount Market, Royal Market and 99¢ Store, and Inhale.

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NEIGHBORHOOD PROSECUTION UNIT

UNIT SCOPE OF WORK

The Neighborhood Prosecution Unit (NPU) works in partnership with the San Diego Police Department (SDPD), other governmental agencies, and community organizations to aggressively and creatively combat crimes that impact quality of life. The goals of the NPU are to improve quality of life in targeted neighborhoods; build meaningful partnerships to solve community crime problems; expand prosecutorial tools to more effectively address neighborhood crime priorities; and hold offenders accountable in the criminal justice system and to the harmed community.

Head Deputy Regan Savalla supervises the Neighborhood Prosecution Unit. The NPs are assigned to various divisions of the SDPD, including Central, Mid-City, Northern, Southern, Southeastern, San Ysidro, and Western Divisions. Neighborhood Prosecutors are working in more than 25 neighborhoods, which include the additions of San Ysidro in 2006 and the Southeastern part of the City in 2007:

Neighborhood Prosecutors:

Kristin Beattie
Mid-City Neighborhood Prosecutor
Target Areas: City Heights East/West

Gabriela Brannan
Southern Neighborhood Prosecutor
Target Area: San Ysidro

Lea Fields
Southeastern Neighborhood Prosecutor
Target Area: To be determined

Paige Hazard
Western
Target Areas: North Park and Hillcrest

Teresa Martin
Northern Neighborhood Prosecutor
Target Areas: Pacific Beach & Mission Beach

Nicole Pedone
Central Neighborhood Prosecutor
Target Areas: Downtown, Logan Heights, Grant Hill,
Barrio Logan, Sherman Heights and Stockton

Neighborhood Prosecutors attend community meetings and community events to bring information on quality-of-life crime problems to SDPD and the City Attorney's Office for attention and problem-solving.

HIGHLIGHTS 2006

Mission Beach Sexual Assault Response

In the aftermath of felonious sexual assaults that occurred on October 15, 2006 in Mission Beach, NPU and SDPD organized a multi-faceted approach to targeting issues pertaining to public safety. The direction came following an October 17, 2006, Mission Beach Neighborhood Watch meeting, which was attended by the City Attorney, the entire NPU, San Diego City Council member Kevin Faulconer, SDPD representatives, and community members. NPU participated in a series of meetings with District 2, the SDPD, Park and Recreation, Streets Division, USD, SDSU and community members to create a problem solving strategy. The results of those meetings were: the expansion of the Mid-City Camera project to include five different locations in the Northern Division Beach Area; neighborhood watch expansion; educate the public about landlord/tenant issues and crime prevention through environmental design (CPTED); street lights throughout Mission Beach were assessed and replaced or repaired, and a series of student forums were hosted to address crime prevention strategies.

Prostitution: The El Cajon Blvd. Camera Project

El Cajon Blvd., which runs through two area commands of the SDPD, is an area in Mid-City where prostitution, drug sales and paraphernalia and related quality-of-life crimes prevail. In September 2005, the Mid-City NP and the Mid-City Prostitution Task Force brought service providers, community groups, and law enforcement together to examine the use of cameras as an enforcement tool. The team focused on approaching the problem through effective means of deterrence: installing cameras on El Cajon Blvd. to monitor the area. The appropriate camera system was researched and funding was ultimately secured through a grant from Price Charities.

In June of 2006, two cameras were installed across the street from the Mid-City police substation and within a day, three arrests were made. In addition, signs were posted indicating the area was being monitored. It has assisted in several arrests and a second phase has been approved to install cameras along the entire problematic area of El Cajon Blvd. In 2007, seven cameras were added throughout Mid-City. This project serves as a model for the other area commands to evaluate for potential use in other communities. Northern Division in District 2 has already selected five camera locations and is currently investigating funding options.

Neighborhood Prosecutor Assigned to District 4

In July, 2005, District 4 requested a NP to address the high volume of quality of life crimes plaguing their communities. The City Attorney enthusiastically tasked NPU to develop and create a position for a NP at the Southeastern Division of the SDPD. NPU has met with the staff of Council District 4, SDPD, community members, and advocates to designate areas of Southeastern on which to focus, conduct a needs assessment of the communities, and set priorities. After months of planning, a NP was assigned to District 4 and has begun office hours at the police sub-station and at the local community center as of February 1, 2007.

The NP has already begun problem oriented projects brought by community members and police officers such as developing problem-solving strategies to prevent air soft gun sales from ice cream vendors, solve chronic crime problems at the four corners of Euclid and Imperial Ave., and to deal with a problem property at 4500 Logan Ave.

Border Transportation Carriers and Illegal Solicitation: *People v. Cal-Mex & People v. LA-Mex*

2006 was the second year that the City Attorney has had a NP assigned to Southern Division. This year the Southern NP took on several challenges involving illegal border transportation carriers. These carriers referred to as "wildcatters" have presented a consumer issue in San Ysidro for many years. Many transportation providers are unlicensed and uninsured and illegally solicit business within the border zone in violation of the SDMC and the PUC. A Wildcatting Taskforce and problem-solving strategies were implemented to deal with these solicitors. This plan involved training officers, reaching out to residents and business owners, and involving MTS and other effected agencies to create a coordinated effort for enforcement. An undercover operation was held on April 7, 2006 resulting in the NPU filing formal complaints against three companies. Two of the companies Cal-Mex and LA-Mex pled guilty and were ordered to pay fines per driver, bringing the total to $4000. On February 23, 2007, another operation was conducted resulting in charges filed against seven individuals and one company (Concord's Express) for soliciting in violation of Municipal Code 52.7004.

Preventing Crime through Park Curfew- SDMC § 63.0120

There are many San Diego parks that have no curfew. Consequently, crime problems develop because of late night activity. The NP at Southern Division took the lead in working with the Council representatives city-wide, the Park and Recreation Department, and the SDPD to identify problem parks to add to the City's municipal code section addressing curfews to improve the quality-of-life in those areas. The list is not yet complete, but the following parks have been identified: Kate Sessions, Breen, Mesa Verde, Winterwood, Mt. Acadia, Memorial, Chicano, Kensington Municipal, Teralta Neighborhood, De La Cruz, Azaela, Recreation Center City Heights Community, Montezuma, Clay, Colina Del Sol, Oak, Chollas Community, Rolando, Hollywood, Nestor, and Vista Terrace.

Problem Solving Courts

The NPU operates several problem solving courts in the community to address quality-of-life crimes: Downtown Community Court (DCC), Mid-City Community Court (MCCC), Homeless Court (HC), and new in 2006, the Beach Area Community Court (BACC).

- **Beach Area:** The BACC launched in May, 2006 with the support of a $200,000 grant from the United States Department of Justice, Office of Justice Programs. Out of over 130 applications submitted, NPU was selected as one of only ten demonstration sites in the nation, and the only one in California, to receive this funding. Low level offenders attend a community impact panel and offenders give back to the community in which they offended by completing several hours of community service. The panel is comprised of community members, health practitioners, and a SDPD representative. The BACC serves the Pacific Beach, Mission Beach, and Mission Bay Park communities and has seen many successes and overwhelming support from the community. Since May, 2006, 1275 cases were screened for BACC. BACC hosted 8 court sessions, addressed 262 participants, and facilitated 765 hours of community service in the beach area cleaning over 11 different locations.

- **Mid-City:** MCCC cases address problem-solving projects that the NPU regularly handles, such as loud parties in the College area and prostitution activity on El Cajon Blvd. If offenders remain law-abiding for one year and complete the sanctions imposed, they avoid having formal criminal charges filed against them. This has been a year of change for the MCCC. Adapting to the needs of the community, MCCC is now held monthly instead of weekly, and has added an evening session. The sanctioning panel was expanded to include four rather than two community members, allowing more opportunity for community involvement. This year 203 cases were eligible for MCCC. MCCC hosted 16 court sessions, addressed 86 participants, facilitated 200 hours of community service, and collected $8,400 in administrative fees. Since its implementation in February, 2003, MCCC has processed 805 cases, addressed 364 participants, facilitated 1888 hours of community service, and collected $40,800 in administrative fees.

- **Downtown:** DCC is a collaborative effort between the City Attorney's Office, San Diego Superior Court, Office of the Public Defender, Downtown San Diego Partnership, and SDPD. Offenders who commit specific misdemeanor offenses in Downtown must perform community service as a means of restorative justice. DCC operates out of the Misdemeanor Arraignment Department of the San Diego Superior Court. This year the court received a $10,000 grant from county of San Diego to assist with equipment for community service volunteers and supplies for community outreach. The court is also undergoing a certification process so that court ordered theft classes can be conducted in house to assist offenders in complying with their terms of probation. This year 85 cases were eligible for DCC, and the court addressed 53 offenders and facilitated 616 hours of community service.

- **Homeless Court:** NPU partners, in cooperation with various agencies, created a judicial program for homeless individuals, with low-level misdemeanor and infraction cases, to have their warrants cleared and cases processed in an efficient manner. HC is held monthly at two local homeless shelters. The sessions are handled with the seriousness of a court proceeding while, at the same time, celebrating the success of participants taking steps toward a better future. In 2006, approximately 966 defendants with a total of 3121 cases were heard in HC. San Diego's HC was the first of its kind in the nation, and is a model that is replicated nationwide.

In May, 2006, then Head Deputy Angie Reddish-Day participated as faculty at the 2006 National Coalition for Homeless Veterans Conference, educating members of the judiciary and court personnel about the success of HC. On October 26, 2006 Head Deputy Regan Savalla served as faculty at the California Homeless Court Roundtable to assist California jurisdictions in the planning and implementation of homeless courts.

NPU also participated in the annual Stand Down in July, a multi agency effort, where the City Attorney provides an opportunity for homeless veterans to have their misdemeanor cases processed and warrants cleared. In 2006, a total of 287 homeless veterans registered to participate in the court proceedings, resulting in over 889 cases to be researched by the NPU. Of those defendants, 146 veterans actually participated in the court proceedings, resulting in a total of 473 adjudicated cases in one weekend.

National Excellence in Community Prosecution

October 3-5, 2006, San Diego hosted the 3rd National Community Prosecution Conference. NPU teachers taught at, and assisted in planning the conference, including organizing a site visit to the newly launched BACC. Of over forty participating jurisdictions, the NPU was one of four jurisdictions recognized by The American Prosecutors Research Institute with a Certificate of Achievement for excellence in Community Prosecution.

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PUBLIC INTEGRITY UNIT

UNIT SCOPE OF WORK

Upon assuming office in December 2004, the City Attorney revitalized the Public Integrity Unit. It is led by Chief Deputy City Attorney Kim Urie.

The Public Integrity Unit focuses on the investigation and prosecution of complex cases involving fraud such as the misuse or misappropriation of public funds, false claims, and procurement fraud. The PIU also investigates official misconduct by elected and appointed officials, including intentional violations of the Political Reform Act and Government Code, conflicts of interest, the Brown Act, and incompatible activities.

In addition to prosecuting cases in Superior Court, the PIU conducts inquiries and fact findings based on complaints from other public agencies and concerned San Diego area residents, and uses measures short of litigation to prevent violations of local, state and federal laws.

HIGHLIGHTS 2006

- ***People v. San Diego African Sports Association***
  Allegations of false receipts submitted to City Auditor regarding annual Gold Coast Classic college football game (a joint investigation with the City Attorney's Consumer & Environmental Protection Unit). Corporate guilty plea, penalty fine of $2500 and barred from receiving City of San Diego funds for three years.

- **San Diego Food Bank Fraud**
  From 2003 to 2004, Jose Alanis Cano, Pastor of the Iglesia Apostolica Fuente de Vida, obtained hundreds of thousands of pounds of food and non-food items from the San Diego Food Bank (a joint investigation with the City Attorney's Consumer & Environmental Protection Unit). Defendant paid approximately 18 cents per pound for these donated items. Guilty plea. One count of grand theft; one count of forgery; and one count of filing false sales tax returns in conjunction with his illegal sale of donated food at a local swap meet.

- **Central City Advisory Committee**
  Inquiries related to possible Brown Act violations by Committee members. Participants were counseled and monitoring continues.

- ***People v. Oneal and Alvernaz***
  Paul Alvernaz and Douglas Oneal, two employees with the San Diego Fire Department charged with misdemeanor offenses for malicious conduct against another fire department employee. Both are charged with using offensive words in a public place which were likely to provoke an immediate violent reaction. Oneal was also charged with vandalism for defacing property (helmet) belonging to the City of San Diego.
  Guilty plea by Oneal. Trial is set in People v. Alvernaz.

- **City Lobbyist Registration**
  Letters were sent to individuals who failed to register as lobbyists as required by City's Municipal Code, which resulted in increased compliance with the City's Lobbyist Ordinance.

- **Tracy Means, former Airport Authority Director**
  Allegations of improper awarding of contracts. The case was referred to the San Diego County District Attorney's Public Integrity Unit because of possible felony conduct by private sector consultant. City Attorney has no City Charter Section 40 authority over private sector financial records.

- **Scott Peters & Marsh Mclellan**
  Possible financial conflict due to Council President Scott Peters' ownership of Marsh securities, the parent company of Kroll Inc., which has a contract with the City. Investigative results submitted to San Diego County Grand Jury because Councilmember Peters refused to provide requested investment holding details.

- **Competitive Procurement Process**
  Review of competitive process involving safety equipment for the City. Issues of immediate concern were resolved regarding biased RFP favoring particular vendors.

- **Nick Inzunza Properties**
  Allegations related to various code violations and lack of action by Neighborhood Code Compliance Department (NCCD). Internal Report provided to the Mayor's Office. Public Integrity Unit inquiry resulted in increased enforcement activity by NCCD.

- **Fire Rescue Department's Pension Benefits**
  Allegations that management in the San Diego Fire Department manipulated promotions to spike pension benefits. Investigative results conveyed to U.S. Attorney's Office.

- **Southeast Economic Development Corporation**
  Allegations related to affordable housing violations. No finding of criminal conduct on the part of SEDC Board officials. Report to Mayor & City Council to follow.

- **Fox Canyon & Ontario Avenue**
  Allegations related to improper use of special park fees. Referred the matter to California Attorney General's Office and the San Diego District Attorney's Office

- **Improper Billing by City Attorney's Office**
  Allegations of misuse of water and waste water enterprise funds in service labor agreement with the City Attorney's Office. Referred the matter to the San Diego County Grand Jury. The California Attorney General's Office is conducting an on-going investigation

- **Hal Sadler, Former Chairman of Centre City Development Corporation (CCDC)**
  Allegations of Conflict of Interest violations related to Library contract. Declined to prosecute after Sadler resigned.

- **Metropolitan Wastewater Department Employees**
  Allegations of stock trading during work. Referred the matter to the Mayor's Office of Ethics & Integrity for administrative action.

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SAN DIEGO TRAFFIC OFFENDER PROGRAM

UNIT SCOPE OF WORK

The San Diego Police Department and the City Attorney's San Diego Traffic Offender Program (STOP) is recognized throughout the state as the premier law enforcement agency in combating the problem of suspended, revoked, and unlicensed drivers. The STOP Team was established in 1997 when the California Office of Traffic Safety (OTS) awarded a two-year $635,000 grant to the San Diego Police Department to create and support a full-time unit to proactively enforce driver license laws.

The STOP Team is comprised of one Sergeant, four motor officers, one officer in a vehicle, one commercial vehicle enforcement officer, one code compliance officer, one administrative aide and a full-time Deputy City Attorney, Karolyn Westfall.

Statistics show that of all drivers involved in fatal accidents, more than 20 percent are not licensed to drive. Moreover, a driver with a suspended license is four times as likely to be involved in a fatal crash as a properly licensed driver. The DMV estimates that 75 percent of all drivers whose driving privileges are withdrawn continue to drive, regardless of the law. The STOP Team identifies and arrests these habitual traffic offenders and investigates citizen complaints about suspended, revoked, and unlicensed drivers.

STOP Team officers routinely conduct driver's license checkpoints, stings and surveillances, and follow-up investigations of illegal drivers. The STOP Team works with the local chapter of Mothers Against Drunk Driving (MADD) to target drivers who continue to drive, despite having their privileges suspended for DUI-related offenses and convictions.

The STOP Team initiates forfeiture proceedings when a vehicle is operated by a repeat driver's license offender who also meets certain statutory criteria. STOP Team officers train and assist other officers throughout the department and county wide on driver's license offenses and enforcement. STOP Team officers are also cross-trained in commercial vehicle enforcement and regularly participate in special enforcement details to target commercial operators who violate the law.

The STOP Team prosecutor issues and prosecutes the STOP Team misdemeanor cases, defends the police department 30-day impounds, litigates all forfeiture matters and assists in related efforts of the San Diego Police Department (i.e.: Red Light Camera, Dragnet).

HIGHLIGHTS 2006

Throughout 2006, law enforcement agencies forwarded 5,718 misdemeanor driver's license cases to the City Attorney's Office for prosecution. Of that number, 80 percent (or 4,593 cases) were initiated by the San Diego Police Department. The number of cases submitted by the San Diego Police Department was down again this year from 5,861 cases in 2005 and 6,251 cases in 2004.

STOP Team Vehicle Forfeitures and Revenue Generation

During Calendar Year 2006, the STOP Team forfeited 209 vehicles from repeat traffic offenders. In 2006, vehicle forfeitures generated approximately $80,514 in revenue for the city's general fund. An equal amount of revenue was generated for the state's Vehicle Inspection and Repair Fund for the high-polluter repair assistance and removal program. The number of forfeitures and revenue has actually increased from 117 vehicles and $63,390 generated in 2005.

DUI Forfeitures

A person convicted of a third DUI within seven years may have his or her vehicle declared a nuisance and forfeited to the state. During 2006, there were no new DUI vehicle forfeiture cases initiated. However, one case from 2004 was finally resolved and the city received proceeds totaling $2,197.58. This money was then transferred to San Diego Youth & Community Services, Mid-City Communities Center, to be used for community-based adolescent substance abuse treatment services. This distribution of funds is mandated by the California Vehicle Code.

Illegal Street Racing

During 2006, the City Attorney's Office prosecuted 26 cases for illegal speed contests, most involving "impromptu" races. Since 2001, when racing prosecutions peaked at 290 cases, the City Attorney's Office has seen a steady decline: 155 cases in 2002; 60 cases in 2003; 58 cases in 2004; and 47 cases in 2005.

DRAGNET Forfeitures

DRAGNET is a special unit within the San Diego Police Department that focuses on illegal street racing. This unit is trained to inspect vehicles for performance and/or racing modifications. When inspecting vehicles that have been modified for racing purposes, many are found to contain either stolen parts or parts that are missing their VIN numbers. In June 2006, SDPD approached the City Attorney's Office, requesting prosecution of individuals for possession of vehicles with missing VIN numbers and to have these vehicles ordered destroyed.

California Vehicle Code section 10751(b) authorizes law enforcement officers to take possession of and destroy a motor vehicle when any number used for registration

purposes, that is affixed by the manufacturer to the vehicle or component part, has been removed, defaced, altered, or destroyed. A person in possession of a vehicle or parts of a vehicle missing its VIN number can be charged with a misdemeanor under VC 10751 (via VC 40000.9) or a civil action may be brought to have the vehicle forfeited. In 2006, the City Attorney's Office began initiating civil and criminal proceedings to forfeit and destroy vehicles in violation of this statute. Of the six cases brought forth for destruction in 2006, the Court ordered five vehicles destroyed.

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TRAINING AND RECRUITMENT UNIT

UNIT SCOPE OF WORK

The Training and Recruitment Unit performs both support and criminal trial functions. Under the support function, the Unit (1) oversees the recruitment of new Deputy City Attorneys for the Criminal Division; (2) provides intensive training course for newly-hired prosecutors and ongoing training for experienced members of the Criminal Division; (3) conducts recruiting activities at local law schools; and (4) oversees the Criminal Division's Student Intern Program.

The Training and Recruitment Unit is headed by Senior Deputy City Attorney Tracy A. Rogers. Experienced deputies in the Criminal Division assist in the interviewing of applicants and in the presentation of a four-week training program for newly hired Deputies. In addition, training presenters are also invited from outside the City Attorney's Office, including the California Attorney General's Office, the San Diego Superior Court, the San Diego Police Department, and members of the private bar.

In its criminal trial function, the head of the Unit handles a specialized, vertically-prosecuted caseload of vehicular manslaughter offenses, offenses involving the registration of sex offenders, and sex crimes other than interfamily or intimate partner offenses. In addition, the Unit appears on all criminal cases in which psychiatric issues cause the defendant to be referred to the Mental Health Department of the Superior Court. The Unit was created in its current format in 2004, when the training and criminal trial components were added to the traditional recruiting function that had formally been its exclusive function.

HIGHLIGHTS 2006

Recruitment

In June 2006 the City Attorney hired only one class of 12 new prosecutors from a pool of approximately 100 qualified applicants. The hiring process involved the initial review and analysis of resumes submitted by applicants, followed by two rounds of interviews by experienced Criminal Division members.

Trial Support

In fulfilling the Unit's criminal trial function, the Unit head worked closely with sex offender registration enforcement officers and with traffic accident investigators in the prosecution of these specialized cases. In 2006, 23 failure-to-register cases were reviewed for possible prosecution, and criminal charges were filed in all cases. Approximately 120 cases involving other sexual offenses were reviewed and 115 cases were issued. Approximately 12 vehicular manslaughter cases were reviewed for possible prosecution, and criminal charges were filed in 9

cases. Once the cases were issued, the Unit Head handled the majority of the courtroom appearances, assisted by Deputies in the Criminal Division. There were over 200 such appearances. Where completion of counseling was a component of the sentence, Deputy City Attorneys appeared in court to enforce compliance. In 2006, those further proceeding hearings numbered in excess of 207.

In addition, Senior Deputy City Attorney Rogers appeared in the San Diego Superior Court Mental Health Department on 73 matters involving questions of the mental competency of persons facing criminal charges with law enforcement agencies.

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