

**Office of the San Diego City
Attorney**

Annual Report

2010



The Office of the San Diego City Attorney is among the region's largest law firms, handling a diverse case load. The City Attorney's Office advises the Mayor, the City Council and all its departments keeping the City out of new trouble as we deal with the multitude of past mistakes. The City Attorney's Office prosecutes or defends law suits or cases to which the City may be a party and receives approximately 35,000 criminal cases per year involving persons charged with violations of the state laws occurring within the city limits of the City of San Diego for misdemeanor offenses.

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Office of the San Diego City Attorney

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The Department's mission statement is:

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



City Attorney Jan Goldsmith has been an attorney since 1976 specializing in business litigation. He was appointed San Diego Superior Court Judge in 1998 and retired in December of 2008 to assume the office of San Diego City Attorney. Mr. Goldsmith spent his first 6 years on the Bench handling criminal and civil trials and his final years assigned to an independent civil calendar.

The Office of the San Diego City Attorney has restructured itself into a private law firm model with four divisions: Civil Litigation, Civil Advisory, Criminal, and Community Justice. These divisions are subdivided into sections and units which allow the attorneys to specialize in areas of practice. <http://www.sandiego.gov/cityattorney/>

Civil Litigation: The Civil Litigation Division prosecutes or defends civil lawsuits in which the City is a party. The Civil Litigation Division is divided into five units: Civil Prosecution, Workers' Compensation, Land Use Litigation, General Litigation and Special Litigation. Don Worley, the Assistant City Attorney heading this division, has over 30 years in private practice in land use, real estate, and business litigation.

GENERAL LITIGATION UNIT

The San Diego City Attorney's General Litigation Unit consists of Chief Deputy City Attorney Donald F. Shanahan, Deputy City Attorneys Jane Boardman, Bonny Hsu, Keith Phillips, Jennifer Gilman, Catherine Turner, John Riley, Stacy Plotkin-Wolff, and Brian Murphy. Each attorney handles a heavy case load, defending the City of San Diego, agencies within the City, and its agents. The types of cases handled by the General Litigation Unit include, but are not limited to, police excessive force cases, state common law torts, constitutional issues, dangerous condition cases, motor vehicle accidents, and an assortment of other tort and personal injury cases. The attorneys in the General Litigation Unit were highly successful in resolving a variety of lawsuits favorable to the City. Numerous summary judgment motions, motions to dismiss, and demurrers were obtained for our City clients.

During the past year, the General Litigation Unit received 101 new cases, in addition to the carry-over of cases from 2009. Eighty-nine (89) cases were disposed of through trials, motion practice, tender letters, and settlement negotiations. In addition to resolving cases which monetarily benefit the City, the General Litigation Unit obtained legally significant rulings.

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Several examples include:

McGowan v. City of San Diego: This matter was taken to trial and City defendants prevailed. The case arose out of the robbery and beating by Plaintiff McGowan of a man at his own apartment. McGowan then stole the victim's car. The victim reported the incident, and K-9 officer Leach learned of it over his police radio and proceeded to the area where the robbery occurred. He had heard that McGowan had threatened to shoot the robbery victim. Officer Leach located the stolen vehicle and followed it into a gas station. After identifying the vehicle and noting that McGowan matched the description of the robber, he exited his vehicle with his dog and approached McGowan, who he believed was armed. Officer Leach ordered McGowan out of his vehicle and told him to lie on the ground. McGowan reached into the waistband of his pants several times, and Officer Leach believed he was reaching for a gun. McGowan was uncooperative and kept yelling obscenities. Officer Leach warned McGowan that he would deploy the dog if McGowan did not do as he was told. When he refused to put his hands behind his back, started getting up off the ground, and reached into his waistband for the third time, Officer Leach deployed his dog. The dog bit McGowan on the head and held the bite while McGowan fought with the dog. After other officers arrived and had McGowan under control, Officer Leach released the dog. McGowan is now serving a 31-year sentence for the crime which precipitated this case, but he insisted on pursuing it to trial.

Ocie Henderson, et al. v. City of San Diego: This case stems from an in-custody death case of Ramel Henderson on May 30, 2007. Ocie Henderson, the decedent's father, representing the Estate, and decedent's children, Ramel Henderson, Jr., Jennelle Henderson and Donte Henderson sued four San Diego Police Officers, San Diego Police Chief William Lansdowne and the City of San Diego for money damages. The complaint set forth five causes of action, including excessive force in violation of the Fourth and Fourteenth Amendments; a *Monell* claim against Defendants Lansdowne and the City for failure to instruct, train, and supervise; wrongful death, survival action, and negligence. Defendants moved for summary judgment on the basis that the force used to subdue a violent suspect was reasonable under the circumstances and, as a consequence, did not violate the Fourth Amendment standards of force. Moreover, regardless of whether or not a constitutional violation occurred, the right in question was not clearly established in the Ninth Circuit at the time and, therefore, a finding of qualified immunity on behalf of the Defendant officers was required. On February 16, 2010, the Court granted Defendants' motion for summary judgment in its entirety.

Michael Stewart v. City of San Diego, Pam Rowlett, et al.: Plaintiff Michael Stewart, filed a forty page complaint consisting of arguably six causes of action. The first cause of action claims that on February 23, 2009, a police officer cut in front of Plaintiff in her patrol car causing him to lose control of his vehicle and crash into a light post. The second cause of action claims that the fifteen other named officers' realized that Plaintiff had no memory of the accident and helped cover up the police officers' alleged illegal actions on February 23, 2009, by submitting false reports, committing conspiracy. The third, fourth, and fifth causes of action allege that on June 14, 2008, at about 10:45 a.m. the police officer harassed him and conducted an unlawful search of himself and his car. Plaintiff further claims that the police officer harassed him and searched his car on two previous unidentified occasions. Finally, Plaintiff's sixth cause of action

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claims that a former deputy city attorney and city attorney investigator were part of a double conspiracy, trying to cover up the details of the February 23, 2009, accident, providing false information, and withholding relevant information. On December 6, 2010, the City's Motion for Summary Judgment was granted.

Wilson v. City of San Diego, et al.: Sergeant Ken Davis arrested Plaintiff, Melford Wilson, on February 16, 2007 for P.C. §148(a)(1) resisting, obstructing or delaying a peace officer in the performance of his duties. In the lawsuit filed in federal court against Sgt. Davis, the City, Chief Lansdowne and SDPD, the Plaintiff asserted the following legal claims arising from the aforementioned arrest: 1) false arrest, 2) excessive force, 3) retaliation, 4) false imprisonment, 5) malicious prosecution, 6) failure to properly screen and hire, 7) failure to properly train 8) failure to properly supervise and discipline, and 9) Monell violation. Defendants filed a Motion for Summary Judgment on all causes of action. At oral argument, Plaintiff's attorney advised the Court that he would dismiss the excessive force, failure to properly screen and hire, failure to properly train, failure to properly supervise and discipline and Monell violation causes of action. That left causes of action for false arrest, retaliation, false imprisonment and malicious prosecution against Sgt. Davis only. The Court granted summary judgment to the remaining causes of action in the matter, thereby dismissing the case in its entirety.

Longhenry v. City of San Diego: Plaintiff was involved in a single car rollover accident while driving from La Jolla Scenic to La Jolla Parkway. Plaintiff alleged a dangerous condition of public property because there was substantial water running across the street from an unknown source. City prevailed on motion for summary judgment. The Court found City was immune from liability based on Government Code sections 818.4 (for issuing a permit) and 818.6 (for inadequate or negligent inspection). The Court also found City did not have actual or constructive notice of the condition.

SPECIAL LITIGATION UNIT

Under the direction of Chief Deputy City Attorney Joe Cordileone, the Special Litigation Unit defends the City of San Diego, its employees, officials and departments in civil actions that are not considered "General Litigation" matters. The following are examples of the type of work performed by the Special Litigation Unit:

- Defend the City in class action lawsuits.
- Defend challenges to the constitutionality of City ordinances and City policies or practices.
- Defend employment-related cases which include claims of discrimination, harassment, retaliation and FLSA wage and hour matters.

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- Defend the City in complex litigation — whenever any lawsuit against the City, by virtue of its size or level of difficulty requires extra attention from the court, it is declared “complex,” and its defense is transferred to the Special Litigation Unit.
- Represent various City departments in administrative hearings before the Civil Service Commission and CalOSHA.
- Prosecute and defend all appeals in State and Federal Courts.
- Defend writs or other non-standard legal challenges, including employment-related administrative writs, alleged Brown Act and Public Records Act violations, election challenges, and actions involving provisions in the City Charter and Municipal Code.

Employment Cases:

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

Case Examples:

Linares v. City of San Diego:

Wrongful termination and retaliation suit.

City’s Motion for Summary Judgment was granted thereby ending the case.

Osborn v. City of San Diego:

Writ seeking to overturn Civil Service Commission’s decision to impose an unpaid 15-month suspension on pugilistic employee.

Court denied injunction thereby ending the case.

Rickie Reynolds v. City of San Diego:

“Whistleblower” lawsuit against the City.

City’s Motion for Summary Judgment was granted thereby ending the case.

Wiggins v. City of San Diego:

City’s Motion for Summary Judgment was granted thereby ending the case.

Civil Service Commission cases:

Appeal of Michael Gaines:

Termination upheld.

Appeal of Robert O’Rourke:

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Suspension upheld.

Appeal of Jaime Rodriguez:

Termination upheld.

Appeal of Robert Ruge:

Termination upheld.

Appeal of Alfredo Ruiz:

Suspension upheld.

Other High Profile Employment Related Cases:

Blizzard v. SDCERS, et al.:

A former City paramedic, worked a 56 hour work week. He sought to increase his pension by counting hours in excess of 40 as overtime for “highest annual salary” purposes. The City prevailed at trial.

City of San Diego v. Means:

City sued a former Deputy Director for inappropriately awarding contracts without proper oversight. City prevailed at trial.

City of San Diego v. SDCERS:

City sued to prevent SDCERS from charging the City for the underfunding of the pension system caused by SDCERS selling service credits at a non cost neutral price. The City prevailed at trial. The judgment was affirmed on appeal in a published decision.

Collins v. City of San Diego:

Three former Police Officers’ Association presidents sought to increase their pension benefits by using a combination of their highest City and union salaries as their highest salary for pension purposes. City prevailed on demurrer.

McGuigan v. City of San Diego:

After a class action was settled, one union opposed the settlement. City and settling employees prevailed on appeal. Then the settling employees tried to sue the City to require it to pay their attorney fees for fighting the appeal seeking approximately \$700,000. The Court of Appeal affirmed the trial court’s decision in a published opinion.

San Diego City Employees’ Retirement System v. City of San Diego:

SDCERS was sued the City for an additional contribution of \$178,000,000 to the pension plan. Court granted City’s judgment in the City’s favor based solely on SDCERS’ pleadings.

San Diego City Firefighters, et al v. City of San Diego, et al.:

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Firefighters Union president sought to increase his pension benefit by combining his highest City and union salary as his highest salary for pension purposes. Also, several more firefighters sued the City to remove a program called the “cashless leave conversion” program. City prevailed on demurrer.

Outside the Employment Arena the Special Litigation Section Has Been Busy with Cases Such as:

Bush v. City of San Diego:

Organizer of “San Diego Naked Bicycle Ride” unsuccessfully sought to enjoin the City from enforcing its public nudity ban. Court denied the injunction thereby ending the case against the City.

Cornerstone Sec. Prof’ls, Inc. v. Visco Entertainment Group, Inc., et al.:

Plaintiff alleged a former police officer in his official capacity, made false representations to nightclubs and thereby interfered with its business. Plaintiff dismissed the City from its complaint based upon legal issues City presented.

Douglas Barnhart, Inc. v. City of San Diego:

Petition for writ arising from civil penalty over discharge of sediment. Injunction denied thereby ending the case.

Fumagalli v City of San Diego:

Election case alleging improprieties in the balloting for school board officials. Injunction denied thereby ending the case.

Guy v. City of San Diego:

On appeal the Plaintiff sought a retrial on damages following a jury award of \$1.00 for excessive force by a police officer during an arrest. Court of appeal affirmed the award.

Johnson, et al. v. People of State of California, et al.:

Petition for a writ over hearing officer’s assessment of costs for code violations. Injunction denied thereby ending the case.

J.T. Wimsatt Contracting Co. v. City of San Diego:

Concrete subcontractor sought to halt construction on New Central Library project. Injunction denied thereby ending the case.

Keys v. City of San Diego:

Writ to overturn administrative ruling in favor of City upholding noise ordinance violations. Injunction denied thereby ending the case.

Lorkovic v. City of San Diego:

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Write challenged City's ability to disallow personal auto repair in a residential zone. Injunction denied thereby ending the case.

O'Sullivan v. City of San Diego, and La Jolla Friends of the Seals, et al. v. NOAA, et. al. and Animal Protection & Rescue League, et al. v. Mayor Jerry Sanders:

Three different cases and appeals against the City to enjoin various actions related to the presence of seals at the Children's Pool in La Jolla. All ended successfully and appeals either dropped or City prevailed on them.

Royster v. City of San Diego:

Petition challenging fine imposed by the City for residential code violations. Injunction denied thereby ending the case.

Runaj v. City of San Diego:

Writ challenging an Administrative Hearing Officer's order imposing penalties and costs of \$82,507.54. Court granted the City's demurrer thereby ending the case.

Ryder v. City of San Diego

Election case alleging improprieties in ballot measure. Injunction denied thereby ending the case.

Salas v. City of San Diego:

Writ claiming City abused its discretion in fining him for residential code violations. Petition denied thereby ending the case.

Siempre Viva Business Park West, LLC, et al. v. City of San Diego:

Writ alleging numerous violations. After City prevailed on a series of motions petitioners agreed to drop their claims.

Southwest Center for Biological Diversity v. Bartel, et al.:

In 2006, the District Court enjoined all private and public development projects on sites where vernal pools are present due to Endangered Species Act. The injunction against the City was vacated on appeal.

Swift Frame v. City of San Diego:

Class action complaint seeking a refund of all business tax processing fees paid from 2004-2009. Court sustained City's demurrer without leave to amend

Thorp v. City of San Diego:

Writ challenging ruling of City's code compliance. Petition denied thereby ending the case and later the City was awarded costs for petitioner having filed a frivolous appeal.

Towers v. City of San Diego:

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Towing companies' sought preliminary injunction seeking to prevent the City from entering new towing contracts inside the City limits. Injunction denied.

Trunk and Paulson v. City of San Diego:

Plaintiffs sought removal of the Mt. Soledad cross after Congress passed a law taking the property from the City. After the Court dismissed the City from the lawsuit, the City successfully negotiated a just compensation amount.

United Auto Workers (UAW) v. City of San Diego and Convention Center:

Injunction brought against City concerning delivery of petitions. City attorneys persuaded Plaintiff to dismiss City from case without filing papers.

Watkins v. Jerry Sanders, et al.:

Suit in federal court alleging deficiencies in permit requirements for businesses offering kayak tours. City's motion to dismiss granted thereby ending the case.

CIVIL PROSECUTION UNIT

The Civil Prosecution Unit (CPU) collects money owed to the city by initiating litigation or supervising litigation initiated by outside contingency counsel on behalf of the city. Chief Deputy Dan Bamberg supervises the six-deputy unit.

In 2010, the CPU was responsible for bringing in over \$4,000,000 from collection actions, litigation initiated by the City, and from other actions litigated by outside counsel as directed by one or more of the CPU's deputies.

Among the CPU's successes this year were Deputy City Attorney Clay Welch's \$2,000,000 settlement with Service America, dba Centerplate, the entity that provides concession services at Qualcomm stadium; Chief Deputy City Attorney Dan Bamberg's \$235,000 settlement of a dispute with the Fairbanks Ranch Country Club concerning its lease, and the \$89,000 DCA Bamberg obtained in a case involving accounting irregularities at Promote La Jolla, Inc.

Deputy City Attorney Tessa Heunis with the Revenue and Recovery section of the Civil Prosecution Unit handled dozens of cases this year, bringing in tens of thousands of dollars on cases involving, among other things, failure to pay penalties imposed for neighborhood code compliance violations, failure to pay water bills, and failure to pay rent.

Deputy City Attorney Bruce Bailey continues to pursue SDG&E and Cox Cable for damages arising out of the 2007 wildfires that devastated the city. He has the matter scheduled for mediation in mid-March 2011.

Deputy City Attorney Molly Hoot obtained dismissals on three occasions against a law firm that has made a cottage industry out of suing the city. A class action initiated by the ACLU alleging that the city was unconstitutionally destroying the personal possessions of the homeless when abating nuisances, the CPU's Chief DCA Bamberg was able to negotiate a unique settlement.

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That settlement resulted in a city owned warehouse being utilized as a place for the homeless to store their property rather than pushing it around in a shopping cart. The warehouse will be operated by one of the named plaintiffs in the case (The Isaiah Project, Inc.) utilizing the settlement proceeds. The settlement should lead to less blight on the streets of downtown in addition to providing a service to the city's homeless.

While pursuing tens of millions in damages against Kinder Morgan for polluting the city's water and land under Qualcomm stadium, Deputy City Attorney Jon Taylor also made significant strides in recovering Transit Occupancy Taxes this year. Most notable was DCA Taylor's oversight of outside counsel in obtaining a \$21,000,000+ award by an administrative hearing officer against the nation's top Online Travel Companies. The case is now on appeal.

LAND USE LITIGATION UNIT

The Land Use Litigation Unit (LULU) prosecutes and defends all real property, land use, development and environmental actions on behalf of the City of San Diego. Chief Deputy Christine Leone supervises the six deputy unit.

LULU provides specialized knowledge and representation of the City in the following types of litigation:

- Prosecutes and defends legal actions involving the California Environmental Quality Act (CEQA), state and federal eminent domain actions, and constitutional issues related to the use of land, real estate valuation and real estate development.
- Prosecutes and defends actions relating to administrative decisions by the City involving the subdivision map act, zoning, permitting and other administrative procedures.
- Defends and initiates land use cases, including writs of mandamus and prohibition, CEQA writs, and property damage claims arising from floods, sewer backups, soil subsidence, etc.
- Advises City Council and City Departments relating to potential litigation and settlement of claims involving land use matters.

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

Last year the Land Use Litigation Unit handled 90 cases as well as advising various City Departments on potential litigation matters.

CURRENT MAJOR CASES/PROJECTS:

Academy of Our Lady of Peace v. City of San Diego cases

Petitioner alleges that City imposed a substantial burden on its religious activities under the Religious Land Use and Institutionalized Persons Act by denying the right to demolish certain historical buildings on its property for its school expansion.

City of San Diego v. Sweetwater Authority

City sued to prevent the expansion of a desalination project because the project will violate City's water rights and, under CEQA, because Sweetwater did not adequately analyze and mitigate significant impacts.

CERF v. City of San Diego (fireworks case)

This case involves a challenge to the City's permitting requirements related to the permitting of a firework show on the 4th of July, 2010 at the La Jolla Cove. Petitioner argues the process is discretionary and required, but did not receive CEQA review.

FreePB.org v. City of San Diego

Petitioner challenges City's process and procedure for processing park permits and special events stating that these actions require a certain type of environmental review.

Flood Cases

Various environmental groups have filed numerous lawsuits alleging CEQA violations in connection with the City's storm channel clearing and flood control work.

Fox v. Redevelopment Agency, CCDC and City of San Diego

Plaintiffs representing various housing advocates filed an action challenging City, Agency and CCDC involvement in the recent state legislation CRL section 33333.14 which removes the tax increment cap from the CCDC redevelopment project area.

In re Wireless Litigation

This matter involves seven consolidated federal court actions challenging City's application of its telecommunication regulations.

Related California Urban Housing LLC et al v. City of San Diego

Plaintiffs Related California Urban Housing, LLC, Related/7th & Market Urban Housing LLC, and 7th and Market Development LCC filed an action for Breach of Contract and other damages against the City, RDA and other named defendants, claiming Defendants breached an exclusive negotiating agreement. Plaintiffs claim the breach caused over 3.8 million dollars in damages.

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MAJOR CASES/PROJECTS * Completed in FY2010

Success in land use litigation matters are significant as most land use cases are subject to an award of attorneys' fees. While general civil law parties incur their own fees, cases in the Land Use Litigation Unit (CEQA, mandate, inverse condemnation) allow for a statutory award of fees to a successful Petitioner. Thus, victories are not only important to protect the City's land use, zoning, planning and development decisions but also to preclude money awards against the City.

Ace Properties v. City of San Diego, SDSC Case No. GIC 872333

Plaintiff brought an inverse condemnation action against the City, alleging that City has taken its property for a drainage basin project in Otay Mesa. City Attorney's Office prevailed in a three week trial, saved the City from a multi-million dollar claim, and recovered costs of approximately \$218,000.

Beard v. Bank of America et al.

In this case, Plaintiff filed Quiet Title action challenging conditions placed in permit relating to parking structure built by Plaintiff in La Jolla. Plaintiff accepted the City's 998 Offer to Compromise by which the City offered to waive the City's costs in exchange for Plaintiff's dismissal of the City with prejudice.

Affordable Housing Coalition of San Diego County v. City of San Diego

Petitioner filed a challenge under CEQA challenging City's Housing Element of the General Plan. The Court denied the writ of mandate and the case was dismissed.

Affordable Housing Coalition of San Diego County v. City of San Diego

Petitioner filed Petition for Writ of Mandate under CEQA and other laws challenging City's tourism assessment district. The lawsuit could have invalidated the assessment district and potentially made other districts more vulnerable to judicial review. Court denied the petition thereby barring Petitioner from recovering attorneys' fees. Petitioner appealed the case which upheld on appeal by the 4th District. City awarded costs at trial and on appeal.

Citizens For Equitable Environmental Development v. City of San Diego (CREED 7)

This case involved a challenge to the City's approval of a residential development in Otay Mesa under CEQA. The trial court upheld the City's environmental analysis, holding that there was no new information or changed circumstances regarding the project's impacts on water supply or climate change that would require a new environmental impact report to supplement an earlier one prepared for the project in 1994. This case is currently up on appeal.

This victory upheld the City's standard CEQA procedure for analyzing minor project changes and avoided liability for an attorneys' fee claim of hundreds of thousands of dollars.

CREED v. City of San Diego (Black Mountain Ranch)

In this case, Petitioner made a CEQA challenge to City Council's approval of Black Mountain project with addendum to Environmental Impact Report. The City prevailed on all claims at trial level paying no damages or attorneys' fees.

El Cortez HOA v. RDA

This case involved a CEQA challenge to October 28, 2008 decision relating to El Cortez Hotel. City was able to settle for no money or attorneys' fees and received a dismissal with prejudice.

Kensington Park Villas v. City of San Diego

In this case, the City storm drains deteriorated causing sinkhole on Plaintiff's property. Plaintiff alleged significant property damaged. City dismissed from action with prejudice. No settlement paid.

San Diego Navy Broadway Complex Coalition v. City of San Diego, et al.

In February, 2007, the San Diego Navy Broadway Complex Coalition filed an action challenging the approval of the Navy Broadway Complex project. The issue in this litigation is whether additional environmental review required under the California Environmental Quality Act. This case involved a challenge to the City's CEQA review of the redevelopment of the Navy Broadway Complex. In a published opinion, the Fourth Appellate District affirmed the trial court's judgment in favor of the City. The court held that the City was not required to study the project's potential impacts on greenhouse gas and climate change because the City does not have the ability to shape the project in a way to mitigate any such impacts when reviewing building plans for conformance with design guidelines. This was an important victory for the City because the published opinion is binding authority that will significantly streamline conformance review for future projects by limiting project opponents' ability to bring CEQA challenges.

Sierra Club v. City of San Diego

City Attorney's Office settled a claim involving beach access in La Jolla, effectively saving the City from an attorneys' fee claim of hundreds of thousands of dollars.

SOHO v. City of San Diego

SOHO challenged City Council's decision to undesignated historical resource. City was able to have case dismissed with prejudice. No settlement paid.

Torrey Reserve v. City of San Diego

This case involved a CEQA challenge to City's approval of condo project in Torrey Hills Planned Development. City filed a Motion to Dismiss for failure to comply with Subdivision Map Act and

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CEQA procedural requirements. The Court granted the motion and entered judgment in favor of City at trial level. Petitioner appealed judgment. Judgment was upheld on appeal by the 4th District (published opinion).

WORKERS' COMPENSATION UNIT

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

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

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

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

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

In 2010 the unit had over 1,300 open, active cases, resulting in 303 hearings, 62 depositions and 31 trials at the Workers' Compensation Appeals Board. These actions resulted in cost savings of more than \$4,460,955 for the City of San Diego.

Civil Advisory Division: The Civil Advisory Division provides advice to the City and each of its departments, including the City Council and Mayor. The Civil Advisory Division is divided into four sections: Government Affairs and Finance, Real Property & Economic Development, Public Works, and Public Safety & Employment Services. This division is under the direction of Assistant City Attorney Mary Jo Lanzafame who has over 22 years of experience as a municipal

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lawyer in areas of practice including CEQA, planning and zoning, conflict of interest, the Brown Act, real estate, and public works.

PUBLIC SAFETY, LABOR, EMPLOYMENT, SPECIAL PROJECTS, AND TRAINING SECTION

Supervised by Chief Deputy City Attorney Mary Nuesca, this Section provides a wide array of legal services to other City departments, City Council, and internally to the City Attorney's Office. Section attorneys advise on public safety, assisting the Police Department, including the Family Justice Center; and the Fire-Rescue Department, including the Lifeguards, Emergency Medical Services, and the Office of Homeland Security. Additionally, attorneys advise the Public Safety and Neighborhood Services Committee, and the Commission on Gang Prevention and Intervention. Section attorneys also work on labor and employment matters, including advising the Human Resources Department, Risk Department, and SPSP/401(k) Board. Members advise City-wide management on labor and employment related issues, and are members of the ADA Committee, Labor & Advisory Committee, and Threat Assessment Team. Members advise the Citizen's Review Board on Police Practices and the Human Relations Commission.

Section attorneys advise on special projects including matters such as the Managed Competition Program and the Corporate Sponsorship Program. Members also form the City Attorney's Crisis Response Team.

This Section also runs and oversees the office-wide attorney professional development program which allows attorneys to fulfill their state-mandated continuing education by attending in-house training sessions, and which provides opportunities for attorneys to further their skills.

Public Safety Unit

Supervised by lead attorney John Hemmerling, Unit members work closely with the Police Chief and his Assistants, with commanding officers, both sworn and civilian; the Fire Chief and his Assistants, including the Lifeguard Chief. Unit members respond to questions and assist with projects from all levels and members of those departments, as described below.

UNIT SCOPE OF WORK: POLICE DEPARTMENT

- Advising on discipline, labor, employment, equal opportunity, and disability issues.
- Drafting ordinances, resolutions, memoranda of understanding and contracts.
- Drafting and presenting reports to the Mayor and Council, drafting legal opinions and memoranda of law.

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- Interpreting statutes, including the Public Safety Officers Procedural Bill of Rights Act, and other legal documents.
- Responding to subpoenas and requests for public records.
- Monitoring and advising on new case law and new legislation.
- Litigating administrative matters involving police permits, discipline, alcohol license-related matters, and appeals from those hearings.
- Representing the Department in *Pitchess* motions seeking access to confidential police personnel records, in motions seeking retention of seized firearms, in motions seeking the return of seized property, and handling writs and appeals related to those motions.



Pictured (l to r): Police Legal Advisors Paige Folkman, John Hemmerling, and Linda Peter.

UNIT SCOPE OF WORK: FAMILY JUSTICE CENTER

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

UNIT SCOPE OF WORK: FIRE-RESCUE DEPARTMENT/LIFEGUARDS

- Advising on discipline, labor, employment, equal opportunity and disability issues.
- Drafting ordinances, resolutions, memoranda of understanding and contracts.
- Drafting and presenting reports to the Mayor and Council, drafting legal opinions and memoranda of law.

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- Interpreting statutes, including the Firefighters Procedural Bill of Rights Act and ocean safety and maritime law.
- Responding to subpoenas and requests for public records.
- Monitoring and advising on new case law and new legislation.
- Advising the Office of Homeland Security, including participating in regional efforts to maximize emergency preparedness while efficiently using and sharing resources.

UNIT SCOPE OF WORK: PUBLIC SAFETY AND NEIGHBORHOOD SERVICES COMMITTEE

- Advising the Committee on Brown Act and other legal issues.
- Coordinating legal assignments from the Committee.

UNIT SCOPE OF WORK: COMMISSION ON GANG PREVENTION AND INTERVENTION

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

HIGHLIGHTS 2010

Unit members assisted the Police Department in the City's efforts to contract with tow operators for towing services. Unit members prepared an updated juvenile curfew ordinance in response to a court case which found certain provisions unconstitutional. The City Council adopted the updated curfew ordinance. The Unit remains involved in issues such as medical marijuana, homelessness, and the "Open Carry" movement, which advocates for the Second Amendment by openly carrying unloaded firearms.

The Unit handled approximately 120 *Pitchess* motions, 46 firearms motions, several motions to quash subpoenas and motions to return property. Unit members filed and responded to several writs filed in Superior Court challenging the outcome of *Pitchess* motions. *Ten's*, an adult entertainment establishment, challenged the City's closing hour requirements in an administrative proceeding and has filed a writ in Superior Court upon losing at the administrative level.

Office of the San Diego City Attorney

Deputy City Attorney Noah Brazier assisted the Fire Department, including the Office of Homeland Security, in renewing county-wide mutual aid contracts, securing grant funding for emergency preparedness, expanding and improving the regional command and control communications program (also known as 3C's), updating the Fire Code, and updating search and rescue policies and procedures.

Employment Services Unit

The Employment Services Unit, under the supervision of lead Deputy City Attorney Joan Dawson, provides legal services in a variety of areas, including employment, labor relations, and retirement. The Unit provides legal advice to the Human Resources Department, Risk Department, Personnel Department, the SPSP/401(k) Board, the Human Relations Commission, the Managed Competition Independent Review Board, and the Citizens Review Board on Police Practices. Unit members also advise City-wide management on all labor and employment related issues, and are members of the ADA Committee, Labor and Advisory Committee, and Threat Assessment Team.

UNIT SCOPE OF WORK: EMPLOYMENT SERVICES UNIT

- Advising management on the FMLA, ADA, Title VII, FEHA, CFRA, FLSA, PDLL, FPBORA, MMBA, USERRA, and other relevant employment and labor laws.
- Advising management on pensions and benefit implementation and administration.
- Assisting management throughout the employee discipline, appeal, and grievance process to ensure compliance with City policies and procedures and applicable laws.
- Advising management on labor, equal opportunity, diversity, privacy, medical leave, disability, and other personnel related issues.
- Conducting investigations and fact findings concerning employee related discipline and complaints.
- Conducting training on employment related matters and the Brown Act.
- Representing the City in DROs, workplace TROs and OSC hearings.
- Responding to agency complaints and charges (DOL, EEOC, DFEH, OSHA) regarding employment related matters.
- Assisting departments in responding to subpoenas, discovery motions and requests for public records.
- Drafting ordinances, resolutions, memoranda of understanding and contracts.
- Drafting and presenting reports to the Mayor and Council, drafting legal opinions and memoranda of law.
- Representing the City in labor negotiations, meet and confer meetings, settlement conferences and mediations.
- Advising management during the meet and confer process with the City's six labor unions and on interpretation and implementation of memorandums of understanding with the labor unions.

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- Defending the City against any alleged unfair labor practices in actions before the Public Employment Relations Board.
- Monitoring and advising on new case law and new legislation.

UNIT SCOPE OF WORK: HUMAN RELATIONS COMMISSION

- Advising on Brown Act, Public Records Act, and other legal issues.
- Interpreting and drafting Commission bylaws and other legal documents.
- Monitoring and advising on new case law and new legislation.

UNIT SCOPE OF WORK: CITIZENS REVIEW BOARD ON POLICE PRACTICES/SPSP/401(k) BOARD/MANAGED COMPETITION INDEPENDENT REVIEW BOARD

- Advising on Brown Act, Public Records Act, and other legal issues.
- Interpreting and drafting Board bylaws and other legal documents.
- Monitoring and advising on new case law and new legislation.

HIGHLIGHTS 2010

The Unit assisted in successfully negotiating labor contracts with the San Diego Police Officers Association and Local 127, American Federation of State, County, and Municipal Employees, AFL-CIO. In addition, the Unit published important legal opinions and memorandums, and drafted significant amendments regarding pensions and benefits. This includes extensive legal opinions pertaining to pension benefits and vesting, retiree health, and the use of Redevelopment Agency funds for the Convention Center or future Convention Center projects; amendments to the SDMC to implement pension related changes; and amendments to the City's 401(k), SPSP and SPSP-H plans, which received favorable tax determination letters from the IRS.

The Unit provided legal support to the City team responsible for completion of the Managed Competition negotiations, including completion of the Managed Competition Guide and ordinance.

The Unit obtained eight TROs and preliminary injunctions to protect the workplace from violence perpetrated against City employees. The Unit also responded to numerous discovery motions, discrimination complaints from government agencies, PERB complaints over managed competition negotiations, and assisted in non-labor related litigation cases. In all cases, the complaints were dismissed or favorable judgments or resolutions were obtained for the City. The Unit also defended the City against litigation by CalOSHA, and assisted the Special Litigation Unit with defending employment discrimination cases, implementing a court decision regarding purchase of service credits, and with litigation relating to the interpretation of Charter section

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143 governing the “substantially equal” contributions of the City and employees towards the employees’ retirement.

On June 8, 2010, voters approved Proposition C to amend the City Charter regarding veterans’ preference credit. Proposition C expanded the veterans’ preference credit to qualified applicants who have served our country in any war, major military action, or peacekeeping mission. It also provided added credit for qualified veterans and qualified spouses of veterans with service related disabilities. The Unit worked with City Council in preparing the ballot measure proposal, and prepared all legal documents necessary to implement Proposition C.

Unit members also facilitated a new Council Policy on minimum fire engine staffing, ensured compliance with new employment regulations, and provided training to City management on medical leave laws, the Brown Act, Public Records Act, and conflict of interest laws.

Special Projects

Deputy City Attorney Sanna Singer leads the office team on Special Projects. These projects involve complex legal issues from multiple disciplines, and often require the involvement of various attorneys throughout the Civil Division.

HIGHLIGHTS 2010

In 2010, the Special Projects Unit worked on a variety of high-profile matters involving procurement and public safety. The Special Projects Unit assisted the Mayor’s Office with novel legal issues associated with roll-out of the Managed Competition process, which involves competitive procurement of certain City services. When the City Council considered a Local Hire ordinance for City construction projects, the Special Projects Unit provided comprehensive legal advice on Constitutional and competitive bidding issues, and analyzed over 40 programs in other jurisdictions.

In addition, the Special Projects Unit took the lead in the passage of the “Floatopia” ordinance, which bans alcohol consumption while bathing at City beaches. The Public Safety Committee, Mayor’s Office and City Lifeguards sought the ban to ensure the safety of swimmers and protect City beaches from pollution. In the midst of heavy media attention, the Special Projects Unit provided sound advice concerning maritime law and other issues to ensure that the ordinance would be likely to survive legal challenge. Implementation of the ordinance went smoothly and it has proven effective at curbing “Floatopia” events to date.

The Special Projects Unit also worked on a number of contracts involving other important public safety issues, such as the Family Justice Center, graffiti-reduction, towing, and ambulance service.



**“Floatopia” Event in Pacific Beach,
San Diego**

Crisis Response Team

The Crisis Response Team is the City Attorney’s own team of in- house experts on disaster management. The Team put together a comprehensive manual to be used to advise City management in the event of a disaster. The Team attends multi-jurisdictional preparedness trainings and updates the manual and City staff on any changes in the law.

The Team recently assisted City staff with issues related to the heavy rain and flooding that occurred in December and January.

Training

The Civil Division continues its aggressive in-house training program. Practice groups meet regularly to discuss and train on current issues in the following areas: land use, public records, employment, and contracts. In the fall, the Civil Division held special training sessions on advisory matters, including ordinance drafting, civil rights cases, the Brown Act, ethics, substance abuse, financial disclosure and litigation matters, including insurance coverage, what a lawyer can learn from an actor, deposition training, and panel presentations on trial strategies.

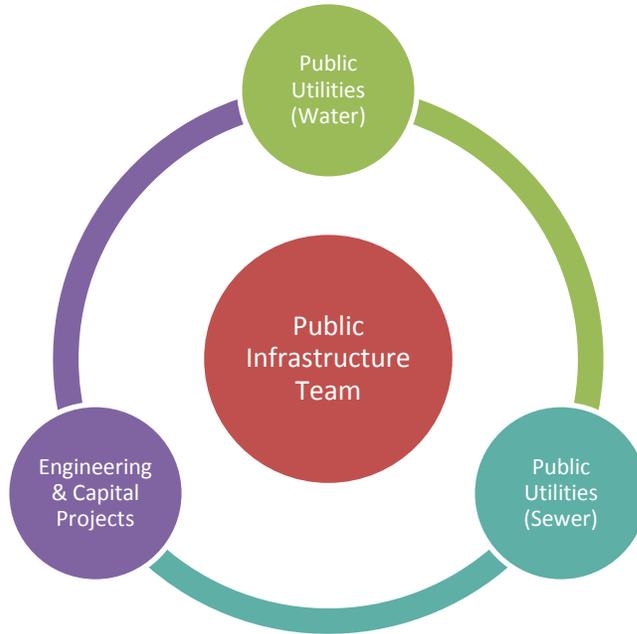
The Criminal Division continues its monthly "Professional Development Program" training series. Prosecutors, investigators and paralegals meet monthly to discuss and receive training in specialized issues, current trends and general advocacy skills. Training highlights from 2010 include: felony sentencing, hate crimes, a workshop on cross-examination, mental illness and

the criminal justice system, search warrants, and knowing and working with San Diego's Muslim community.

PUBLIC WORKS UNIT

The Public Works Unit consists of twelve attorneys offering legal advice on the construction, operation and maintenance of public buildings, streets, utilities and other infrastructure; public services such as water, sewer, trash collection and recycling; and other support services such as energy efficiency, regulatory compliance, and purchasing of supplies and equipment. Supervised by Chief Deputy City Attorney Tom Zeleny, the Public Works Unit is divided into two teams, Public Services and Public Infrastructure, shown here with their primary client departments.





Our attorneys are generally described as in-house counsel for various City departments. We are responsible for reviewing and drafting a variety of documents including contracts, ordinances, resolutions, municipal codes, regulations, RFPs and RFQs. We advise and represent the City at local, state and federal administrative proceedings and at mediation to resolve disputes with contractors and vendors. We provide legal advice in diverse areas of law including intellectual property, taxes and fees, solid waste management, competitive bidding, bonds and insurance, contracts, prevailing wages, the Clean Water Act, the Safe Drinking Water Act, and the Americans with Disabilities Act. We encourage our attorneys to bring their boots and a hard hat to help our City employees in the field and resolve legal issues quickly and inexpensively.

Highlights of 2010

Water Submeter Ordinance. We drafted an ordinance requiring the installation of water submeters in each unit of new and certain renovated multi-family residential buildings. One of the first of its kind in the country, the ordinance will help conserve water by creating a financial incentive to use less water for residents who currently pay the same monthly fee for water no matter how much or how little they consume. The ordinance was unanimously adopted by the Mayor and City Council in April 2010.

New Central Library and CM@Risk. In 2004, the voters approved amending the City Charter to allow the City to use a Construction Manager at Risk (CM@Risk) contract to deliver public works projects. The City waited until 2010, though, to present its first CM@Risk project: the New Central Library. Construction is estimated to cost \$153 million. We drafted an ordinance creating guidelines for the use of CM@Risk contracts, which was adopted by the Mayor and City Council in March 2010. We also drafted the City's first CM@Risk contract, which was approved by the Mayor and City Council for the New Central Library in June 2010.

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Think Blue Trademark. We successfully registered “Think Blue San Diego” as a trademark with the U.S. Patent and Trademark Office. The Storm Water Department uses this trademark and others to promote public awareness of environmental harm caused when pollutants enter our storm drain system. This trademark was registered in August 2010.

Point Loma Wastewater Treatment Plant. The City’s permit to operate the Point Loma Wastewater Treatment Plant must be renewed every five years, and it is always controversial. The City’s previous permits were heavily litigated. The City operates the plant at an “advanced primary” level rather than at “secondary” treatment level because the City has demonstrated that the effluent from the plant has not had an adverse impact on the marine environment. Upgrading the plant to secondary treatment level could cost over \$1 billion, dramatically increasing the cost of sewer service to our customers. The City avoided litigation this time by engaging the regulatory agencies and interested parties early and often. The renewed permit was approved by the U.S. Environmental Protection Agency and the Regional Water Quality Control Board. Our local environmental groups did not object to the renewal on the condition that the City investigates ways to offload the plant through additional wastewater recycling. The California Coastal Commission initially rejected the City’s request, but while we were preparing an appeal the Commission reconsidered the matter and approved the renewed permit on the condition that the City report back on the results of the study to offload the plant. The City’s renewed permit became effective in August 2010.

The Quiet Zone. Downtown residents will soon be able to sleep quieter. We negotiated contract terms with local and national rail companies to eliminate the need to routinely sound their train whistles when approaching City streets. Using redevelopment funds, safety improvements are being installed at thirteen at-grade crossings in the downtown rail corridor. The Quiet Zone should be complete and operational by early 2012. The Mayor and City Council approved the Quiet Zone contracts in July 2010.

GOVERNMENT AFFAIRS SECTION

The section consists of five full-time and two part-time attorneys who provide advice and legal support to the City Council, Mayor’s Office, City Clerk, Independent Budget Analyst, City Auditor, Treasurer, Financial Management, Library, Commission on Arts and Culture, Redistricting Commission, Funds Commission, Civil Service Commission, Salary Setting Commission, City Council Committee on Rules, Open Government and Intergovernmental Relations, Committee on Budget and Finance, Audit Committee, and the Ethics Commission. Supervised by Chief Deputy City Attorney Catherine Bradley, the section provides legal opinions and analysis concerning core municipal functions relating to the City Charter, San Diego Municipal Code, Mayor-Council form of governance, open meeting laws, public records, record retention, ethics and conflicts of interest, boards and commissions, taxes, appropriations, contracts, and elections.

Highlights of 2010

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Elections: One of the section's primary functions is to advise the Clerk's Office on candidate-related issues and ballot measures. During 2010, the section prepared ballot measures for voters to decide whether to continue the Mayor-Council form of government and allow a sales tax increase. The section provided the impartial analysis for those measures, and advice on ballot arguments, referenda and initiatives. The section assisted with amendments to the municipal code relating to the fiscal analysis provided to voters in the ballot materials. Finally, the section provided advice relating to school board elections and an initiative to change the City Charter.

Conflict of Interest Codes: The section also assisted with the City's bi-annual review 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 34 departments, boards and commissions, and agencies required amendments to their conflict of interest codes. The section 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.

Budget and Finance: During 2010, the section provided advice on several issues relating to the City's budget and finances. Topics included Mission Bay Park lease revenues, infrastructure funds, unclaimed public monies, public transportation taxes, declarations of fiscal emergency, forgiveness of redevelopment loans, the budgeting process and transfer of funds, transient occupancy taxes, and the proposed clean generation program. The section also leads an in-house practice group designed to proactively address the ramifications of State Proposition 26 relating to imposition of fees and taxes.

Whistleblower Hotline: The section also provides ongoing advice to the Audit Committee and City Auditor relating to the Auditor's whistleblower hotline. Last year, the section assisted the Auditor in amending California Government Code section 53087.6 as it applies to local whistleblower hotlines. The amendment defines fraud, waste, and abuse, making the hotline more effective, and authorizes the auditor to provide a copy of a substantiated audit report or investigation to the appropriate appointing authority for disciplinary purposes. Before this amendment, the Auditor felt he could not share substantiated reports of fraud, waste, and/or abuse with the appropriate department for action due to the narrowly tailored language.

Redistricting Commission: During 2010, the section began advising the Charter-established Redistricting Commission which is convened every ten years to review and redraw Council district boundaries based on changes in census data. This year, the Commission also must designate the boundaries for a new ninth Council district. The section will assist the Commission by ensuring Brown Act compliance and by providing legal advice regarding the Federal Voting Rights Act, California Voting Rights Act, City Charter, and related constitutional laws.

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PUBLIC FINANCE, SECURITIES AND DISCLOSURE SECTION

The section currently is composed of two Deputy City Attorneys whose primary responsibility is to provide legal advice to the City and its related entities regarding the City's disclosure obligations with respect to state and federal securities laws. The section works closely with the departments of Debt Management, Financial Management, and Public Utilities, as well as the Office of the City Comptroller.

The City also has a variety of related entities, such as the Housing Authority and the Redevelopment Agency, which issue debt publicly and are advised by the section. As the City's primary legal advisors with respect to debt obligations, the section serves as general counsel to a number of City financing entities such as the Public Facilities Financing Authority, the Facilities and Equipment Leasing Corporation, the Tobacco Settlement Revenue Corporation and the Convention Center Expansion Authority. The section provides legal advice with respect to the issuance of new debt and the City's continuing disclosure obligations.

The primary vehicle for the review of City disclosure documents and discussion regarding City disclosure obligations is the Disclosure Practices Working Group ("DPWG"). This group, consisting of the Chief Operating Officer, the Chief Financial Officer, the Director of Debt Management, the City's outside disclosure counsel and the section's two deputy city attorneys, is coordinated by the section. In 2010, DPWG met on approximately forty occasions to discuss City disclosure matters. Meetings are principally held to discuss disclosure documents for the issuance of new or refunding debt, as well as for related disclosure documents such as continuing disclosure filings, the audited annual financial statements and certain parts of the City budget.

Highlights of 2010

Public Finance and Securities: The City had an active year of public securities offerings, including lease-revenue refunding bonds backed by the General Fund, the General Fund's annual Tax and Revenue Anticipation Notes, Water Revenue Refunding Bonds and Sewer Revenue Refunding Bonds. Among related entities, the Redevelopment Agency issued a significant amount of tax allocation bonds for a variety of redevelopment project areas and the Housing Authority saw increased activity in its multifamily housing revenue bond program.

Disclosures: The section assisted the City in addressing a number of discrete disclosure issues that arose throughout the year, including drafting disclosures to address persistent media speculation regarding municipal bankruptcy and the prospective delay of the City's audited financial statements for fiscal year 2010.

REAL PROPERTY AND ECONOMIC DEVELOPMENT SECTION

The Real Property and Economic Development Section provides legal advice to the Airports, Community Services, Development Services, Economic Development, Neighborhood Code Compliance, Park and Recreation, Planning, Real Estate Assets, and Redevelopment Departments. Our attorneys also attend meetings and provide advice to the Planning Commission, Historical Resources Board, Hearing Officer, Airport Advisory Committee, Land Use and Housing Committee, Housing Authority, and the Redevelopment Agency.

Our attorneys advise City departments on a wide variety of issues including the Multiple Species Conservation Program (MSCP), and the state and federal Endangered Species Act. They review environmental documents to ensure the City's compliance with the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA) and also assist City staff with all aspects of public and private development in the City including entitlements, condominium conversions, telecommunication facilities, building code issues, redevelopment projects, and housing projects. The Real Property and Economic Development Section lawyers draft memoranda of law, opinions, reports, resolutions, and ordinances for the City departments. The attorneys draft deferred improvement agreements, subdivision improvement agreements, reimbursement agreements for the construction of public facilities, public facilities financing plans, landscape maintenance agreements, disposition and development agreements, purchase and sale agreements, leases, and deeds. They also assist staff with revisions to the Land Development Code and with the creation and funding of Maintenance Assessment Districts and Business Improvement Districts. They assist City staff with issues and agreements involving Community Development Block Grant (CDBG) and Transient Occupancy Tax (TOT) funds and advise regarding the San Diego Workforce Partnership, the City's Storefront Improvement Program, the Small Business Enhancement Program, and the San Diego Regional Enterprise Zone. Additionally our attorneys provide the City departments with advice on conflict of interest, Brown Act, and Public Record Act issues.

Highlights for 2010

Continue to assist the Airports' Division with the large-scale proposed development at Brown Field. Last year, they assisted in the negotiation of an Exclusive Negotiation Agreement between the City and Brown Field International Business Park, LLC, d/b/a DPC Brown Field for the development. This year, the attorneys have been negotiating and drafting multiple documents needed for the proposed development. These documents include a land development agreement and a number of form leases needed for both aviation and non-aviation purposes. Additionally, these attorneys have been working through a number of infrastructure, environmental and land use issues that affect Brown Field and the proposed development. Should this proposed development go forward, it is estimated that the development will generate significant economic impacts to the local and regional community, including up to \$20,000,000 per year in increased tax revenues, up to 3,800 new permanent jobs, and up to \$2,200,000 per year in additional revenues for the Airport Enterprise Fund. Besides the aviation-related facilities such as jet, helicopter and general aviation facilities and

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hangars, fueling services, maintenance and other aviation-related commercial facilities, the developer proposes construction of a satellite museum facility and a solar power facility.

These attorneys have also assisted the Airports' Division with other matters which will lead to additional proposed developments on both Brown Field and Montgomery Field Airports. The developments are also expected to generate increased tax revenues, additional revenues for the Airport Enterprise Fund, and possibly new permanent jobs.

The attorneys also advise staff on the Airport Land Use Compatibility Plans for Miramar, Gillespie, Brown Field, and Montgomery Field Airports.

The lawyers assisted in the resolution of the developer's outstanding obligation to construct the Hazard Center Westerly Drive Extension, which when complete will connect Hazard Center and Fashion Valley Shopping Center, the development of the City Heights Square Mini-Park, which will be maintained by private parties, amendments to the Downtown Community Plan and amendments to the Centre City, Marina, and Gaslamp Planned District ordinances to the City Council for approval.

The attorneys continue to advise the City's Medical Marijuana Task Force. The City Council has approved the initiation of amendments to the Land Development Code which will allow medical marijuana dispensaries to be located in some zones of the City. They drafted Municipal Code amendments, which have been presented to the Land Development Code Monitoring Team and the Planning Commission for their recommendation.

Our lawyers continue to provide on-going advice to City Council and City staff relating to various issues at Children's Pool. In 2010, the Council and its Committees held several meetings regarding the future use of the Children's Pool. Our attorneys staffed the meetings and provided written reports analyzing the legality of numerous options.

We worked closely with City Council staff, the Mayor's staff and the City's Community Development Block Grant (CDBG) Program Unit staff to continue to implement reforms to the CDBG Program. They were instrumental in the recent establishment of the Consolidated Plan Advisory Board which will advise the Mayor and City Council on policy issues as well as make funding recommendations.

The lawyers worked closely with the City's Park and Recreation staff to draft an ordinance to permanently ban alcohol at Kate O. Sessions Memorial Park.

We provided extensive advice to City staff regarding the challenging and rapidly evolving issue of CEQA analysis of greenhouse gas emissions and climate change, the installation of solar energy systems and the preparation of the new Habitat Conservation Program.

Our attorneys assisted with the drafting of findings, on a number of important projects including Alvarado Apartments, the Bayside Fire Station, and the upcoming Vons Mission Hills.

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They worked with City Planning and Community Investment staff to update the City's Mill's Act contracts to comply with current state law for the restoration of and improvements to designated historical resources. Additionally they worked with Development Services Department staff to update the City's discretionary permit language for clarity, enforceability, and to reflect current law.

Our lawyers provided the City Council members, the Mayor, and staff with legal analyses regarding unlicensed sober living homes.

The attorneys assisted in the annual renewal process for 57 Maintenance Assessment Districts, and provided legal assistance to staff in the annual renewal process of 20 Business Improvement Districts, including the Downtown Property Based Improvement District, and advised on the levy of the assessments and the proposed renewal of the Tourism Marketing District.

We assisted staff in the negotiation and drafting of a \$20 million lease with the San Diego Unified School District for two floors of the new Central Library for a charter school and with contracts for the management and expansion of the San Diego Regional Enterprise Zone, the relocation of the San Diego Family Justice Center, and the sale of over \$7 million of excess City-owned real property. Additionally we assisted City staff with the successful handling of an OSHA Special Notice filed against Qualcomm Stadium following the death of a non-City employee caused by a fall from a press box.

The attorneys helped with the preparation of the First Implementation Agreement to the Disposition and Development Agreement and the First Implementation Agreement to the Affordable Housing Agreement for the Mercado Del Barrio Project; the preparation of the Seventh Implementation Agreement to the Disposition and Development Agreement for the Shops at Las Americas Project. In addition, the lawyers assisted with the preparation of the Owner Participation Agreement and all related documents for the Horton Plaza Project in order to provide for the construction and development of the proposed expanded Horton Plaza Park, the transfer of the Monarch School from its location on Cedar Street to a larger facility on Newton Avenue and with the contracts necessary to update and improve the Façade Improvement Program, to restore Swan Canyon and to transfer Morley Green from the Redevelopment Agency to the City.

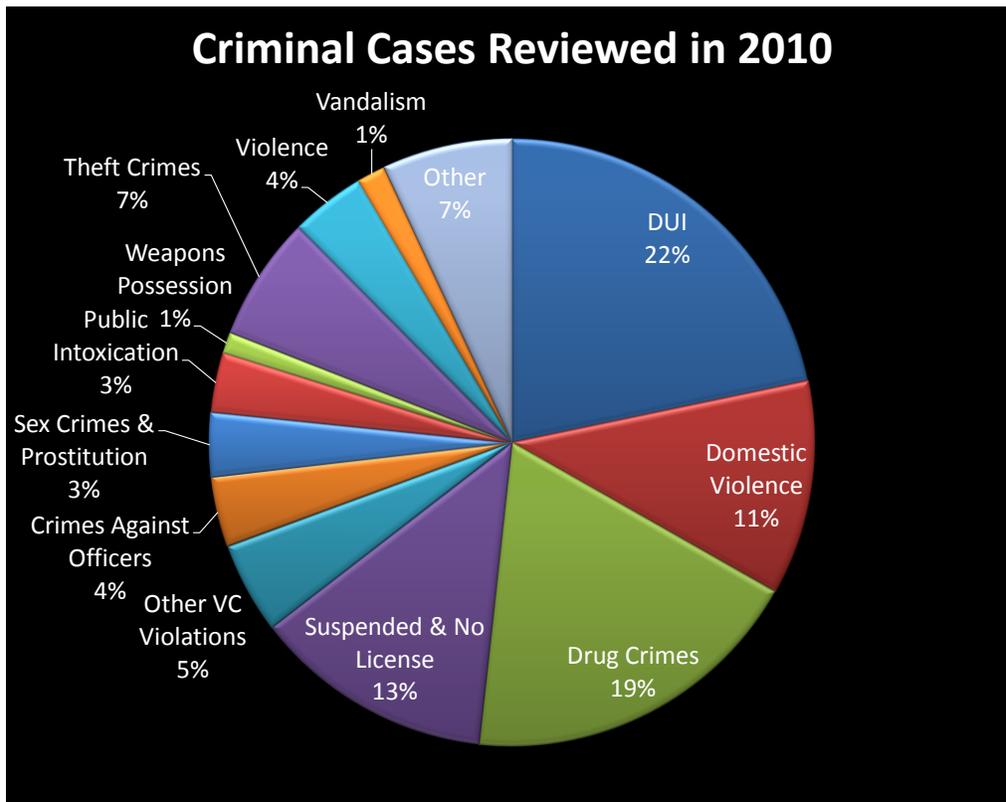
Marking significant milestones in the ultimate development of Gonzales Canyon Neighborhood Park in Pacific Highlands Ranch and the Riviera del Sol Neighborhood Park in Otay Mesa, our attorneys assisted City staff with the negotiation and drafting of reimbursement agreements.

We provided legal analysis regarding proposed Downtown Hotel Planned District Ordinance amendments and drafted a Land Use and Housing Committee-initiated Ordinance to Protect Small and Neighborhood Businesses which would require the preparation of an economic and community impact analysis and additional findings for a Site Development Permit for superstore development.

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The attorneys drafted Proposition C for the November, 2010 ballot which made changes to land use policies governing the Pacific Highlands Ranch neighborhood.

Criminal Division: The Criminal Division prosecutes criminal misdemeanors and infractions committed within the city limits. The Criminal Division is divided into four units: Case Issuance, General Trial, Appellate and Domestic Violence. Under the direction of Andrew Jones, Assistant City Attorney, who served as a criminal prosecutor for misdemeanor violations, heading the Discovery Unit, and prosecuting abusers in domestic violence and child abuse cases. Mr. Jones was also a trial attorney with over 13 years experience. His civil practice has covered a wide variety of areas including civil rights, torts, inverse condemnation, unlawful detainers, and breach of contract, among others.



CASE ISSUANCE UNIT

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

The Case Issuance Unit can file three types of charges:

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

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

The Case Issuance Unit reviews hundreds of types of violations. Our cases range from minor violations such as open containers of alcohol and marijuana possession to more serious offenses such as driving under the influence, identity theft, sex crimes, and weapons possession.

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

Staffing of the Case Issuance Unit

The Case Issuance Unit is headed by Chief Deputy City Attorney Michelle Garland and supported by nine deputy city attorneys.

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The staff members within the Unit are divided into three distinct groups, each tasked with a unique function and set of responsibilities. Although we struggled with staff and attorney shortages during the final quarter of 2010, the attorneys and the staff members worked diligently to produce a quality work product.

Cooperation with Law Enforcement Agencies

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

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

Highlights of 2010

Case Management System

In 2010, the Case Issuance Unit fully integrated into the Case Management System. Although we faced many issues and challenges with the integration, we worked diligently to overcome them. Our staff and attorneys tirelessly worked together to come up with solutions. In the end, we were able to turn the Case Management System into a great addition to the Case Issuance Unit. It allows for simpler statistical analysis, faster issuing by the attorneys, and an overall more professional work product.

Continued Cooperation with the District Attorney's Office

During 2010, the Case Issuance Unit continued to develop a working relationship with the Case Issuance and Extraditions Unit at the San Diego County District Attorney's Office. The chief deputy and the division chief and assistant chief at the District Attorney's Office work closely together to seamlessly transfer cases to one another in the event that a case submitted to our office should be prosecuted as a felony or a case submitted to the District Attorney's Office should be prosecuted as a misdemeanor.

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

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

Case Issuance Statistical Information¹

In 2010, the Criminal Division of the City Attorney's Office received approximately 32,451 cases that were entered into our Case Management System. We filed charges in approximately 24,420 of those cases.² More specifically, in 2010 we filed:

- 6,991 driving under the influence of alcohol or drugs cases
- 1,493 petty theft cases
- 157 grand theft cases
- 16 false impersonation (identity theft) cases
- 771 prostitution & loitering cases
- 755 resisting arrest cases
- 18 harassing and annoying telephone call cases
- 50 furnishing alcohol to a minor cases
- 395 hit and run cases with property damage
- 19 hit and run cases with injury to a person
- 35 cases for failure to register as a sex offender
- 29 cases for indecent exposure³
- 102 cases for committing a lewd act in public.

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

STOP TEAM: The San Diego Police Department STOP Team is recognized throughout the state as the premier law enforcement agency in combating the problem of suspended, revoked, and unlicensed drivers. The San Diego Traffic Offender Program (STOP) was established in 1997 when the California Office of Traffic Safety (OTS) awarded a two-year \$635,000 grant to the San Diego Police Department to create and support a full-time unit to proactively enforce driver's license laws. The police department formed the STOP Team to focus on suspended, revoked, and unlicensed drivers because they are a public health and safety risk. The STOP Team identifies and arrests habitual traffic offenders, and investigates citizen complaints about suspended, revoked and unlicensed drivers.

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

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

³ If convicted of Penal Code section 314(1), the defendant must register as a sex offender for life.

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Deputy City Attorney Melissa Ables issues and prosecutes the STOP Team misdemeanor cases, defends the police department 30-day impounds, litigates all forfeiture matters and assists in related efforts of the San Diego Police Department (i.e.: Red Light Camera, Traffic Court Issues, Illegal Speed Contests and Destruction of Vehicles and/or component Parts Missing VINs).

Driver's License Offenses

Statistics show that of all drivers involved in fatal accidents, more than 20 percent are not licensed to drive. Moreover, a driver with a suspended license is four times as likely to be involved in a fatal crash as a properly licensed driver. The DMV estimates that 75 percent of all drivers whose driving privilege is withdrawn continue to drive, regardless of the law. Throughout 2010, law enforcement agencies forwarded approximately 5,939 misdemeanor cases involving driver's license offenses to the City Attorney's Office for prosecution. This number includes cases involving other types of charges including but not limited to DUI cases. Of that number, approximately 76.5 percent (or an estimated 4,546 cases) were initiated by the San Diego Police Department, and of those cases approximately 11 percent (or an estimated 531) were cases issued by the STOP Deputy City Attorney.

It is believed that this reduction in cases is a result of several factors, including but not limited to, the new City Attorney policy of treating first time offenders under Vehicle Code section 146001.1 (a) as infractions.

Vehicle Forfeitures and Revenue Generation

Even with the fewer numbers of cases submitted and prosecuted, the STOP Team continued to focus on problem drivers. During Calendar Year 2010, the STOP Team forfeited 196 vehicles from repeat traffic offenders, generating approximately \$47,377.00 in revenue for the City's general fund. As part of a combined effort with the STOP Team and the police legal advisors, we were also able to recover arrears from a tow company that had not forwarded any of the money they collected on behalf of the City and State from selling the forfeited vehicles at auction. As a result, we received approximately \$41,398.00 that was paid into the City's general fund for arrears from sales occurring in 2007-2009.

In addition to generating revenue through vehicle forfeitures, the program also recovers the costs of impounding these vehicles, including post-storage hearings, through the collection of the Unlicensed Driver Fee (ULD) in the amount of \$72.00 for every vehicle that is impounded because it was being operated by an unlicensed, suspended or revoked driver. In Calendar Year 2010, the City collected approximately \$717,982.50 in ULD fees. The ULD fees are deposited into the STOP account, and are used to pay for the expenses of the program.

Illegal Street Racing

During 2010, the City Attorney's Office received approximately 25 cases involving illegal speed contests, most involving "impromptu" races. Of the cases received, our office filed charges in 22 of the cases, and of this number 13 were resolved via plea agreement with 10 of the offenders pleading to misdemeanor violations.

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Case Issuance Notable Cases

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

Serious Indecent Exposure Case

Defendant is a known person in the area of Lake Murray. People know that he is disturbed and have tolerated him. He is well known in the area to expose himself to joggers at Lake Murray. People are tired of him and his exposure.

On May 3, 2010, a female skater reported the defendant had exposed himself to her. She stated as she was skating on the path at Lake Murray, defendant pulled down his baggy sweats, faced her and completely exposed his penis to her. She continued on. When she returned along the same path, on her way back to the parking lot, she passed by defendant again, who was still in the same spot. This time, he faced her and she could see he was wearing see-through women's underwear. The female skater stated she could see defendant's penis through his underwear.

On July 19, 2010, a second victim came forward to report another incident. She was running at Lake Murray. She was near the ball fields off of Murray Park Drive. As she passed by Bowman's Cove toward San Carlos Bay, she saw defendant walking toward her. As they got closer to each other, she could see that he was wearing a military cloak that was unzipped and placed behind him. He kept walking within arm's reach of her. His penis was fully erect and exposed. The victim continued on and tried to find a phone to call the police, but couldn't. When she was leaving the lake, she saw defendant again. This time he was dressed but looked at her as if mocking her. This disturbed and frightened the victim, who believes defendant is going to hurt someone.

Due to the history of complaints about defendant, Eastern division set up a sting operation, using the female CAPTAIN as bait. On July 20, 2010, at 4:20 a.m., the captain and officer started to jog at Lake Murray in the opposite direction of each other. Captain saw defendant lurking just off the path and was aware that he noticed her. He was crouched just off the path, wearing the same poncho from the July 19, 2010 incident.

As the captain passed him, he began to follow her. She alerted the undercover officer. Captain pretended to use the restroom and when she came out she saw defendant 20 feet ahead of her, looking for her. When he became aware the captain was behind him, he intentionally slowed his speed. The captain caught up to defendant, who turned directly to face her as she jogged by.

As she ran past him, defendant began to pick up his speed and followed her within 5 to 10 yards. He was clearly following the captain, trying to get her to look at him. By this time, the officer had met up with the captain. Defendant stopped to let her pass. Officer ordered defendant to put his hands up. As he did so, his penis was fully exposed.

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The case was submitted to the City Attorney's Office and on July 22, 2010, we filed a complaint alleging four counts of Penal Code section 314(1). We later amended to add four counts of San Diego Municipal Code section 56.53(c).

The defendant took the case to trial. On December 9, 2010, he was found guilty on two counts of PC314 (1) and three counts of SDMC56.53(c). His sentencing is set for January 2011.

False Report of Emergency and Abuse of 911 Case

The defendant made 72 known 911 calls between February of 2009 thru January of 2010. The District Attorney's Office had the case and dropped it to us. Defendant reported 62 false emergencies that required a response from law enforcement or the fire department—most of them were in areas populated largely by the Somali community (defendant is Somali). His voice is heard in 69 of the calls. During eight of the calls, he harassed 911 operators by shouting obscene words or hanging up on them. He was contacted in the immediate area of where the "emergency" was taking place in five of the calls. Defendant consistently used false names to identify himself, and used spoofed phone numbers to conceal his own phone number (however, the ANI (automated number index) of many of the phone calls matched each other as well as the cell phone he was found with when he was arrested on 1-28-10). As a result of these calls made by defendant, officers detained innocent people. Emergency personnel were directed to one particular apartment nine times during these calls. Defendant often provided suspect descriptions that were based on his own physical description. He commonly used the name Michael when identifying himself on the 911 calls. From September of 2009 through January of 2010, the defendant made numerous false 911 reports that caused officers to detain people and caused disruptions to people's lives and businesses. Defendant was such a problem that by the time the case was submitted to our office, there was a full binder as well as a file folder full of documentation on him.

Our office received the case in June of 2010. Our deputy spent numerous hours diligently reading and reviewing the information submitted. We were able to file 59 counts of PC653 and PC148.3 (a) against the defendant. The defendant failed to appear for arraignment and now there is a warrant for his arrest.

Challenges for 2010

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

Conclusion

Although 2010 brought many budgetary and staffing challenges, the Case Issuance Unit successfully reviewed and issued thousands of cases. The Deputy City Attorneys and the support staff assigned to the Unit worked hard to maintain collaborative relationships with court personnel and law enforcement agencies. Together, we ensured that individuals charged with criminal violations were brought to justice and that victims of crime were treated with respect and compassion. We look forward to the new challenges of 2011.

GENERAL TRIAL UNIT

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

Led by Chief Deputy City Attorney Karen Li, the Trial Unit consists of 19 full-time attorneys, 1 provisional attorney, 2 paralegals, 2 legal secretaries, 2 investigators, 3 trial support assistants, and 15 – 20 clerical staff in the Discovery and Records and Information Units.

Cases prosecuted by the Trial Unit impact the public in their daily lives. 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 2010 included:

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

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- 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, and furnishing alcohol to minors. In collaboration with the deputy city attorneys in the Neighborhood Prosecution Unit, we were often proactively addressing the chronic and nuisance problems in specific neighborhoods. These prosecution efforts protect the citizens of the City of San Diego, reduce the negative impact some crimes have on our environment and community, and save taxpayers' money.

HIGHLIGHTS

- **Vertical Prosecution**

Prior to 2006, the Trial Unit prosecuted cases horizontally, meaning that for each level of prosecution a different deputy would issue the case, appear at each court hearing, negotiate the case, prepare the case for trial, and try the case in front of a jury. The Trial deputy would receive most of his or her cases the day before the jury trial was set and was expected to try the case the next day. Since 2006, however, the Trial Unit has prosecuted most cases vertically.

The Criminal Division established a core group of experienced screening deputies in the Case Issuance Unit, thus providing more consistency in the issuing process, unlike before, the jury trial is assigned to the trial deputy as soon as the trial date is confirmed. To gain experience and develop their issuing skills, Trial deputies also rotate into the Case Issuance Unit for four months at a time. When not in that rotation, Trial deputies were assigned trials as soon as there was a jury trial date, and they are responsible for assessing the evidence and preparing those cases for trial. This preparation includes developing the witness list, interviewing witnesses, creating exhibits, analyzing the state of the evidence and possible defenses, considering the mandatory and/or desired terms of any possible settlement, and trying the case. Vertical prosecution means the Trial deputies have their own case loads, giving them a sense of ownership, and greater opportunity for a higher level of preparation on each case.

Because of the sensitive nature of the circumstances and the need to establish a relationship and rapport with the victim and/or the victim's family in vehicular manslaughter and sexual battery/indecent exposure cases, Trial deputies are assigned these cases pre-issuance. After personal interviews with the victims and witnesses, the Trial deputy assigned to the case makes the issuing decision and appears at each subsequent court hearing, including ultimately, trying the case if necessary. This completely vertical prosecution lends itself to informed issuing or non-issuing decisions and even better knowledge of the cases.

- **Trial Statistics**

Most of the cases handled by the Trial Unit results in a criminal conviction based on a guilty or no contest plea before trial. Trial deputies appear at the plea and sentencing hearings to ensure the correct plea is entered and to argue for appropriate sentencing terms based on the defendant's conduct. However, on average, in 2010 over 300 cases were still set for trial each month. Each of those cases were reviewed and prepared for trial. The process of trial preparation includes subpoenaing and interviewing witnesses, preparation of exhibits, obtaining reports and laboratory documentation, and securing the presence of physical evidence such as photographs, 911 tapes, weapons, and blood vials, to name a few. Once this preparation is completed, many cases resolve with a guilty or no contest plea on the eve or day of trial.

In 2010, 3,784 cases were set for trial. 606 of those cases pleaded guilty before going to trial. 141 cases actually proceeded to trial with 95 (84.1%) resulting in a guilty verdict on at least one count of the complaint, and 18 (15.9%) resulting in a not guilty verdict on all counts of the complaint, where a verdict was rendered. The remaining 28 cases ended in a hung jury or mistrial, resulting in a plea bargain or dismissal. The overall conviction rate is 83.7%.

The other 3,037 cases, despite being fully worked up for trial, were resolved in some manner other than a jury trial on the originally set date, most often a continuance and/or subsequent plea.

- **Criminal Case Management System**

2010 marked the Trial Unit's full emersion into a new criminal case management system (CMS). After training by various District Attorney personnel, and implementation in November 2009, we embraced the new system and converted our processes, including how cases are issued, how hearing and trial results are documented, to take full advantage of this new system. CMS allowed for an increased ability to gather a variety of statistics. By capturing the different trends of cases, we are better able to ascertain whether our policies and procedures, including offers of dispositions, are sound or whether we need to improve how we handle the cases. Further, because the District Attorney's Office also operates within CMS, it allowed us to continue to cultivate the collaborative relationship between our offices.

- **Victim Restitution**

A critical component of the work of the Trial Unit involves seeking restitution for persons victimized by crime. Often, a "Restitution Evidentiary Hearing" is held even if the defendant

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pled guilty, because the dollar amount of the harm to the victim may be difficult to determine. Trial deputies appear regularly at these hearings to argue for orders that require convicted defendants to compensate those whom they have victimized. In 2010, the Trial Unit was able to successfully argue and obtain court orders for \$291,016.45 in victim restitution.

In addition to restitution ordered after a hearing, we are able to help the effort towards supporting the victims by employing the assistance of the Victim Compensation and Government Claims Board and victim advocates to guide the victims through the criminal justice system. Since the effectuation of Marcy's Law, our deputies have worked diligently to be cognizant of victims' rights and follow the proscribed principles.

- **Money Saved**

In cooperation with the San Diego Police Department (SDPD), our office utilized a step-subpoena process developed a few years ago whereby we issue subpoenas to some officers for the second day of trial instead of the actual trial date. With the goal of saving money, this resource-conserving procedure came to fruition from years of experience and the reality that generally, the jury trial process did not provide a prosecutor enough time on the first day of trial to call to the witness stand more than two law enforcement witnesses. On the first day of trial, Prosecutors normally argue pre-trial motions, put on evidence in any pre-trial evidentiary hearings, conduct jury selection, and perform their opening statements before the first witness testifies. Furthermore, on the day of trial, many defendants would plead guilty or no contest, fail to appear, or the case would be continued. With this understanding, we now subpoena the third officer (and any additional officers) for the next day after the jury trial date. If a case reaches a disposition or is continued on the date set for trial, we are able to call-off the second-day officers. By not having all the officers appear on the first day of trial, in 2010, this collaborative resource-saving process allowed 166 SDPD officers to be on the streets enforcing laws and protecting the public instead of sitting in the officers' waiting room for a few hours just to be told to come back the next day or that the case had resolved. This also prevented the City from having to pay overtime for those second-day-subpoena officers who were on the night shift and previously would have had to come straight to court on the first day.

- **Notable Cases**

People v. Nicholas Griffith – Deputy City Attorneys Matthew Caron, second-chaired by Julie Lynn, successfully convicted the defendant on 5 counts of Vehicle Code violations, including driving on the wrong side of the road with a suspended/expired license and causing serious injury. The court denied probation on one count and ordered the defendant to 180 days of custody. The court also placed the defendant on formal

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probation on another count with 400 hours of volunteer work service, an ignition interlock device, and victim restitution.

People v. Daniel Cornwell – Deputy City Attorney Kristi Hein obtained a plea in this case in which the defendant’s boat fuel spilled into the bay near Shelter Island. This is an example of where misdemeanor prosecution can secure environmental awareness and punishment when necessary. The defendant was placed on probation, will submit to civil process with regards to clean up and abatement costs caused by his actions, and will complete 60 hours of volunteer work service with an environmental agency or organization.

People v. James Arendt – Deputy City Attorney Julie Lynn tried and convicted the defendant of multiple counts of indecent exposure and public nudity. The defendant was a chronic flasher in the Lake Murray area, repeatedly exposing himself to joggers. The successful prosecution of this defendant included an undercover police captain as a victim, the testimony of civilian witnesses who had had enough of the defendant’s flagrant behavior, and strong trial preparation and advocacy by Deputy City Attorney Lynn.

DOMESTIC VIOLENCE UNIT

Overview:

The Domestic Violence Unit prosecutes all misdemeanor domestic violence, child physical abuse, child sexual abuse and elder abuse cases occurring in the City of San Diego, Poway and 4S Ranch. Led by Chief Deputy City Attorney Marlea Dell’Anno, the unit aggressively prosecutes these cases while maintaining a dedicated focus on holding perpetrators accountable and maintaining the safety of both child and adult victims. The unit is staffed by talented vertical prosecutors who are committed to seeking justice for victims and protecting the citizens of our community.

Highlights:

In order to maintain the highest quality of legal services required by the large volume of domestic violence cases submitted for prosecution, two vertical prosecutors and one victim witness coordinator were added to our unit. The addition of a new victim witness coordinator will be fundamental in our efforts to maintain victim contact, cooperation and coordination with prosecution efforts, while the addition of two vertical prosecutors enables us not only to give greater focus and attention to our trial caseload but also file charges in a greater number of cases.

This year also marked a renewed and invigorated commitment to our role as a community partner with the San Diego Family Justice Center (FJC). While budgetary considerations in 2009 made it financially more sound to move the unit back to our headquarters at Civic Center Plaza,

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one senior attorney is on site at the FJC five days a week working hand in hand with the detectives investigating our cases. This coordinated effort has increased the quality of cases being submitted for prosecution. In addition, the unit has committed volunteers, certified law student interns and a victim witness coordinator to provide a presence at the FJC on a rotating basis.

As part of the City Attorney's commitment to the FJC, the office will be working with the *Dress for Success Program* to offer a donation rack of men's clothing. This program will provide gently used suits and dress clothes for male victims of domestic violence to wear for job interviews and court appearances.

At the end of the year, the Domestic Violence Unit joined with the FJC, the National Family Justice Center Alliance and the Center for Community Solutions to devise comprehensive 12 hour training for volunteers. The training will take place in early January and will become part of the regular training for volunteers from each of the participating agencies.

San Diego Family Justice Center

The Domestic Violence Unit is a founding partner of the San Diego Family Justice Center, America's first comprehensive center for families dealing with domestic violence. The FJC was established in 2002 and today, more than 15 social service agencies provide consolidated and coordinated legal, social and health services to more than 7,000 victims. The San Diego Family Justice Center is the model for the development of other family justice centers, both nationwide and internationally.

Case Examples:

People v. Gutierrez

In this case, the defendant, a San Diego Sheriff's Deputy involved in an extramarital affair, kicked down the door of his mistress's apartment and pointed a loaded firearm at his mistress's boyfriend. The female victim called 911 screaming "he's going to kill me". When officers arrived on scene, the defendant had fled the scene, taking his mistress with him. Defendant ultimately left the victim in a Von's parking lot and continued to flee from police. After a seven mile slow pursuit, the defendant was arrested. The jury convicted him of brandishing a weapon, vandalism and aggravated trespass.

People v. Cabell

Victim and defendant entered an argument about the defendant having an affair. As the victim fled down the stairs, she was pulled down by her hair. The defendant then put his hand around victim's throat while she held their two year old baby. The victim called 911 and then met the

police officer at a local elementary school. Although she was served with a subpoena, the victim fled the state and was not available for trial. Due to the officer's excellent report and the prosecutor's superb legal arguments, both the 911 call and the statement taken at the elementary school were allowed into evidence as non-testimonial. Defendant was convicted of spousal battery.

People v. Brown

Defendant, who was 31 years old, followed several young girls between the ages of 12 and 16 at the beach in front of Tower 2 in Ocean Beach. He stared at the girls in a sexual way and followed them when they moved away from him. Over a two hour period, the defendant moved from one group of girls to another group of girls. Each girl testified that the defendant's disturbing conduct caused them to feel uncomfortable and fearful. Ultimately, defendant groped one of the girls over her stomach, back and legs as she swam under a wave. He was convicted of four counts of annoying or molesting a child and a simple battery. As a result of the conviction, defendant is required to register as a sex offender for the remainder of his life.

People v. Peterson

Defendant first saw victim at a wedding. After one date, the victim advised defendant she wasn't interested in pursuing a relationship with him. Defendant subsequently followed her to North Carolina and to Europe and harassed her over a period of 3.5 years. The victim obtained a restraining order and a judge threatened custody for any violations of the order by the defendant. Within days of the restraining orders being issued, the defendant began contacting her again. Defendant flew to San Diego and appeared at a USD basketball game sitting three rows behind the victim. The case proceeded to trial for stalking by course of conduct and an implied threat theory and he was convicted. Defendant received substantial custody and as a term of probation was banished from San Diego County. At the request of the prosecution, the Court issued a ten year stalking protective order.

People v. Goldsby

Defendant punched his 16 year-old girlfriend several times in the arm, causing large bruises which she hid from her mother for days. At trial, Victim recanted her initial statement to police and testified that the bruises were self-inflicted because she was depressed. After cross-examination by the prosecution and testimony from the prosecution's domestic violence expert, defendant was convicted of battery.

People v. Martinez

Defendant was a 21 year-old woman who had been involved in an illegal sexual relationship with her 17 year-old boyfriend for several years. On this occasion, she became upset with the boy and physically attacked him, causing visible injuries to his neck. A good Samaritan neighbor witnessed part of the attack and helped remove the defendant from the victim's home where he lived with his parents. At trial, the victim recanted, blamed himself for what happened and presented a new story in which he tried to say that he attacked the defendant. The defendant presented a similar story to the jury in which she tried to accuse the minor victim of being the

aggressor. The jury rejected the defendant's trial testimony, relied on the spontaneous statements and admissions made on the date of the incident and convicted the defendant.

APPELLATE UNIT

SCOPE OF UNIT'S WORK

The Appellate Unit provides legal support for the Criminal Division. The Unit is led by Head Appellate Deputy Steve Hansen and is composed of three deputy city attorneys supported by two and one-half clerical positions. The Unit handles all pre-trial motions and writs for cases in the General Misdemeanor Unit and handles post-trial appeals for both the General Misdemeanor Unit and the Domestic Violence Unit. Most appeals are handled in the San Diego Superior Court Appellate Division, but the Unit also has cases in the Fourth District Court of Appeal and the California Supreme Court.

- **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 based on the Fourth Amendment and motions to dismiss based upon the Fifth and Sixth Amendments.

- **Post-Trial Motions**

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

- **Appeals**

The Appellate Unit handles all appeal matters on behalf of the General Criminal Division. Most appeals are filed by defendants after convictions, but the Appellate Unit also files appeals on behalf of the People to correct judicial errors.

- **Training**

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

- **Legal Advice**

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

HIGHLIGHTS of 2010

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- The Appellate Unit handled a record high volume of pre-trial motions. The Unit resolved over 785 motions and enjoyed a success rate of more than 94%.
- The Appellate Unit handled more than 150 appeals and pre-trial writs. The Unit practiced primarily in the Appellate Division of the Superior Court but also handled cases in the Court of Appeal and the California Supreme Court. The Unit enjoyed a success rate of more than 94%. While the great majority of cases involved the Unit defending against appeals brought by convicted defendants, the Unit also initiated several appeals to correct judicial error. Currently, the Unit has a case pending in the California Supreme Court dealing with an important question regarding searches by Department of Fish and Game wardens (*People v. Maikhio*).
- On a daily basis the Appellate Unit responded to over numerous requests for assistance from deputy city attorneys needing help with trial issues, arraignment court problems, and screening and arraignment questions.
- The Appellate Unit assisted in training deputy city attorneys. The Unit trained new deputies on screening and arraignment issues, discovery issues, trial procedures, evidence rules, driving under the influence prosecutions, and constitutional issues.

COMMUNITY JUSTICE DIVISION

The Community Justice Division prosecutes cases that the community has identified as important to quality of life. Prosecutors work with the community, police, and other law enforcement agencies to establish and maintain security, fair business dealing, and to promote justice. The Community Justice Division is divided into three units: Neighborhood Prosecution, Code Enforcement and Consumer and Environmental Protection. Assistant City Attorney Tricia Pummill is head of this division. During her career, Ms. Pummill filed several civil unfair competition cases against notable retail chains and formed an immigration fraud task force to prosecute individuals who committed immigration fraud. Her extensive criminal trial experience also covers real estate fraud and environmental protection matters.

CONSUMER & ENVIRONMENTAL PROTECTION UNIT



Photo by Craig Hudson

Overview

The Consumer & Environmental Protection Unit (CEPU) consists of four attorneys, two investigators, and two secretaries. The head of the unit is Assistant City Attorney Tricia Pummill. The CEPU successfully concluded 44 cases (43 criminal and 1 civil), all involving unfair business practices affecting consumers or the environment. The CEPU civil case resulted in penalties and costs of \$1,750,000. The criminal cases resulted in restitution orders for \$202,670 and fines of \$81,939. In 24 of the criminal cases, offenders were ordered to serve time in jail or to do work service to the community. The unit accomplished the following in 2010:

- Increased participation with other prosecutors' offices to handle matters of local and state-wide concern.
- Focused on illegal towing practices.

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- Offered a full day of free information at a Consumer Protection Day event for members of the public.
- Continued to fund operations of the CEPU from an account dedicated solely to consumer protection prosecution.
- Prosecuted more cases involving the sale of adulterated food.
- Addressed mortgage loan modification fraud.
- Worked with the Contractors State License Board to prosecute unlicensed contractors caught in an undercover sting operation.
- Published monthly newsletters on various topics of interest to consumers, offering tips on how to avoid becoming a victim of an unscrupulous business.

Worked with other Prosecutors' Offices

CEPU lawyers expanded their work on cases of both local and statewide interest.

- DCA Mike Hudson, our environmental prosecutor, joined forces with 20 other prosecutors' offices to file a case against illegally hazardous waste issued an Target from hazardous resolution of set for a



offices to file a case Target Stores for disposing of household wastes. The court order prohibiting illegally disposing of wastes pending final the case. The case is mini-trial in 2011.

- DCA Mike Rivo joined forces with 5 other prosecutors' offices to file and settle a case against Petco stores for statewide scanner overcharges and failure to provide required care for animals in their stores. The court ordered Petco to pay \$1,674,562 in penalties and \$74,438 in costs. Petco stores throughout California must also maintain a "get it free" program for 5 years which rewards consumers who are overcharged at the register with the item for free, or \$3 off the price of an item which is priced at over \$3.
- DCA Kristine Lorenz joined forces with the San Diego District Attorney's Office and handled cases filed by both offices against the same unlicensed contractor. Alberto Navarro was convicted of felony grand theft and unlicensed contracting. Navarro is required to pay \$150,000 restitution to the two victims in the cases and faces a jail term at sentencing.

Focused on Illegal Towing Practices

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A local consumer reporter informed the CEPU that he had received numerous reports of illegal towing practices in San Diego. The CEPU collected complaints through its consumer hotline and filed two criminal cases: one against the owners and employees of Gamma Towing and one against the owner of Millenium Towing. Other investigations are on-going.

Members of the public indicated their vehicles were illegally towed from public parking lots without their permission and within one hour of their parking in the lots. They complained that “spotters” who appeared to work for the tow companies authorized the towing of their vehicles and that a fee for the spotter was added to the towing charges that they were required to pay prior to securing the release of their vehicles. The CEPU provided information to the public on the laws governing tow companies and sent a letter to every tow company operating in the City of San Diego warning them that they cannot hire spotters to authorize the towing of vehicles.

In *People v. Zizan Shaba dba Millenium Towing*, Mr. Shaba was convicted of failing to wait an hour before towing a vehicle from a public lot and failing to maintain required records of vehicles towed. He was ordered to pay \$935 restitution to three victims and a fine of \$4100.



City Councilwoman Marti Emerald presents Proclamation of “Consumer Protection Day” to ACA Tricia Pummill, DDA Gina Darvas, and Vice President of the BBB Eva Velasquez



Consumer Protection Day Event

On March 13, 2010, the CEPU and other local consumer protection agencies put on a full day program free to members of the public on topics to assist in making purchasing decisions and avoid scams. The program, held at the Scottish Rite Center in Mission Valley, was geared to young consumers and students. Over 35 agencies were present to provide helpful information on topics including purchasing a vehicle, hiring a contractor, securing a mortgage, making investments, and evaluating a purchasing decision. The program was part of National Consumer Protection Week. The San Diego City Council declared March 13th “Consumer Protection Day” in recognition of this program.

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Unit Funded by Special Funds

The entire staff of the CEPU is paid by a fund created after the passage of Proposition 64, thus removing the cost of operating the unit from the general fund. Proposition 64 required that all penalties paid by those who are prosecuted by the CEPU for unfair business practices, be spent solely for consumer protection prosecution. By using these funds to pay for the operations of the unit in 2010, the City Attorney saved the City's general fund hundreds of thousands of dollars. The Unit also secured several grants for litigation, training and investigation costs on pending cases from a state Consumer Protection Prosecution Fund, further reducing the financial cost to the City of San Diego.

Prosecuted More Cases Involving Sale of Adulterated Food

The CEPU worked with the County Department of Environmental Health Services (DEHS) to address businesses selling adulterated food. The CEPU also worked with the San Diego Police Department to address mobile food vendors. Examples of cases prosecuted this year are:

DCA Mike Rivo prosecuted the owners of Cristy's Bakery and obtained convictions of violating health codes which prohibit mishandling food in a way that could give rise to food borne illnesses. The restaurant had been closed by the DEHS and allowed to re-open after violations were corrected. The owners were ordered by the court to pay a fine of \$3,500 and to stay out of the food handling business. They sold the business.

DCA Mike Rivo also prosecuted Wing Choy doing business as Kirin Sushi. Ms. Choy was convicted of health code violations after the DEHS ordered her restaurant closed because it posed a serious health risk to consumers. She was ordered to stay out of the food business and to pay fines and costs totaling \$2904.20.

Addressed Mortgage Loan Fraud

DCA Kristine Lorenz worked with Unit investigators, Renee Wharton and David McKean to investigate and prosecute individuals who took advance fees from homeowners to refinance their mortgage loans. There has been a proliferation of loan modification businesses due to the recession. Unscrupulous individuals take advance fees to secure loans on better terms for homeowners, than do nothing for the money. On October 11, 2009, it became illegal to take an advance fee for a loan modification. DCA Lorenz filed two criminal cases against owners of these businesses and her team is investigating complaints from the public about other loan modification businesses.

Contractors Board Sting

Restaurant owners banned from business

MIRA MESA: The owners of Cristy's Bakery and Restaurant in Mira Mesa have been banned from the restaurant business after pleading no contest to food-safety violations.

Lauro Cornejo Prijoles and Cristina Gutierrez Prijoles were sentenced Thursday after pleading no contest to two counts of operating a restaurant and failing to maintain potentially hazardous food at required temperatures. They were ordered by a judge not to own, manage or handle food in any restaurant and were also sentenced to three years' probation, according to the City Attorney's Office.

The pair has had a long history of serious health violations at their restaurant on Mira Mesa Boulevard near Black Mountain Road, including sanitation, food handling and storage, city officials said. Last February, the county Department of Environmental Health revoked their health permit, requiring the restaurant to close.

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The California Contractors State License Board (CSLB) licenses and regulates the contracting business. In July 2010, the CSLB conducted an undercover sting where investigators posing as homeowners invited individuals who were advertising to do contracting work but who were not licensed, to give estimates for home improvement work. The investigators cited violators and referred the cases to the CEPU. Nine of the individuals cited pleaded guilty and were ordered to pay fines and perform public service work.

Published Monthly Newsletters

The Unit continued to publish monthly newsletters on topics of consumer interest. The newsletters are posted on the City Attorney's website and deal with the following topics:

- December "Charitable Solicitations"
- November "Gift Cards"
- October "Debt Collection"
- September "Health Insurance"
- August "Counterfeiting"
- July "Automotive Repair"
- June "Hiring A Moving Company"
- May "Contractors"
- April "Towing from Private Property"
- March "2010 Census Scams"
- February "Consumer Protection Day"
- January "New Laws for 2010"

Other Case Highlights

- ***People v. Michael Willey & Eric Torres dba California Tax Reassessment:*** The two owners of a business that offered to seek re-assessment of property values with the County Tax Assessor's Office on behalf of homeowners were convicted of misleading advertising. They sent mailers to homeowners that appeared to be from the government and asked for a fee for a service that is offered for free from the County Assessor. The owners were ordered to pay \$17,681 restitution to victims, to pay fines totaling \$25,200, and to each perform 80 hours of volunteer work.
- ***People v. Dolores Woodson:*** This woman ran an advertisement for a room for rent and collected deposits from several prospective tenants even though the room was not hers to rent. She was convicted of theft and ordered to pay restitution of \$2735.20 to four victims and to pay a fine of \$1000.

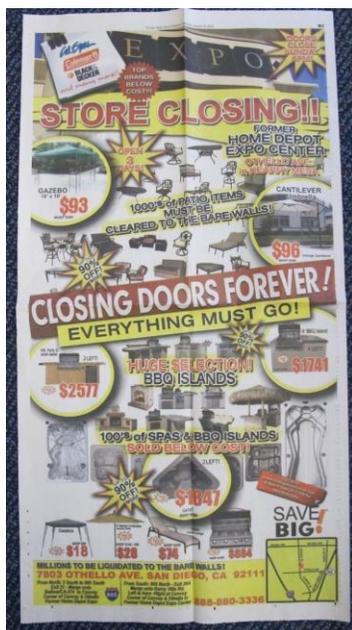
Authorities seeking victims of rental scam

SAN DIEGO: A tenant posing as a homeowner has pleaded guilty to grand theft for taking deposits from would-be renters, then refusing to lease out rooms to them, according to the San Diego City Attorney's Office.

Dolores Woodson, also known as Dee Woodson, 56, made full refunds to four victims totaling \$2,735, was ordered to pay a \$1,000 fine and was placed on three years' probation.

Officials believe there may be more victims of the scam and urge anyone who believe they may be a victim, or have information about potential victims, to contact the city attorney's Consumer Help Line at

- **People v. Jared Berry Liquidators:** These business ran *Union-Tribune* for their store location in as though they were fact, they brought specifically for the sale business at that and ordered to pay



- **People v. Abdul**

Finance: This owner of a small used car lot on Mission Gorge Road pleaded guilty to failing to transfer titles of vehicles that he sold to the purchasers. He went out of business and was sentenced to stay out of the vehicle sales business, pay \$2200 restitution to 6 victims, pay a \$2000 fine, and perform 80 hours of volunteer work.

- **People v. Siamak Djahanpanah dba Imports Limited:** This owner of a small used car lot went out of business and failed to transfer the titles of vehicles he had sold, to the new purchasers. He was convicted and paid restitution of \$8,220 to 5 victims and ordered to pay a fine of \$1000.
- **People v. Karsten Briggs:** This individual mailed phony invoices to elder care facilities throughout California for services that he did not render. He was ordered to pay a fine of \$5,000 and perform 40 hours of volunteer work.

& Troy Nihart dba Save Big owners of a liquidation sales misleading ads in the *San Diego* most of the summer of 2009, for Kearny Mesa. They made it look going out of business when, in items to the store location and had not previously done location. They were convicted \$25,500 in fines.

Khairdba dba House of Auto

CODE ENFORCEMENT UNIT



Overview

The Code Enforcement Unit (CEU) consists of seven attorneys, three investigators, two paralegals, and three secretaries. The unit is headed by Chief Deputy Diane Silva-Martinez. In 2010 over 140 cases were referred by City code enforcement inspectors or police officers for prosecution, increasing an already substantial caseload. The nature of these cases ranged from public nuisances, drug abatement, destruction of environmentally sensitive resources, unpermitted grading, unpermitted uses in violation of zoning laws; unpermitted development or construction in violation of building laws, substandard housing, and fire hazards. 6 civil cases and 4 criminal cases were filed. The aggressive prosecution of these cases resulted in timely compliance by violators, an increase in neighborhood safety, and the protection of property values. The cases also resulted in the collection of the following monies:⁴

- **\$37,500 in judicial civil penalties**
- **\$2,000 in criminal fines**

⁴ In addition, suspended penalties and fines were also ordered in each case to be imposed upon noncompliance with the court order.

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- **\$14,978 in investigative and administrative costs reimbursed to City Departments**
- **\$13,985 in relocation costs paid by landlords to tenants living in substandard conditions**

The Unit accomplished the following in 2010:

- Continued monthly meetings with the police and City inspectors to review problem properties and develop long term strategies and solutions.
- Increased efforts on addressing vacant properties located in high crime areas, transient corridors, or adjacent to schools and parks.
- Enlisted the help of Reserve Senior Volunteer Patrol officers in monitoring problem properties thereby increasing efficiency and saving city resources.
- Assisted the Police and Neighborhood Code Compliance Division (NCCD) in addressing unpermitted marijuana dispensaries throughout San Diego.
- Conducted line-up trainings at all the Police Divisions on Drug Abatement procedures, laws, and how to submit cases for prosecution.
- Established closer interaction with police narcotics teams City wide; provided training on laws regarding the cultivation of marijuana and residential grows.
- Authored and presented two reports to the Council Committee on Land Use and Housing on how the City can address the problem of abandoned properties in San Diego.
- Conducted in depth training for city inspectors on substandard housing laws; developed protocols, procedures, and training materials.
- Conducted trainings on group home regulations and their impacts to police officers, clinicians from the Psychiatric Emergency Response Team (PERT), probation officers, and social workers.
- Conducted training to Deputy Fire Marshals from the Fire Company Inspection Program (FCIP) on Courtroom Testimony.
- Conducted trainings for various Fire Engine Companies (fire stations) in San Diego. Provided information on the enforcement process and how the stations can report problems they observe as first responders.
- Made presentation to the City's Historical Resource Board on cases prosecuted by CEU involving the destruction of historical resources.
- Made presentation at a national conference on "The Use of Receiverships for Reclaiming Vacant Properties – the California Experience" in Cincinnati, Ohio.
- Met with community groups on specific topics or issues and regularly participated in community events such as National Night Out or community fairs.
- Organized an educational conference with members of the "San Diego Hoarding Collaborative" designed to clarify what hoarding is, provide information on how service professionals can assist hoarders, and outline how to make appropriate referrals for treatment. Over 250 people attended.

- Presented at national, state and local conferences and meetings on the issue of hoarding.

EFFORTS BY DRUG ABATEMENT RESPONSE TEAM (DART)



An important component of CEU is its active participation in the efforts of the City's Drug Abatement Response Team (DART). Team members CEU Deputy Gabriela Brannan and Investigator Deanna Walker work closely with DART police officers, narcotics teams and code inspectors from NCCD to identify problem properties with ongoing narcotic activity and develop an appropriate long term strategy to abate the drug and nuisance activity and ensure that all code violations are corrected.

This past year DART became a key player in the struggle to address medical marijuana collectives or dispensaries which are not permitted uses in San Diego. CEU assisted NCCD and the Police Department with responding systematically to complaints by citizens regarding specific locations where medical marijuana dispensaries are operating. Since June 2010, approximately 25 cases were submitted to CEU. Due to demand letters sent by DART Deputy Gabriela Brannan, half of these dispensaries have discontinued operation or are in the process of shutting down. Notable DART cases in 2010 include:

People v. Westlake – DCA Brannan and Investigator Deanna Walker concentrated efforts to ensure that continued drug activity at a single family residence on C Street near the downtown area was finally abated. Despite a permanent injunctive order, the property owner continued to violate the terms of the injunction by allowing drug activity on the premises and permitting drug addicts and traffickers with extensive criminal histories on the property, despite a stay away order. Contempt proceedings were initiated, the defendant served custody, and today the property has been sold to an owner who will be rehabilitating the property.

4150 Lymer Drive – This case came to DART's attention due to the extremely high calls for police service and community complaints of drug trafficking. The Police served a search warrant for drug trafficking and officers recovered methamphetamine, a large amount of cash, several weighing scales, and two semi-automatic pistols. Officers also recovered stolen goods at the premises. The tenant was charged with possession of a controlled substance for sale and possession of stolen property. Due to letters and demands from the DART team that the nuisance activity cease, the property owner evicted the tenant, corrected the code violations and the property is currently for sale.

1245 Market Street- Island Village Apartments – This property was referred by the Police Central Division's narcotics team as there had been 538 calls for service and 25 arrests requiring over 764 hours of police out of service time from January 2009 through August 2010.

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19 of the arrests were for narcotic related crimes. There had also been several arrests for violent crimes, including arrests for assault with a deadly weapon and battery. DART had two meetings with the owners and property management, offering suggestions as to security and design measurements to prevent crime. The owners have agreed to: address misuse of all emergency exit doors and gates (which allowed entry to problem non-residents); adopt suggestions related to the design of the premises and security measures to prevent crime; monitor the reception area 7 days a week, 24 hours a day; maintain an accurate log of residents with identification information accessible to law enforcement; hire additional security guards; install additional security cameras; partner with the Police Department, specifically the Community Relations Officer and attend the bi-monthly Captains' Advisory meetings.

PROSECUTION OF SUBSTANDARD HOUSING VIOLATIONS AND NUISANCE CASES:

The City Attorney's Office places a high priority on holding landlords accountable to provide safe decent housing to their tenants. All the CEU Deputies contribute toward this effort with Paralegal Emma Landeros providing crucial legal support. Cases prosecuted include:



In re Payan: – the conditions in three of the 17 rental units in this two story building in the neighborhood of Mountain View substantially endangered the safety of the tenants such that they were ordered to be relocated at the owner's expense. Violations included unpermitted structural modifications, rodent and cockroach infestation, electrical violations, water damage, structurally deficient flooring, lack of heating and cooking facilities, and lack of smoke detectors. CEU Deputy Nicole Pedone assisted NCCD with this case and represented the Department at an administrative hearing where the payment of relocation benefits in the amount of \$5,944 was upheld as well as \$1,358 in investigative and administrative costs.



In re Bahena: - the landlord at this property in Logan Heights was renting out a house, a studio, and a recreational vehicle to tenants, including a mother with a toddler. The property had a

large rear yard filled with occupied trailers and recreational vehicles. What initially caught the code inspectors' attention was the presence of sewage pooling under the house and seeping into the soil. The sewage was actually being channeled through open ditches in the yard. Research showed that this landlord had previously pleaded guilty to criminal charges for code violations on the property in the past. The property failed minimum building and habitability standards and was determined to be a serious threat to the health and safety of occupants and the public. Violations included: open dirt trenches channeling human sewage and discharge from the recreation vehicles out into the rear alley; exposed electric wires and extension cords fixed as permanent wiring in the house and running out to the trailers and recreational vehicles; lack of water, gas, and electric service for occupants due to disconnected utilities; and sagging and structurally-deficient floors and exterior walls. CEU Deputy Jeremy Fonseca assisted NCCD with this case and represented the Department at an administrative hearing to order the landlord to reimburse the City for relocation benefits advanced to the tenants. The Hearing Officer upheld \$6,428 in relocation costs and \$1,596 in investigative and administrative costs. DCA Fonseca is currently prosecuting the owner civilly for violations of the San Diego Municipal Code and California Health and Safety Code and seeking a permanent injunction.

In Re Jones – a single mother and her three children were living in extremely substandard conditions at a property in the neighborhood of Memorial in San Diego. Only one of the three structures on the unit was actually a legal unit. The main structure lacked a front door and most of the rooms lacked windows exposing the family to the cold and elements. Significant plumbing violations existed such that the tenant had to keep the main water valve unit off to avoid constant running water and leakage. Electrical violations, buckled floors, and water damage also were present. The entire property was significantly substandard and pursuant to the California Health and Safety Code the tenant was entitled to relocation benefits. Chief Deputy Diane Silva-Martinez assisted NCCD with the case and represented the Department at an administrative hearing. The Hearing Officer ordered the owner to pay \$3,766 in relocation benefits and \$2,237 in investigative and administrative costs.

People v. Schamel – CEU Deputy Markecia Simmons successfully prosecuted a property owner for maintaining a public nuisance at a property located in the Mountain View area. Individuals were illegally residing in the yard areas of the premises and there were a high number of police calls. Code violations included: significant outdoor storage and debris; trailers and a storage shed illegally being used as habitable space; inoperable vehicles used as sleeping quarters; electrical cords being used to feed electricity to sheds and trailers; and a non-permitted illegal bathroom structure with illegal plumbing and electrical hook-ups. Criminal charges were filed and the owner pleaded guilty to the code violations and maintaining a public nuisance. He was sentenced to three years probation; was required to pay a \$1,500 fine with \$2,500 stayed pending successful completion of probation; and pay investigative costs of \$1,049 to NCCD and \$268 to the San Diego Police Department.

People and City v. Johnson – CEU Deputies Nicole Pedone and Joseph McKenna, with significant assistance from CEU Investigator Deanna Walker, NCCD, and the Police Department obtained a modified injunction against the owner of a large nuisance property in the Southeastern area of San Diego. The property has a long history of drug arrests and transient activity due to the

existence of numerous inoperable vehicles and unpermitted vacant structures, despite a previous court injunction. CEU was successful in convincing the Court to significantly increase the City's authority to abate the code violations and hold the owner to an appropriate time frame to remove vehicles, demolish the vacant structures, and cease from maintaining criminal and nuisance activity at the property.

NUISANCE PROPERTIES INVOLVING RESIDENTIAL CARE FACILITIES

Residential care facilities, also known as independent living facilities, serve an important function in San Diego, providing housing in the form of sober living environments, drug rehabilitation homes, transitional housing for parolees, and housing for mental patients. However, when these facilities lack proper management resulting in public nuisance activity and inordinate calls for service to the Police Department, the Code Enforcement Unit may become involved. NCCD assists by conducting inspections to ensure compliance with zoning and building laws. For several years, CEU Deputy Danna Nicholas has been the point person for the Police Department and neighborhoods in the Southeast area to address care facilities which have become problem properties. The "enforcement team" received 12 referrals in 2010 and worked with owners to develop better management practices so neighbors are not impacted by nuisance activity and residents are living in a safe environment.

Sometimes, however, property owners may choose to evict lessees who are operating care facilities which continue to negatively impact the neighborhood. This was the case with a single family home where a care facility for mentally ill patients was operating on Pembroke Street in the College area. The owner did not live in the state and the property was subleased. Neighbors reported that there had been chronic nuisance activity at the property for years including noise, fighting, and bizarre behavior by the tenants in public. CEU Deputy Jeremy Fonseca handled the case and ultimately a new property manager was hired and the previous lessee who was operating the facility was evicted.

OTHER NOTEWORTHY CASES PROSECUTED BY CEU:

City v. C.W. Driver, Inc. – The defendant in this civil case was a contractor who deliberately made an unauthorized connection to a new recycled water system at Miramar College without plan review, inspection, and notification to the City of San Diego and appropriate County and State agencies as required by law. The contractor knowingly took a risk of cross connection between recycled water and potable water resulting in a potential health hazard as the recycled water could be used for human consumption. CEU Deputy Nicole Pedone prosecuted this case, entering into a stipulated civil settlement in which the defendant was required to pay \$2,000 in civil penalties.

People v. Monkey Time, Inc. – This case involved the operation of a children's gym in violation of zoning and building laws. CEU Deputy Joseph McKenna criminally prosecuted the owner due

to noncompliance. The corporation owning the property pleaded guilty and discontinued the business. The plea bargain also included 3 years probation, \$500 fine with \$4,000 suspended pending full compliance, and \$6,133 in investigative costs.

City v. Ewald – CEU Deputy Markecia Simmons negotiated a civil settlement in a case where the resident of a property in an agricultural zone illegally graded it, thereby impacting sensitive biological resources. He also dumped truckloads of construction debris and soil in the City’s Multiple Habitat Planning Area in violation of Environmentally Sensitive Land regulations. The court settlement required the defendant to obtain all required permits, including an Uncontrolled Embankment Maintenance Agreement Permit and a grading permit; restore the impacted site; pay \$5,000 in civil penalties with \$4,000 suspended pending full compliance; and pay \$514 in investigative costs.

City v. Plaza Siempre, LLC – this case, handled by CEU Deputy Nicole Pedone had the distinction of being published in the Los Angeles Daily Journal. It involved the illegal construction of large a commercial parking lot in the Otay Mesa Development District without proper building and grading permits, mitigation measures, or archaeological monitoring. A modular office building was also installed on the property without development and building permits. In addition, a metal ramp had been placed on the curb and gutter providing unauthorized access to the property, and illegal signs and banners had been placed on the modular building and fencing. Without admitting liability, the defendant entered into a civil settlement requiring the payment of \$80,000 in civil penalties with \$60,000 stayed pending full compliance, and is restrained from operating or allowing the operation of a commercial parking lot at the property without obtaining all necessary permits. The property must either be restored to its previous condition or developed with all required permits under an agreed timeline.

People v. Ramirez – CEU Deputy Markecia Simmons filed a criminal complaint against the owners of a longstanding public nuisance referred by the Rosemont Community Council. The owners had abandoned the remodel project of a single family home which had become a harborage for rats. The resulting eyesore included an abundance of debris, miscellaneous storage, unpermitted construction, and encroachments in the public right-of-way. Unfortunately the project had been a nuisance to the community for several years. The defendants pleaded to fifteen counts on the complaint and in June 2010, Superior Court Commissioner Witham sentenced the owners to 375 days in custody and ordered them to pay court fines of \$14,750. The owners ultimately avoided custody and a majority of the fines by selling the property, rather than demolishing the remodel or completing its construction. The new owner will be finalizing the remodel and putting the property to productive use.

People v. Tucker – CEU Deputy Danna Nicholas filed a criminal complaint against an uncooperative property owner of a commercial business park who failed to properly maintain fire suppression and detection systems at his property. The sprinkler system at the park had not been certified since 1991. The owner entered into a plea bargain agreement requiring him to repair all fire code violations including an elevator; pay \$2,000 in fines with an additional \$2,000 stayed pending successful completion of all probationary terms; and pay investigative costs of \$3,063. After the defendant failed to pay investigative costs by the specified date, probation

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revocation papers were filed resulting in the owner submitting a cashier's check for the full amount of the investigative costs, serving one day in custody, and completing 40 hours of Public Work Service.

Se Hotel – CEU Deputy Joseph McKenna was instrumental in assisting the Development Services Department in obtaining compliance from a downtown hotel which needed to obtain a Temporary Certificate of Occupancy, address outstanding code violations, and pay an over-due \$500,000 in redevelopment fees. Deputy McKenna developed a good working relationship with the bankruptcy trustee and negotiated voluntary compliance.

CONTINUED EFFORTS TO ADDRESS THE UNIQUE ISSUES OF HOARDING CASES

In 2010 CEU continued work with the “Hoarding Collaborative” aimed at dealing comprehensively and humanely with compulsive hoarders. Communities everywhere encounter the problem of hoarders or “packrats” in neighborhoods and San Diego is no

exception. Extreme situations of storage and the accumulation of trash and debris can result in fire hazards and even death. Paramedics are unable to adequately respond due to the lack of egress and access to the house. In some cases, CEU prosecutors must obtain court orders to allow the City to abate the nuisance and hazard to the community. A comprehensive strategy implemented by CEU however, is to enlist the support of mental health professionals, code inspectors, Adult Protective Services, the Police, the Public Guardian and other diverse professional agencies willing to work together to assist with this community problem.



CEU Deputy Gabriela Brannan and Paralegal Chelly Bolger-Wathen have been instrumental in assisting with the Hoarding Collaborative's efforts and furthering its mission to “identify and understand the issues, difficulties and causes of human hoarding behavior, to educate the public about these behaviors, and to develop a case treatment approach.” CEU has now developed a nationwide reputation for its proactive approach to dealing with this sensitive community topic.

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Inspectors, investigators, and CEU deputies first exhaust all efforts to seek assistance for a hoarder to ensure the person is living in safe conditions and receiving needed counseling or medical assistance. Occasionally however, individuals refuse assistance and in order to protect the neighborhood from the public nuisance and fire hazard, it is necessary to file a court action. This was the case in *People v. Janke* filed by CEU Deputy Danna Nicholas. This property in the Clairemont area had caught the attention of the Police narcotics team due to the constant number of people coming and going at the property, the accumulation of junk, trash, debris, and inoperable vehicles surrounding the home. This property had stacks of tires, numerous plants and bicycles. The property owner even began storing things on top of the structure including a boat! A plea agreement was reached which required the owner to immediately clean the property; no longer accumulate items; and obtain psychological treatment for hoarding. Ultimately, through the Veteran's Administration, the defendant began receiving treatment. There have not been any community complaints and the property remains clean.

CONTINUED EFFORTS TO PUT VACANT PROPERTIES TO PRODUCTIVE USE

Vacant Structures exist throughout San Diego creating fire hazards and attracting crime and nuisance activity. Transients often break into the structures causing police to respond to incidents of drug activity,

alcohol use, or prostitution at the premises. CEU prosecutors work closely with code inspectors, the Police, and residents to quickly address crime at these properties and ensure they are properly secured. Equally as important is the timely rehabilitation of these properties which, in many cases, could otherwise provide affordable housing. Unfortunately, prosecution is necessary when property owners do not address nuisance activity at their property or are irresponsible about timely leasing, rehabilitating, or selling it. The recent foreclosure crisis has caused an increase in the number of vacant properties and resulting blight. CEU Deputies continue to play a proactive role to ensure that property owners take responsibility for vacant structures which are attracting nuisance activity. For example, CEU Deputy Nicole Pedone not only has regular meetings with police officers and code inspectors to discuss vacant properties in the Central Area, but has developed a close relationship with the Reserve Senior Volunteer Patrol Officers who assist City staff in monitoring these properties. This relationship saves staff resources and keeps law enforcement up to date on any recurring criminal activity. She also worked with the Police Department to



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improve the “Letter of Agency” form in which the owner gives authorization to the police to arrest trespassers and made it more user-friendly and available on the police website. Owners now can type in their zip code and the corresponding form and Police Division is readily available.

In 2010, CEU prosecutors sent numerous demand letters to owners of nuisance vacant properties, often meeting with the owners, contractors, and real estate agents to develop acceptable time frames for rehabilitation. When voluntary compliance is not forthcoming, cases are filed as was *People v. Ersahdi*, a criminal case handled by CEU Deputy Danna Nicholas in which a longstanding vacant structure at 2693 C Street had attracted transients, illegal activity, weeds, trash and debris for many years. The main structure was dilapidated and portions of the roof had collapsed, exposing the interior to the elements. The criminal plea bargain required the owner to finally demolish this unsafe structure, leaving the Golden Hills community much safer.



NEIGHBORHOOD PROSECUTION UNIT

Scope of Services:



The Neighborhood Prosecution Unit (NPU) is composed of 7 attorneys and 5 staff members. NPU partners with the San Diego Police Department (SDPD), community organizations and leaders to aggressively and creatively combat crimes that impact quality of life. NPU’s goals are to improve quality of life in targeted neighborhoods; build

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. The Neighborhood Prosecutors (NPs) are assigned to the Central, Mid-City, Northern, Southeastern, Southern, and Western Divisions of the SDPD. They are liaisons to the police commands and to the communities they serve. They attend community meetings and events to relay information on quality-of-life crime problems to SDPD and the City Attorney's Office. The NPs screen, issue, revoke probation and take cases to trial on chronic offenders in their areas and/or cases that need special attention or alternative sentencing options. Finally, each NP conducts regular line-up trainings at each assigned division, providing information on prosecution issues and ensuring successful prosecution of misdemeanor crimes in the City of San Diego. NPs also serve as resources to community prosecutors throughout California and the nation.

NPU operates five problem solving courts using restorative justice principles to address quality-of-life crimes: Beach Area Community Court (BACC), Mid-City Community Court (MCCC), Downtown Community Court (DCC), Homeless Court (HC), and the Behavioral Health Court Calendar (BHCC). NPU also implements the Prostitution Impact Panel (PIP): an educational community-based victim impact panel designed to inform offenders who solicit or agree to engage in prostitution activity about the far-reaching impact of prostitution on a community.

1. Calendar Year 2010 Accomplishments

- a. **Cases:** In addition to cases handled in the problem solving courts outlined below, NPU screened/processed 1,817 quality of life cases in 2010. This includes vice cases handled by the Mid-City NP (serves as liaison to SDPD's Vice unit), and graffiti cases handled by our Southeastern NP (serves as liaison to SDPD's Graffiti Strike Force). 184 NPU cases were set for trial in 2010, with 43 of those cases reaching a trial department. 6 trials were conducted, 5 with guilty verdicts and 1 with a not guilty verdict.
- b. **Probation Revocations:** NPU works with SDPD to monitor compliance of chronic offenders with probationary conditions, including stay away orders, and files probation revocation motions when appropriate. NPU reviewed 144 violations and revoked probation on 102 defendants. The custody ordered ranged from 8-245 days per case. A total of 6305 days (17 years) of custody was ordered/imposed/served, 615 days (1.7 years) was imposed but stayed pending successful completion of probation, and an additional 1196 days (3.3 years) of custody was imposed but satisfied by residential rehabilitation through our Serial Inebriate Program.
- c. **Problem Solving Courts:**
 1. **Beach Area:** A pre-filing court launched in 2006 educating low level offenders with a community impact panel, and requires offenders to restore the harmed community through community service.
 - BACC serves Pacific Beach, Mission Beach, and Mission Bay Park communities.
 - BACC hosted 11 court sessions, addressed 136 participants, and facilitated 544 hours of community service in the beach area.

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- \$11,342⁵ of labor was given back to the beach communities in 2010.

2. Behavioral Health Court: A post-filing court launched in April of this year dedicated to address problems presented by mentally ill offenders. It combines the resources and expertise of the mental health and criminal justice communities to hold accountable, stabilize and reduce recidivism in the target population.

- The BHCC Team reviewed approximately 284 candidates and cases. 35 candidates were determined qualified by Team and screened by the contracted service provider, Exodus.

- Throughout the 11 Court sessions, 9 candidates were accepted into program.
- 8 candidates are proceeding through the 18 month program; 1 candidate failed out.

3. Downtown: A post-filing court launched in 2002 requiring offenders who commit specific misdemeanor offenses Downtown to perform community service as a means of restorative justice. It operates daily from the arraignment department of the San Diego Superior Court.

- This year 98 cases were eligible for DCC, and the court addressed 67 offenders and facilitated 1,364 hours of community service.
- \$28,439 of labor was given back to the downtown communities in 2010.

4. Mid-City: A pre-filing court launched in 2003 that uses a community sanctioning panel and community service to address quality-of-life crimes such as loud parties and marijuana offenses in the College area.

- MCCC hosted 7 court sessions, addressed 34 participants, facilitated 162 hours of community service, and collected \$3,800 in administrative fees.
- \$3,377 of labor was given back to the mid-city communities in 2010.

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

- HC addressed 492 defendants with a total of 1,766 cases.
- 346 homeless veterans registered to participate in the Stand Down court proceedings, resulting in 853 cases addressed by NPU. Of those defendants, 129 actually participated in the court proceedings, resulting in a total of 469 cases adjudicated in one weekend.

d. **Alternative Sentencing Options, Prevention Programs and New Strategies/Developments**

1. **PIP (citywide)**: 6 PIP sessions were conducted, addressing 133 defendants (over twice that of last year), and a total of \$26,600 in administrative fees was collected.

⁵ All labor calculations in this document use the nationally designated \$20.85/hour rate for volunteer work. See http://www.independentsector.org/volunteer_time and/or <http://www.volunteeringinamerica.gov/>.

2. Problem Solving Court Development:

- With the recent changes in categorization of crimes (marijuana possession and pedicab violations), coupled with the expansion of the number of community courts, NPU began a structural evaluation of the current courts and formats.
- Chief Deputy Regan Savalla along with NPs Paige Hazard (Western) and Karolyn Westfall (Southern) attended the international community court conference, bringing back ideas for modifications and improvements to ensure operational efficiency and allow more people to participate in community courts.
- Before the launch of the new formats in 2011, the following was done in 2010: expanding community partnerships; structuring both pre and post filing arms for each court model; identifying ways to incorporate an assessment tool into each court to help steer participants into services; and using our case management system to track community court cases and outcomes.

3. Veterans Treatment Review Calendar (VTRC) Pilot Program

- In partnership with the Superior Court, Office of the Public Defender, Veterans Village of San Diego, VA Veterans Justice Outreach, and law enforcement agencies throughout San Diego, NPU is developing a VTRC which will launch in February, 2011.
- A specialized calendar in the Superior Court will be hearing cases where defendant's have diagnosed military-related mental health problems as outlined in the penal code, and the team will offer, in conjunction with other probationary terms, intense treatment plans and case management to maximize the opportunities for veterans to get timely and appropriate assistance.

4. Crime Free Multi-Housing Program

- NPU partnered with SDPD and the Institute for Public Strategies to implement a Crime Free Multi-Housing Project in the City of San Diego, similar to that of San Diego County.
- Project focuses on educating apartment managers about community and law enforcement resources available to them to address crime in multi-housing complexes.
- Southeastern division conducted one, all day training in 2010, and Mid-City is set to run their training in January, 2011.
- The Southeastern community, residents and managers, is already reacting positively.
- The Southeastern NP is a member of the San Diego Commission on Gang Prevention and Intervention's ad hoc committee reviewing the success of this program.

5. Gambling/Slot Machines (Mid-City): NPU addressed a continuing crime issue arising in Mid-City involving illegal ownership of slot machines.

- Undercover sting operations yielded 22 new cases; 19 were filed, 3 rejected, and additional 11 are still under review.
- NPU created issuing guidelines for prosecutors and training materials for officers.

- 12 convictions were secured, the court ordered 36 gambling machines to be destroyed, and \$11,794.50 was recovered to be deposited into the general fund pursuant to Penal Code section 335(a) (forfeiture of illegally obtained funds).
- e. **Successful Prosecution of Chronic Offenders:** NPU vertically prosecutes chronic offenders to ensure they are aggressively prosecuted, convicted, and sentenced appropriately, including but not limited to stay away orders from the impacted community.
1. ***People v. Emilio Perez: Southeastern- DCA Jon Dwyer***
 - Defendant committed a gang related burglary.
 - NP worked tirelessly with SDPD’s gang unit to secure evidence to petition the court for gang conditions (do not associate with known gang members, etc.) as a probationary term.
 - NP secured a conviction with all requested gang conditions ordered by the court.
 - The SDPD gang unit was happy to see these types of conditions ordered in a misdemeanor case, and the community was able to see restrictions placed on a known gang member.
 2. ***People v. Kenneth St. John: Southern- DCA Karolyn Westfall***
 - Defendant arrested for PC 647(f) and the NP identified an additional battery committed against defendant’s neighbor.
 - Despite the low-level of the offense, NP opted to proceed with charges due to defendant’s history (multiple convictions, registered sex offender).
 - The filing of NP case prompted South Bay DA to revoke defendant’s felony probation.
 - Defendant was sentenced to two years in prison and the NP dismissed her case.
 - Although NP’s case was dismissed to the felony, NP case helped get a registered sex offender off the streets, and satisfied concerned and fearful neighbors.
 3. ***People v. Charles Verdugo: Western—DCA Paige Hazard***
 - 26 year old male with severe psychotic issues, who self medicates with alcohol and becomes violent randomly, posing a danger to community members, officers, and employees of County Mental Health (CMH) which he frequents.
 - After previously being imprisoned for stabbing a stranger, the NP worked with SDPD to create a sentencing strategy to address defendant’s violent behavior.
 - NP charged him with battery and drunk in public, and revoked defendant’s probation.
 - Defendant pleaded guilty to battery and a jury found him “not guilty” of drunk in public.
 - Despite the numerous sentencing continuances, defendant was sentenced to nearly the maximum allowed by law; 180 days for battery, and 120 days for the probation case.
 - Upon getting released in September, he again began causing problems for his family, the police, and employees of CMH. Defendant was taken to CMH twice and arrested twice.

- NP received the case; vandalism with damages around \$500. While that amount was well under the standard issuing minimum for a felony, NP felt that based upon defendant's level of violence and history the charge should be elevated.
 - NP convinced the DA to file charges once the amount of damages was confirmed.
 - The DA charged defendant, and in December, defendant was sentenced in two felony cases (vandalism and a battery from a subsequent incident at CMH) and has since been committed to Patton for three years.
- 4. *People v. Rita Curry: Central- DCA Dani Stroud***
- Defendant harassed business owners and community members of East Village and revealed/endangered undercover narcotics detectives while performing their duties.
 - Charged with multiple narcotics violations, a battery and illegal lodging.
 - NP pulled all 8 open cases, worked up the case and made a global offer.
 - Over several objections on multiple occasions by the NP, the court continued to allow defendant to remain out of custody on his own recognizance.
 - After several months of negotiations, NP was able to secure a conviction to all three counts.
 - Defendant was denied probation after the NP demonstrated that defendant would not follow any rules placed on her by the court, and was sentenced to 180 days custody.
- 5. *People v. William Carter: Northern- DCA Nooria Faizi***
- Charged with failing to comply with lifeguard orders and for violating a restraining order, this chronic offender continually threatened, harassed and intimidated tourists, community members and lifeguards.
 - NP worked with the lifeguards and community members to ensure witness participation and thorough reports were submitted cataloging defendant's actions.
 - NP secured a conviction and obtained a three year Stay Away Order preventing defendant from being anywhere west of the 4000-5000 block of Mission Blvd to the ocean.
- 6. *People v. Mary Kay Scott: Mid-City- DCA Kristin Beattie***
- Chronic prostitute impacting community members of both Mid-City and Western Divisions and National City, Escondido, El Cajon, Oceanside, and Orange County.
 - Defendant created a heavy workload for the Court, police agencies and our office over a 14 month period; she was arrested, contacted or at warrant 37 times.
 - Defendant was on probation from a 2009 case and when cited again in July, 2010, NP vertically prosecuted the case, starting with obtaining an additional \$10k bail increase.
 - All of Defendant's cases were pulled for revocation, and through extensive sentencing strategies/arguments, NP obtained 353 day custody sentence with no

credits given for “good time” or “work credits”, with an additional 180 days ordered but suspended.

- Once released from custody on our cases, defendant was immediately incarcerated in Orange County after the NP and SDPD contacted the Orange County D.A. regarding her outstanding warrants. Defendant remains in custody.

f. **Recognized Leaders in Neighborhood Prosecution**

1. Faculty- Association of Prosecuting Attorneys (APA) National Community

Prosecution Conference –Sept. 27-29, 2010, Washington, D.C.: Chief Deputy Regan

Savalla instructed prosecutors from across the country on implementing community prosecution in smaller jurisdictions, and on prosecutorial ethics specific to dilemmas faced by neighborhood prosecutors.

2. Faculty-California District Attorneys Association (CDAA) - October 25-26,

2010, San Francisco, CA: Two of seven NP Deputies taught ethics at the annual Community Prosecution Seminar.

3. Faculty- Center for Court Innovation (CCI) International Conference of Community Courts- October 28-30,

2010, Dallas, TX: Chief Deputy Regan Savalla was chosen to facilitate conference-wide session identifying successful philosophies and strategies involving community engagement and community service in a community court setting.

4. Recipients: National I.C.E. Award from the Association of Prosecuting Attorneys.

The NPU received this award for Innovative Community Engagement for their accomplishments in the field of community prosecution.

