

2011

2011 ANNUAL REPORT

Office of the San Diego City Attorney

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 city departments. The City Attorney's Office prosecutes criminal cases involving persons charged with violations of the state laws occurring within the city limits of the City of San Diego for misdemeanor offenses and defends or prosecutes law suits to which the City may be a party.



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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 six years on the Bench handling criminal and civil trials and his final years assigned to an independent civil calendar.

[Executive Assistant City Attorney Andrew Jones](#) holds the number two management position in the office. In December 2008, Mr. Jones was appointed Assistant City Attorney and led the Civil Litigation Division. In November 2009, he was tasked to lead the Criminal Division, and in January 2011, was appointed Executive Assistant City Attorney. Mr. Jones has over fourteen years of trial experience.

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

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, Domestic Violence and Appellate and is under the direction of Tricia Pummill, Assistant City Attorney.



Case Issuance Unit

The Case Issuance Unit operates within the Criminal Division of the San Diego City Attorney's Office and 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 Issuing Unit can file three types of charges:

- **Felony Wobblers:** these are crimes that may be prosecuted either as a misdemeanors or felonies at the discretion of the prosecutor. The District Attorney's Office elects to send certain felony cases to the City Attorney's Office for misdemeanor prosecution.
- **Misdemeanors:** misdemeanors are crimes that are punishable by a fine and six months to one year in the county jail.
- **Infractions:** infractions are crimes punishable only by a fine.

Thousands of cases are received and processed each month. In turn, over one thousand 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. The Unit is jointly responsible with the Trial Unit for ensuring the proper arraignment of each individual charged with a criminal offense.

The Case Issuing Unit reviews hundreds of types of violations. Our cases range from minor violations such as local park and beach violations to more serious offenses such as driving under the influence, identity theft, credit card or check fraud, 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, judicial officers, and courtroom personnel.

Staffing of the Case Issuing Unit

The Case Issuing Unit is headed by Chief Deputy City Attorney Michelle Garland and supported by nine Deputy City Attorneys and twenty-six staff members. The staff members within the Unit are divided into three distinct groups, Case Intake, In-Custody Cases, and Complaints and Data Entry. Each group is tasked with a unique set of responsibilities within the case issuing process.

Cooperation with Law Enforcement Agencies

The Case Issuing Unit receives cases from a variety of law enforcement agencies. 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 Issuing 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.

Case Issuing Statistical Information

In 2011, the Case Issuing Unit received approximately 21,775 cases. We filed charges in approximately 18,196 of those cases, or eighty-three percent. As a general case review unit, we review a large variety of charges. In 2011, for example, we filed approximately:

- 6,173 driving under the influence of alcohol or drugs cases
- 39 unlawful possession of a firearm cases
- 42 assault with a deadly weapon or with deadly force cases
- 1,851 petty theft cases
- 46 grand theft cases
- 14 identity theft cases
- 26 credit card or check fraud cases
- 402 prostitution, loitering for prostitution, and aiding prostitution cases
- 737 resisting arrest cases
- 42 restraining order violations or harassing telephone call cases
- 68 furnishing alcohol to a minor cases
- 421 vehicular hit and run cases with property damage
- 19 vehicular hit and run cases with injury to a person



This is only a sampling of some common offenses reviewed by Case Issuing. We also file drug possession cases, suspended driver's license cases, municipal code violations, environmental violations, trespass violations, and many more.



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

The Case Issuing Unit assigns a deputy city attorney to the San Diego Police Department pursuant to the San Diego Traffic Offenders Program (S.T.O.P.). In 2011, the S.T.O.P. position was filled by Deputy City Attorney Melissa Ables and then re-assigned to Deputy City Attorney LeAnna Shields.

The S.T.O.P. deputy appears in court on vehicle impound and vehicle forfeiture hearings generated by unlicensed driver enforcement by the San Diego Police. She also reviews and prosecutes all drivers license citations issued by San Diego Police Traffic Motor officers. In 2011, the STOP deputy prepared and obtained successful resolutions in six suspended license trials and facilitated positive resolutions to many other vehicle related cases.

In addition to her prosecutorial duties, in 2011, the S.T.O.P. deputy conducted thirty-eight vehicle impound hearings and forfeited one hundred thirty-nine vehicles pursuant to various procedures in the California Vehicle Code. Depending on the details of the case, the money from the sale of the forfeited vehicles goes either to the state and the city's general fund or is donated to the San Diego Youth & Community Services, Mid City Community Center. Additionally, the S.T.O.P. deputy was successful in obtaining orders for fifteen vehicles to be destroyed for having parts without the proper serial numbers pursuant to California Vehicle Code section 10751.

Overall, the S.T.O.P. deputy acts as a liaison between the City Attorney's Office and the San Diego Police Traffic Division, handling matters that arise from the Photo Red Light Unit, the DUI team, and the Auto Theft Unit. Finally, the S.T.O.P. deputy serves as a great resource to other deputy city attorneys on traffic and vehicle related matters.

Highlights of 2011

The year 2011 brought many interesting and challenging cases. Below are a few examples.

People v. Marilyn White

In December 2010, Marilyn White was convicted of making harassing calls to 911 and of falsely reporting an emergency. Ms. White is an alcoholic who cannot exercise proper judgment when intoxicated. She was given a standard sentence which included a fine, probation, and an order not to call 911 absent an actual emergency. However, over the next eight months, through August 2011, Ms. White continued to call 911 and report non-existent emergencies. These calls caused a substantial drain on the already scarce resources of our local police and fire departments. Overall, she improperly called 911 or engaged a third party to call for her well over fifty times.

Issuing Deputy Michelle Kolker worked closely with the lead detective on the case to gather enough evidence to revoke Ms. White's probation and impose sentencing terms designed to address the underlying problem, alcoholism. After a difficult court battle, she was found to be in violation of her probation and was sentenced to six months in jail, which could only be reduced if she entered residential rehabilitation. Most notably, the court ordered Ms. White to pay restitution for the law enforcement and fire department costs of responding to the false emergency calls.

People v. Stephen Dragasits

On February 26, 2011, a vehicle travelling on the 163 freeway near Clairemont Mesa Boulevard was struck by a rock and its mirror was broken. The driver of the vehicle was not injured but stopped to determine what happened. He found a person named Stephen Dragasits standing next to a motor home in the same area, throwing rocks onto the freeway. Mr. Dragasits was charged and convicted of throwing the rock that struck the victim's vehicle and ordered to pay restitution.

In April 2011, the media reported two shootings in the same area of the 163 freeway. One driver was actually shot, while the other escaped with only a bullet hole in his car. Issuing deputy Kristen Fossler immediately recalled the rock throwing case from February and recognized the striking similarities in the location and nature of the cases. She provided the information to the California Highway Patrol, which immediately investigated the lead. Evidence gathered based on this tip soon led to the arrest of Mr. Dragasits, who is currently charged in the shooting case being prosecuted by the District Attorney's Office. If not for Kristen's excellent recollection and quick action, it is unclear how long it would have taken to identify and arrest the shooter.

People v. Marco Lopez

On October 3, 2006, Islas Ruvalcaba was crossing the street in a crosswalk. A vehicle driven by Marco Lopez struck Mr. Ruvalcaba, forcing him under the vehicle. Mr. Ruvalcaba became stuck under the vehicle and was dragged some distance before Mr. Lopez finally stopped. Tragically, Mr. Ruvalcaba was dismembered and died of his injuries.

Mr. Lopez was charged with vehicular manslaughter and an arraignment date was set in May 2007. Mr. Lopez did not appear for arraignment and an arrest warrant was issued. Due to the serious and tragic nature of the case, the Case Issuing Paralegal, Cassandra Bedore, began investigating the whereabouts of Mr. Lopez. She routinely checked all possible databases searching for new information that would enable law enforcement to find Mr. Lopez.

Several years passed, but Cassandra never stopped searching for Mr. Lopez in the hope that he would be found and justice could be served for Mr. Ruvalcaba and his family. Finally, in July 2011, new information surfaced. Cassandra immediately shared the information with Deputy City Attorney LeAnna Shields. Cassandra and LeAnna worked closely with the San Diego Police Department and the federal authorities at the border with Mexico. Mr. Lopez was soon arrested after crossing the border into the United States.

The case was then five years old, which created a speedy trial hurdle in court. When the case was heard in court, it became clear that if not for the diligent and continuous efforts of Cassandra, we may not have been able to proceed with the case. It is thanks to her tireless commitment to bringing Mr. Lopez to justice that the case is now preceding and the Ruvalcaba family will finally have their day in court.

Occupy San Diego

Finally, the Case Issuing Unit has been challenged by the on-going Occupy San Diego protest movement and the continuous flow of incoming protest related cases. It has been a logistical challenge to coordinate the receipt and review of each case and to monitor the court proceedings. We have worked closely with the San Diego Police Department to coordinate the flow of case information.

Although the numbers are continuously changing, Case Issuing has received approximately one hundred fifty Occupy San Diego related cases, against one hundred twenty-eight defendants. Charges have been filed in approximately forty-four of the cases, and the review of the remaining cases is on-going.

Challenges for 2012

During these challenging economic times the Case Issuing Unit has been greatly impacted by the shortage of attorneys in the Criminal Division. We have consistently been without one full time attorney, which equates to a loss of over one hundred cases reviewed each week. It is only due to the commitment and diligence of our attorneys that we are able to meet the daily demands of issuing and continue to partner with our local law enforcement agencies.

In 2012, the leadership of the Case Issuing Unit will work to prioritize and manage the misdemeanor case load to ensure that justice and the needs of our community continue to be served. We will continue to foster and maintain collaborative relationships with court and law enforcement personnel and to ensure the timely review and appropriate outcome of all cases submitted to the Case Issuing Unit.

General Trial Unit

The General 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, in 2011, the Trial Unit consisted of 18 full-time attorneys, 1-3 provisional attorneys, 1-3 volunteer attorneys, 2 paralegals, 2 legal secretaries, 2 investigators, 1-3 trial support assistants, and 18 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 2011 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
- 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. With 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, reduce the negative impact some crimes have on our environment and community, and save the 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, the Trial Unit has prosecuted most cases more vertically. The first step was establishing a core group of experienced screening deputies in the Case Issuance Unit, thus providing more consistency in the issuing process. To gain experience and develop their issuing skills, when resources allow, Trial deputies rotate into the Case Issuance Unit for four months at a time. When not in that rotation, Trial deputies are assigned trials as soon as a jury trial date is set or confirmed. The Trial deputies are then 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. The current semi-vertical prosecution model means the Trial deputies have their own case loads, giving them a greater sense of ownership, and better 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 hate crimes 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 and preparation of the cases.

- **Trial Statistics**

Most of the cases handled by the Trial Unit results in a criminal conviction based on a guilty 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 2011, 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 plea on the eve or day of trial.

In 2011, **8,756** cases pleaded not guilty at arraignment and were handled by the Trial Unit in some fashion.¹ **3,629** cases were set for trial. **2,178** of those cases pleaded guilty before going to trial. **158** cases actually proceeded to trial with **112 (~83%)** resulting in a guilty verdict on at least one count of the complaint, and 23 (17%) resulting in a not guilty verdict on all counts of the complaint, where a verdict was rendered. The remaining 23 cases ended in a hung jury or mistrial, which eventually resulted in a plea bargain or dismissal. 1,293 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.

- **Training Program**

Historically, when a new class of deputy city attorneys was hired, the Criminal Division offered a 4 – 6 week training program for the new attorneys. With decreasing resources and budgetary constraints since 2009, the experienced attorneys who have been hired have had to do more on-the-job training. In 2011, under the organizational efforts of Training Coordinator Deputy City Attorney Kristin Beattie, we successfully utilized internal and external trainers to put on a little over two week training for all of the deputies who had been hired since 2009, including some volunteer attorneys, provisionally-hired attorneys, and civil litigators. Some of the topics covered in this training included ethics and prosecutorial obligations, elements of charges for issuing purposes, constitutional law, DUI law and trial issues, evidentiary foundations, trial techniques, trial preparation, sentencing, and alternative sentencing options.

¹ Of the 8,756 cases, 238 were assigned to the Neighborhood Prosecution Division in the Case Management System but handled by the Trial Unit.

- **Arraignment Court Coverage**

Since 2006 and the transition to a more vertical prosecution model in the Trial Unit, arraignment and trial setting department court coverage assignments were given on a daily basis, depending on which deputies were not in trial. In August of 2011, in an effort to increase consistency in negotiated offers in the arraignment departments and to give Trial deputies more time to prepare for trials instead of covering court, Deputy City Attorneys Sam Park and Heily Hernandez were selected as the duty deputies assigned to the arraignment departments. With their efforts and the assistance of the deputies in the Neighborhood Prosecution Unit who help to cover court, we are continuing to strive towards more effective systematic procedures at the outset of cases and increasing the disposition rate prior to jury trials being set.

- **Criminal Case Management System**

The Trial Unit continues to utilize the criminal case management system (CMS) implemented in November 2009. CMS allows for an increased ability to gather a variety of statistics, capture the different trends of cases, and collaborate with the District Attorney's Office. 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. As different modules are opened, introduced, and used, our policies and procedures will change accordingly, all with an eye towards more efficiency.

- **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 pleaded 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 2011, deputies were able to successfully argue and obtain court orders for **\$2,123,028.91** 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 utilizes 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 2011, this collaborative resource-saving process allowed **201** 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**

Driving Under the Influence – Unfortunately, this very preventable crime is a considerable and pervasive issue in our society. The Trial deputies combat these cases on a daily basis, convicting defendants who are driving and impaired by alcohol, illegal or prescription drugs, or a combination thereof. While offers of dispositions are made to take into account the blood alcohol level, any possible defenses, and a defendant’s prior history, when defendants reject our offers, Trial deputies such as Team Leader Eric Pooch have successfully convicted them despite low blood alcohol levels (*People v. Kasaundra Losordo*, *People v. Greg Ransweiler*, *People v. Hai Nguyen*) and novel defenses (*People v. Vernon Hodges*).

Hate Crimes – Because of the often sensitive nature of this category of crimes, Trial deputies are assigned to these cases pre-issuance. Not only do defendants commit these crimes simply because of victims’ disability, gender, nationality, race or ethnicity, religion, or sexual orientation, these cases always involve an additional element of violence, be it criminal threats, actual assaults or batteries, and brandishing dangerous weapons, frequently resulting in physical injuries to the victims. It is the hard work and compassion of deputies such as Mark Robertson (*People v. Juan Segura*) and Team Leader Kristi Hein (*People v. Mohamed Behiry*) who bring justice back to the victims.

Vehicular Manslaughter – Among one of the most difficult types of cases to prosecute is misdemeanor vehicular manslaughter. While a person was killed due to defendant’s negligence, jurors often find it overwhelming to convict a person for what they perceive to be an “accident” or a “mere” traffic infraction/violation. These types of cases are emotionally trying and challenging to present to a jury. Also vertically assigned to Trial deputies, we have successfully convicted defendants on every vehicular manslaughter case we have issued. Deputy City Attorney Bruce Henderson (*People v. Quynh Nguyen*) and Senior Deputy City Attorneys Andres Carnahan (*People v. Adriana Hernandez*) and Melissa Ables (*People v. Ronald Larsen*) all have effectively held the offenders accountable for their actions.

Restitution – As noted previously, part of our obligation to the victim is seeking and obtaining victim restitution to make the victim whole within the confines of our criminal statutes. In *People v. Arthur Newman*, a vehicular manslaughter case, Deputy City Attorney Kathleen McManus successfully defeated defendant’s Writ of Coram Nobis, Motion to Withdraw Plea, Writ of Habeas Corpus, and Request to Stay the Restitution Evidentiary Hearing. Then Deputy City Attorney Terri Winbush successfully argued for a restitution order in the amount of \$1,755,423.61 for the decedent’s wife.

Summary

In a time when resources are scarce and continue to decrease, the Trial Unit has forged together in the ultimate example of team work, effectively handling and trying all of the general misdemeanor cases in our jurisdiction. With the support and dedication of other units in the Criminal Division, the Trial Unit continues to achieve our primary goals by upholding public safety and maintaining the citizens' quality of life through prosecution of misdemeanants.

Appellate Unit

The Appellate Unit provides legal support for the Criminal Division. The Unit is led by Chief 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.

The Appellate Unit handles pre-trial motions on behalf of the Criminal Division. 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.

The Appellate Unit also handles all post-trial motions on behalf of the Criminal Division. Typical motions include motions for new trial, motions to withdraw guilty pleas, and motions to seal records.

The Appellate Unit handles all appeal matters on behalf of the 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. The Unit also responds to writs of habeas corpus, coram nobis, and mandate, and on behalf of the People initiates writs of mandate to correct judicial error.

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.



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 2011

The Appellate Unit handled a new record high volume of pre-trial motions. The Unit resolved around 900 motions and enjoyed a success rate of more than 96%.

The Appellate Unit also handled a record high number of appeals, processing around 190 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 97%. While the great majority of cases involved the Unit defending against appeals brought by convicted defendants, the Unit also initiated appeals and writs to correct judicial error.

The Unit scored a major victory for the State of California in the California Supreme Court. *People v. Maikhio*, argued by Deputy City Attorney Jonathan Lapin, concerned the power of wardens employed by the Department of Fish and Game to search for illegally taken fish and game. In a unanimous opinion, the Court affirmed the ability of game wardens to perform such searches. This opinion has statewide and perhaps nationwide significance and is a candidate for review by the United States Supreme Court.

The Unit will return to the California Supreme Court in *People v. Vangelder*, an appeal being prosecuted by Deputy City Attorney Jonathan Lapin. The *Vangelder* case concerns the admissibility of evidence attacking the Intoxilyzer, the breath test device used to measure the defendant's blood alcohol level in a drunk driving case. The Fourth District Court of Appeal held that the defendant should have been allowed to introduce evidence that the Intoxilyzer did not properly measure the alcohol in the defendant's breath. Deputy City Attorney Lapin asked the California Supreme Court to review that decision, and the Court granted the request.

The Unit also assisted City Attorney Jan Goldsmith in protecting the ability of the National Football League to enforce its Fan Code of Conduct at football stadiums. In *People v. Ensign*, the defendant was charged with battering security guards, who were ejecting him from a San Diego Chargers football game at Qualcomm Stadium for violating the N.F.L. Fan Code of Conduct. The case received national attention after the defense attorney argued that the defendant had a First

Amendment right to say and do things that violated the Fan Code of Conduct. An adverse ruling would have endangered fans at sporting events across the country, but the City Attorney convinced the court that the defendant's First Amendment rights did not trump the Fan Code of Conduct, which served to preserve public safety.

Domestic Violence Unit

Domestic Violence exists within every race and socio-economic level in our community and it does not discriminate based on gender or sexual orientation. Research tells us that children exposed to violence are at a much greater risk for developing behavioral, emotional and physical problems throughout their lives, as well as putting them at greater risk for committing future acts of violence. Keenly aware of the impact that domestic violence has on our community's present and future well-being, our City Attorney is firmly committed to the aggressive prosecution of domestic violence cases within the City of San Diego, Poway and 4S Ranch. Mr. Goldsmith's commitment has been repeatedly underscored by the allocation of experienced vertical prosecutors to staff the unit in response to growing case volume. Vertical prosecution means that each case is handled by one designated attorney from the time charges are filed until sentencing, which ensures continuity, victim confidence and specialized case attention. As compared to 2010, the number of cases issued by this unit in 2011 **increased by 56%** and the number of **cases taken to trial increased by 144%**. Despite the expansion in the number of cases handled, the unit had a **93% overall conviction rate in 2011**. The conviction rate at trial was 77%, an extremely successful rate considering the complexity and unpredictability of domestic violence trials. The Domestic Violence Unit, led by Chief Deputy City Attorney Marlea Dell'Anno, currently consists of 13 prosecutors, three investigators, three victim services coordinators, and nine support staff. In addition to domestic violence cases, the unit also handles all elder abuse, child abuse, and sex crimes cases. We take tremendous pride in the experience, dedication and skill of our entire staff, as well as the efficiency with which we have been able to manage our significantly increased caseload. The average amount of time from the filing of a case until disposition is 24 days, which reflects a cost benefit to the taxpayers of our community. Most importantly, victims are not subjected to a lengthy and drawn out criminal process which can be both emotionally and financially debilitating.

Our unit is deeply dedicated to the prevention of violence through education, collaboration and innovation with our community partners in the City of San Diego. We are a dedicated partner with the San Diego Family Justice Center, where we maintain a full-time attorney, Mark Skeels, who works closely with domestic violence detectives each day. Mark is a former district attorney with ten years of felony trial experience who provides a wealth of information and

knowledge that is invaluable to our unit. The attorneys in our unit are committed and active members of the San Diego Domestic Violence Council and the Domestic Violence Fatality Review Team. Chief Marlea Dell'Anno co-chairs the High Risk Team (HRT) created by the District Attorney's office. HRT is an innovative partnership of domestic violence experts from law enforcement, prosecution agencies, victim advocacy groups and other community partners whose main objective is to identify victims at high risk of extreme violence or death and gather resources immediately to protect victims and their family members.

Elder Abuse Prosecution

The Domestic Violence Unit also prosecutes elder abuse, which consists of crimes committed against victims who are sixty-five years or older, or who are considered "dependent adults" due to a mental or physical disability. Two deputies are assigned to the elder abuse caseload and handle these cases vertically. Elder abuse cases present unique practical challenges such as helping victims with limited mobility attend court and managing the challenges of memory loss in victims suffering from Alzheimer's or similar conditions. These factors are in addition to the "typical" power and control dynamic that is often present when there is a victim who is medically, emotionally, or financially dependent on their abuser. To effectively handle these cases, The City Attorney's Office works closely with several agencies such as the HOPE team (a part of Center for Community Solutions), the District Attorney's Office, Adult Protective Services, local law enforcement agencies, the County's Long-Term Care Ombudsman, and others. Senior Deputy City Attorney Jonathan Siladi, recently travelled to Seattle for a week-long federally-funded training on the investigation of elder abuse cases. As a result, the City Attorney's Office, along with the District Attorney's Office and other partner agencies, will begin training local law enforcement on advanced techniques in elder abuse investigation in February 2012.

Child Abuse Prosecution

The Domestic Violence Unit has two specially assigned prosecutors, a victim advocate and an investigator designated to handle all child abuse cases. Through vertical prosecution, attorneys are able to develop the special rapport required to pursue charges on behalf of child abuse victims. In addition, child victims are referred to the Kids in Court program to help alleviate the fear and anxiety of testifying against their abusers. These dedicated prosecutors have

secured convictions in numerous cases which require offenders to comply with mandatory parenting classes and counseling with the ultimate goal of facilitating reunification where appropriate. To maintain a steady line of communication and information-sharing, these prosecutors attend bi-weekly meetings with child abuse detectives and other law enforcement representatives who are equally committed to protecting all children in our community.

Sexual Assault Prosecution

Beginning in August, 2011, the Domestic Violence Unit began handling all of the sexual assault misdemeanor crimes that are referred to the City Attorney's Office. In an effort to ensure that these cases and victims get the attention they deserve, there are three experienced prosecutors who review the cases for issuing and prosecute them vertically. These deputies are able to develop an expertise in the legal issues inherent in crimes involving sexual assault related crimes, including sentences for sex offender registrants under Penal Code Section 290. The Domestic Violence Unit has been very successful in convincing courts to impose lifetime sex offender registration in cases where registration was not mandated pursuant to Penal Code section 290, but was warranted based on the underlying facts and criminal history of the defendant.

Our sexual assault prosecutors work closely with detectives assigned to Sexual Assault and Sex Offender Registration units within the San Diego Police Department and other law enforcement agencies. We are proud to be part of San Diego's Sex Offender Management Council (SOMC). SOMC represents a united San Diego region working collaboratively under a memorandum of agreement to educate community partners on sex offender issues, develop support and participate in programs targeting the prevention, intervention and elimination of sexual violence, and serves as a crucial resource to the Board of Supervisors and other local municipalities on sex offender issues in the region. In addition, Marlea Dell'Anno and Christy Bowles, both former felony prosecutors, are dedicated to sharing statewide knowledge and expertise through their involvement with the California District Attorneys Association Sexual Assault and Domestic Violence Committees.

Notable cases handled by the Domestic Violence Unit include:

In *People v. Jose Negron*, Deputy City Attorney Mark Skeels obtained a conviction against a repeat sexual offender who had been convicted only months prior of sexual battery in a case handled by Deputy City Attorney Mike Giorgino. The jury found the defendant guilty of indecent exposure in violation of Penal Code section 314 and based on these convictions, the defendant's probation in a trailing felony case was revoked and the defendant was sentenced to four (4) years in state prison. The defendant was required to register as a sex offender under Penal Code section 290.

In *People v. Thomas Clarke*, the defendant was convicted of seven (7) counts of weapons charges in connection with an unusual incident where the defendant was repeatedly following a woman who was involved in a theater production aboard the U.S.S. Midway. The court sentenced the defendant to 270 days in custody.

In *People v. Alan Campbell*, the defendant took a photo up the skirt of an unsuspecting woman at a store. The conviction for invasion of privacy in violation of Penal Code section 647(j)(2) does not carry mandatory sex offender registration. However, DCA Skeels successfully argued that the defendant's prior criminal history warranted this extra level of supervision. The defendant had a prior case for annoying or molesting a child in violation of Penal Code section 647.6 (which would have required mandatory sex offender registration), but the case was settled for a plea to attempted disorderly conduct which did not require registration. The defendant had another prior case for indecent exposure in violation of Penal Code section 314 (which would have required mandatory sex offender registration), but the case was settled for a plea to a public nuisance which did not require registration. Nonetheless, DCA Skeels successfully argued in this case that the court should impose lifetime sex offender registration under the discretionary authority of the court as per Penal Code section 290.006 because the current offense was committed as a result of sexual compulsion or for purposes of sexual gratification. The court agreed and this repeat offender will now have to register as a sex offender, which enhances public safety.

In *People v. Joseph Ortega*, Deputy City Attorney Julie Lynn convicted the defendant of five counts of indecent exposure, lewd conduct and sexual battery after a jury trial involving three separate incidents and four different victims. Initially the case was charged as three separate cases and DCA Lynn successfully argued for them to be consolidated,

which was instrumental in preventing a situation where the victims could be called to testify at multiple separate trials. The defense attempted to call a psychologist to testify to defendant's schizophrenia, claiming that his mental illness caused him to expose himself and touch one of the victims. DCA Lynn successfully excluded this expert's testimony at trial, forcing the defendant to take the stand and testify to his mental health condition and exposing various contradictions in his testimony. At sentencing, among other sentencing conditions, the defendant was ordered to register as a lifetime sex offender pursuant to Penal Code Section 290.

In *People v. Frederick Bradford*, Deputy City Attorney Julie Lynn successfully convicted the defendant at trial of indecent exposure and lewd conduct for exposing himself to two women across the street from their home at night. After the conviction, the defendant was ordered to register as a sex offender pursuant to Penal Code Section 290. Because DCA Lynn has been vertically assigned to this defendant's cases, she has been able to successfully prosecute him since this trial for failing to comply with his sex offender registration requirements and violating the criminal protective order protecting the two victims involved in the trial.

In *People v. Donneall Glover*, Deputy City Attorney Christy Bowles convicted the defendant of sexual battery. The case was particularly challenging because the victim was homeless, intoxicated and unconscious at the time of the assault. The eyewitnesses to the assault were also homeless, but were so offended by the defendant's conduct that they called 911 to report the assault. The two homeless witnesses provided pivotal testimony describing the assault of a very vulnerable victim who could not speak for herself at the time. After a jury convicted the defendant, he was sentenced to 120 days in custody and required to register as a sex offender.

In *People v. James Burkhart*, the defendant pled guilty to one count of attempting to use a video camera to record patrons at a Starbucks coffee shop on the San Diego State University campus after he hid a video camera inside the Starbucks bathroom. As a result of his plea of guilty to the court, the defendant was sentenced to 89 days in jail and was placed on probation for three years with an additional requirement that he participate in sexual offender counseling. Deputy City Attorney Christy Bowles argued strongly that the defendant should be required to register as a sexual

offender under a statute which allows the sentencing magistrate the discretion to require registration given certain findings. DCA Bowles pointed out that the defendant had a record of similar crimes in Colorado, for which he was still on probation at the time his offense in San Diego. Despite the judge declining to invoke this discretionary statute and require registration, the San Diego City Attorney's Office demonstrated our commitment to ensuring that crimes involving such predatory behavior will be vigorously prosecuted.

In *People v. Carlos Mendez*, Deputy City Attorney Michael Ficken convicted the defendant after trial. In this case the Victim refused to testify and was held in contempt in front of the jury. The only admissible evidence was a 911 call, and the officer with a photograph of a small scratch. The defendant testified that he acted in self-defense. The jury found him guilty of domestic violence battery in violation of Penal Code section 273.5. As a result, the defendant was convicted and deported.

In *People v. Linnie Webb*, Deputy City Attorney Michael Ficken convicted the defendant of punching his ex-girlfriend and breaking her window. Despite the extreme reluctance of the victim and her sister to cooperate in the criminal proceedings, the jury found the defendant guilty. As a result of the conviction, the defendant's felony probation was violated and he was sentenced to six years and four months in state prison.

In *People v. Jack Glick*, Senior Deputy City Attorney Jonathan Siladi convicted the defendant after trial of battery on an elder and physical and mental abuse against his 80-year-old mother who was a Holocaust survivor. The defendant was drunk, forcing the victim to barricade herself in her room to get away. The defendant subsequently grabbed the victim's hand, asked her if she wanted to "have fun," and pointed to his groin. After running outside to get help, the defendant proceeded to physically assault her. A few weeks later, the defendant returned to the victim's residence and threatened to kill her during an argument. The victim hugged officers when they arrived and begged them to help her. When the case was set for trial however, the victim refused to cooperate with the process. Through delicate impeachment and the testimony of neighbors, the defendant was convicted after jury trial of two counts elder abuse (PC

368(c)) and two counts battery on an elder (PC 243.25). He was sentenced to 90 days in jail, placed on three years of probation, and ordered to attend counseling. He faces up to three years in jail if he violates probation.

In *People v. Chun*, the victim and the defendant got into an argument over the defendant's infidelity. During the argument the defendant punched the victim in the neck and chest. The force of the punch moved the victim back three feet. The couple's two teenage sons witnessed the incident. The victim and her sons fled next-door to call 911. The defendant threatened his oldest son as the son was leaving the home by yelling: "I am gonna get my knife and cut all your throats!" Despite being confronted with hurdles typical in domestic violence cases, such as victim minimization and the children's reluctance to testify against their father, the defendant was convicted. Deputy City Attorney Andrea Ochaba was able to educate the jury about the power and control dynamics inherent in domestic violence relationships and as a result, the jury believed that the victim's minimization at trial was merely an attempt to protect the defendant from being held accountable for his acts of violence.

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, including Neighborhood Prosecution Unit, Consumer & Environmental Protection Unit and Code Enforcement Unit. Assistant City Attorney Tricia Pummill is also head of this division.

Neighborhood Prosecution Unit

The Neighborhood Prosecution Unit (NPU) is composed of 8 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, Eastern, 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.

Community Court (DCC), Homeless Court (HC), Behavioral Health Court Calendar (BHCC), and the Veterans Treatment Review Calendar (VTRC). 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. Finally, NPU created and conducts Juveniles and Justice, an innovative program teaching students about the criminal justice system and encouraging active participation in their community.

NPU operates six problem solving courts using restorative justice principles to address quality-of-life crimes: Beach Area Community Court (BACC), Mid-City Community Court (MCCC), Downtown

1. Calendar Year 2011 Accomplishments

- a. **CASES:** In addition to cases handled in the problem solving courts outlined below, NPU screened/processed 1782 quality of life cases in 2011. This includes vice cases handled by the Mid-City NP (serves as liaison to SDPD's Vice unit), graffiti cases² handled by our Western and Southeastern NPs (serves as liaison to SDPD's Graffiti Strike Force), and gang cases³ handled by our Southeastern NP. 137 NPU cases were set for trial in 2011, with 67 of those cases reaching a trial department. 7 trials were conducted, 6 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 98 violation reports and revoked probation on 86 defendants involving 133 cases (These defendants are repeat offenders resulting in multiple motions being filed at various stages of the probationary period.). The custody ordered ranged from 10-180 days per case. A total of 4602 days (12.6 years) of custody was ordered/imposed/served, 860 days (2.4 years) was imposed but stayed pending successful completion of probation, and an additional 649 days (1.8 years) of custody was imposed but satisfied by residential rehabilitation through our Serial Inebriate Program.
- c. **Expansion into Eastern Division:** To further the goal of early disposition of cases and to expand community prosecution tools, an additional deputy was assigned to the NPU in September to allow coverage into Eastern Division of the SDPD. The Eastern Division serves the neighborhoods of Allied Gardens, Birdland, College East, College West, Del Cerro, Grantville, Kearny Mesa, Lake Murray, Mission Valley East, Qualcomm, San Carlos, Serra Mesa and Tierrasanta. This area has a significant volume of quality of life crimes that until now were not able to be addressed by NPU. This additional resource also allowed NPU to staff an attorney in arraignment court on a daily basis to improve efficiency and direct cases into the appropriate community court or alternative sentencing option.

² Approximately 105 graffiti cases were filed this year.

³ 9 gang related cases were filed this year, 6 of which included a gang allegation enhancement.



special sessions of BACC over the 4th of July and Labor Day holiday weekends. These Instant Justice sessions allowed people who received eligible citations to just show up at a designated location after the holiday weekend to immediately complete community service and resolve their citation. The community, business, and SDPD partnered to launch the events which received a high volume of positive media attention. Several sessions are already scheduled for 2012. The results were as follows: July 5, 2011 55 participants; September 6, 2011 19 participants; totaling 74 participants who contributed 296 hours of community service.

d. 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 133 participants, and facilitated 532 hours of community service in the beach area.

- Additionally, BACC

hosted two



- \$17,263⁴ of labor was given back to the beach communities in 2011 through BACC.
2. **Behavioral Health Court:** A post-filing court launched in 2010 dedicated to address problems presented by mentally ill offenders. It combines the resources and expertise of the mental health and criminal justice communities to hold accountable, stabilize and reduce recidivism in the target population.
 - The BHCC Team reviewed approximately 252 candidates and cases. 47 candidates were determined qualified by Team and screened by the contracted service provider, Exodus.
 - Throughout the 12 Court sessions, 16 candidates were accepted into program.
 - 21 candidates are proceeding through the 18 month program (5 have continued from last year); 3 candidates were terminated.
 3. **Downtown:** A court with a post-filing and pre-filing arm launched in 2002 (and expanded in 2010) 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.
 - Post-filing: This year 77 cases were eligible for DCC, and the court addressed 56 offenders and facilitated 1,904 hours of community service.
 - Pre-filing: In this inaugural year, which began in March, 202 cases were eligible, 21 participants registered, and 10 have completed their community service (80 hours). An intern was also hired this year to facilitate, measure, and monitor the implementation of the pre-filing model.
 - \$39,698 of labor in total was given back to the downtown communities in 2011.
 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 has been on hiatus in 2011 given the need for re-development and the beat re-districting of the S.D.P.D. A new model will launch in 2012.
 5. **Homeless Court and Stand Down:** NPU partners with various agencies to clear warrants and efficiently process cases



⁴ 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/>.

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 457 defendants with a total of 1,585 cases.
- 370 homeless veterans registered to participate in the Stand Down court proceedings, resulting in 1081 cases addressed by NPU. Of those defendants, 168 actually participated in the court proceedings, resulting in a total of 550 cases adjudicated in one weekend. An additional 79 applicants had their cases adjudicated at the Stand Down Overflow held in August.

6. Veterans Treatment Review Calendar (VTRC) Pilot Program: A post-filing pilot program launched in February of this year dedicated to address problems presented by military veteran offenders with a medical diagnosis involving post traumatic stress disorder. It combines the resources and expertise of mental health providers, substance abuse counselors, and criminal justice professionals to hold accountable, stabilize, and reduce recidivism in the target population. In particular, one domestic violence participant stemming from our office progressed through the first two phases of the program in an exemplary fashion, and continues to respond well to the VTRC's innovative approach.

- The VTRC team reviewed 104 candidates and their case files.
- 42 participants were eligible and fully screened by the participating service providers.
- 26 participants were qualified for acceptance.
- Throughout the 21 Court sessions, 20 participants were accepted into program. The remaining qualified candidates are waitlisted (the pilot program has reached capacity)
- The VTRC is looking to expand its 20 participant cap in 2012.

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

1. **PIP (citywide)**: 7 PIP sessions were conducted, addressing 148 defendants (an 11.3% increase from last year), and a total of \$29,600 in administrative fees was collected. Curriculum expanded this year to include: a shortened Sex Addicts Anonymous meeting during the PIP program break; and a discussion of human trafficking and the commercial sexual exploitation of children during the police department portion of the panel. Additionally, the sentencing structure for John offenders has changed to require a plea to the 647(b), and have to complete an HIV/AIDS test *and* counseling before they can return to court for a reduced charge (if they have also completed P.I.P.).

- 2. Juveniles and Justice (Southeastern):** Implemented throughout the spring at Fulton Elementary School. It allowed students to learn and interact with each other about judicial and police issues as they explore topics such as basic police investigation, court testimony, differences between the roles of prosecutors and defense attorneys, and the meaning, roles and importance of community. The curriculum was reviewed and revised to revolve around bullying prevention, including cyber-bullying.



roles and importance of community. The curriculum was reviewed and revised to revolve around bullying prevention, including cyber-bullying.

3. Serial Inebriate Program (SIP)⁵: Sentencing option where serial inebriates are given the option of choosing treatment to satisfy custody time that has been ordered by the court:

- 43% of those clients entering SIP are successful in completing at least a 30-day intervention program of

which 21% complete the entire program.

- 174 potential clients were referred for assessment for appropriateness of admission. Of those 156 were actually assessed (the others were never produced, released, declined assessment or did not meet eligibility criteria).
- 76 clients were accepted into the program and 75 enrolled. Another 7 rolled over from the previous year. 54 of those were readmissions.
- 56 clients chose to complete custody instead of participate.

⁵ The statistics for SIP are based on a Fiscal Year calendar for 2011.

- At the end of the reporting period, 8 clients were still enrolled and attending treatment. 100% of successful clients were employed, preparing for employment, or permanently disabled at the time of discharge. And, 100% were in housing.

4. Problem Solving Court Development:

- A new pre filing format was launched for D.C.C. to supplement the post filing model;
- Structural evaluation of the current courts and formats continues to ensure operational efficiency and allow more people to participate in community courts;
- Before the launch of the new formats in 2012, the following was done in 2011: expanding community partnerships; 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.

5. Skate with the Pros, and Southeastern X-Fest: Through the innovative approach and hard work of both the Southeastern NP and the Southeastern Division SDPD Juvenile Services Team, the Southeastern community experience unprecedented community events to promote public safety through healthy and legal activity. These events brought professional athletes, car enthusiasts, community based organizations, local businesses, and high level dignitaries, such as Mayor Sanders and City Attorney Jan Goldsmith, together to celebrate active living within the Southeastern community. These events marked significant steps to improve the negative perception that Southeastern San Diego carries as a community.

6. 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.
- Training expanded this year from Southeastern to city-wide with a total of 3 trainings in 2011.

7. Gambling/Slot Machines (citywide): NPU addressed a continuing crime involving illegal ownership of slot machines. Historically, this enforcement has mainly taken place in Mid-City, but this year also reached into Eastern, Central, Southeastern, and Southern Divisions.

- The Legislature increased the sentencing and mandatory fine structure for slot-machine related charges, requiring the creation of new sentencing agreements.
- Undercover sting operations yielded 37 new cases at 26 locations; 24 were filed, 2 rejected, and additional 11 are still under review.

- NPU created issuing guidelines for prosecutors, training materials for officers, and monitors the dispositions on all cases.
 - 9 convictions were secured, 100 gambling machines and \$25,670.75 was seized⁶.
- 8. Illegal Cigarette Sales (Central):**
- NPU worked with business owners, shelter operators and residents about their numerous complaints to SDPD regarding the illegal sales of cigarettes downtown attracting crime to their neighborhood.
 - Using the Business and Professions Code, NPU has created an offer and sentencing strategy which includes a stay away order from the problem location.
 - Coupled with SDPD's Neighborhood Resource Team, NPU continues to address this number one complaint in the East Village.
- f. **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. Jose Rodriguez-Robles: Southeastern- Jon Dwyer***
 - In addition to threatening a rival gang member, Defendant tagged his gang's acronym and was charged with vandalism with a gang allegation.
 - Having no witnesses to the act posed a significant challenge
 - Thorough jury selection, strong motions *in limine*, detailed gang expert testimony, and passionate argument resulted in a guilty verdict where the jury found the gang allegation to be true. This was only possible through the NPs diligent work with the reporting officer and the SDPD gang unit detective.
 - Defendant was sentenced to significant custody with full gang conditions
 2. ***People v. Goldwire Jackson: Central –Karolyn Westfall***
 - This Defendant was charged with PC 314 (indecent exposure) for masturbating over a one hour period in a small jewelry store downtown.
 - The detective directed the case to the NP because although Defendant was going to be revoked on parole, the Detective thought it was important to public safety to have the case reviewed for issuing

⁶ These funds will be deposited into the general fund pursuant to Penal Code section 335a (forfeiture of illegally obtained funds) once the court orders and additional collection paperwork are completed.

- Defendant has had 27 contacts for PC 314 in the past. The case was issued and set for trial with no hope of resolution as a conviction would require defendant to register as a sex offender pursuant to Penal Code 290.
 - The jury convicted defendant and he was sentenced to register as a sex offender
3. ***People v. Francisco Sandoval: Southern – Karolyn Westfall:***
- Defendant is a chronic problem in south bay. He was arrested four times in a few weeks for PC 647(f) (drunk in public) but was continually released from jail after booking because of the low level of the offense.
 - Defendant was finally arrested on the warrant, and the NP offered 120custody or SIP. The defense indicated that Defendant was mentally ill and asked for a BHCC offer. He plead guilty and the NP went to work to try and facilitate a placement.
 - Unfortunately, Defendant was screened and suffers from depression, but his alcoholism is his primary issue – making him ineligible for BHCC.
 - SIP informed the NP that Defendant was ineligible for SIP because he was mentally ill.
 - Working with our partners, the NP was able to secure placement for Defendant in a sober living house which mirrors the SIP program.
4. ***People v. Mark Brown: Central – Karolyn Westfall***
- Defendant has been a problem at SDPD headquarters for several years. He trespasses, screams at passersby, and becomes violent.
 - In February 2011, Defendant was charged with trespassing at headquarters. While out of custody awaiting trial, Defendant immediately returned in violation of the court’s orders.
 - The NP secured a plea to the trespass and was ordered to stay away from headquarters for the pendency of probation.
 - Just a few weeks later in a media drawing display, Defendant returned and brandished a knife, threatening to stab anyone who came near him. After a long stand-off involving multiple officers shooting Defendant with rubber bullets/beanbags and a dog bite from a canine unit, Defendant dropped the knife.
 - The DA was unwilling to file this case as a felony, so the NP charged Defendant with PC 69 (resisting an executive officer) and PC 417(brandishing a weapon).
 - Defendant pleaded to all charges, and the NP ordered a psychological evaluation and probation report to see how to best sentence him. The reports recommended a custody sentence as it was clear he could not follow the orders of the court.
 - Defendant was sentenced to one year in jail.
5. ***People v. Kevin Hamberger: Mid-City- Lara Easton***

- A chronic problem at the North Park Recreation Center arrested four times in December and released immediately, until brought to the NP's attention.
 - This area has been plagued with criminal activity and many community members and business owners in the area had complained about the large number of transients, narcotic and alcohol-related activity, thefts, panhandling, graffiti and other related crimes.
 - Defendant was charged with multiple counts of PC 647(f) (drunk in public) and finally has an appearance date of February 2, 2012. The NP is handling the case vertically to ensure that he does not continue to slip through the system.
 - Defendant is facing 150 days custody or 180 days of rehabilitation through SIP.
 - The community is thrilled to be able to have activities in the park since his absence.
6. ***People v. Lucas Hamblin: Graffiti – Paige Hazard***
- 40 year old tagger who pleaded guilty to graffiti-related charges earlier in the year. Using the newly implemented Graffiti Tracker Program, the investigator submitted, and the NP filed, a 44 count complaint alleging tags throughout the Clairemont area.
 - On December 20, 2011, Defendant pleaded guilty to 2 counts of PC594(a)(b)(2) vandalism. He was sentenced to; 3 years probation, fines, \$200 to the Graffiti Reward Fund, 48 hours of volunteer work service cleaning up graffiti, 8 hour graffiti class, a 4th waiver, driver's license suspension for 2 years, order to not associate with known taggers, and 45 days of custody stayed pending successful completion of probation.
 - Additionally, he was ordered to pay and agreed by stipulation, \$6545.00 in restitution paid out to 3 victims (at a rate of \$350/month). We were able to collect restitution for all counts, something only possible using the Graffiti Tracker program.
7. ***People v. John Wilkins: Western Division – Paige Hazard***
- Almost three years ago, and after months of hearings, continuances and negotiations, Wilkins was sentenced to 1.5 years of custody, with another 2.5 years imposed and stayed pending successful completion of probation.
 - The underlying charges were violations of Penal Code sections 148, 594 and 647(f) across seven different misdemeanor cases. Our office, with the assistance of the Serial Inebriate Program officers and other outside agencies, had placed Wilkins in treatment countless times with the result that he inevitably walked from treatment, got drunk, threatened to kill people or himself, and wound up back in jail.

- Each incident resulted in the waste of immense time and resources by police officers, medics and emergency rooms. On April 25, 2008, a Judge in the Superior Court finalized the sentence and stayed the significant custody time.
- He was subsequently arrested approximately 30 times in Vista and suffered three convictions for violations of Penal Code sections 148 and 647(f).
- On March 30, 2011, he was drunk in public in San Diego and was spotted by an officer working with the NP. Wilkins arrested for the new violation and for violating probation.
- After being arrested, Wilkins kept the officer out of service for almost eight hours after he faked a heart condition, an aggravated hernia, and threatened to kill himself.
- This new case was set for trial, and the probation revocation was set for hearing. On the day of trial Wilkins faked a heart attack in open court requiring the attention of 6 medics, 7 bailiffs and a trip to the emergency room. Wilkins was brought back to court the next day. On Friday, June 10, 2011, John Kenneth Wilkins was sentenced to 2.5 years of custody for violating probation in his 2008 case.

8. *People v. Antoniao: Central- Dani Stroud*

- Long time chronic downtown offender with 8 convictions since 2009, including trespass, theft and criminal threats. SDPD and the NP receive continual community complaints.
- Defendant takes “free” items that hotels or offices place out for guests and customers, behaves aggressively, and then refuses to leave when asked.
- Defendant had 8 open cases, which the NP pulled and made a global offer
- 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. The NP presented letters from the Little Italy community to highlight his negative impact.
- Before he is released, HOT members will visit him in jail, where they will re-evaluate him and attempt to place him in a program upon his release.

9. *People v. Maxi Greenwood: Northern/Western—Terri Winbush*

- With no prior history before 12/9/09 she began her crime scene. On that date she was arrested for PC 245 (assault with a deadly weapon), 2 counts of battery and 647(a)(lewd act in public). After being evaluated for competence for 1 month, she was deemed competent, stood trial, and was convicted by the D.A. on the misdemeanor charges.
- She was given formal probation, anger management and no victim contact orders.

- On 3/7/11 after an argument outside a bar over cigarettes and money, she was charged by our office with another PC 245 with a car, hit and run, and reckless driving. In custody she pled guilty and was sentenced to anger management and 20 days of public work service.
- Defendant was arrested twice more in March for violence offenses and was seen having sex in a park in daylight with 14 year old witnesses.
- NP charged PC 245(a)(1) on 2 cases, PC 242/243(a) on 3 cases, PC 487(c) on 2 cases, 1 count of 647(a) and SDMC 56.53(c) on the 4th case and revoked her probation.
- On June 22, Defendant plead to two PC 245 charges and admitted the probation for a maximum exposure of 3 years. The NP argued for a probation report and psychological evaluation.
- On July 15 Defendant was sentenced to 180 days of custody (releasable to a probation officer when a bed became available), 3 years of formal probation, supervision by the Mentally Ill Offender Unit, medication as ordered by her doctor and other terms and conditions. At her September 6 review date, Defendant looked like a new person. She was on her meds and starting a new job that day.
- In November, Defendant had 2 part-time jobs and was successful on probation.

10. *People v. Wilson, Diane/Arnold, Diana: Mid-City/Western- Kristin Beattie*

- Chronic prostitute with 30 priors. She was arrested again, and the NP took her to trial, laying groundwork for a sentence with an impact.
- After extensive argument, she was sentenced to 330 days in jail and formal probation which is rare in a misdemeanor case. With formal probation, the NP was able to require her to; stay away order from El Cajon Blvd., have photo ID card in her possession at all times, provide her true name and DOB if contacted by law enforcement, obtain consent from probation before leaving SD County, submit to search at any time with or without a warrant, and with or without reasonable cause, when required by PO or law enforcement officer, and seek and maintain full-time employment, schooling or a full-time combination thereof.
- This was a significant result for a defendant who until now received no significant consequences to her criminal conduct.

g. Recognized Leaders in Neighborhood Prosecution

1. **Member, Community Prosecution Advisory Council (CPAC):** This council is comprised of elected district attorneys and city prosecutors who have been identified as national experts and leaders in the area of community prosecution. The purpose of the council is to provide guidance to our nation's prosecutors in their efforts to advance community prosecution. The council discusses issues such as the changing role of the prosecutor in community-based crime prevention efforts and how to provide community members with a voice in the criminal justice process. CPAC met twice in 2011 in Washington, D.C. (attended by Chief Deputy Regan Savalla), and in New York, New York (attended by Acting Chief Deputy Kristin Beattie).



Consumer & Environmental Protection Unit

The Consumer & Environmental Protection Unit (CEPU) successfully concluded 63 cases (58 criminal and 5 civil), all involving unfair business practices affecting consumers or the environment. The civil cases resulted in penalties and costs totaling \$22,676,334. The criminal cases resulted in restitution orders for \$61,067 and fines of \$39,761. In 26 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 2011:

- Obtained convictions of a tow company owner and drivers in a case involving illegal towing practices and filed a criminal case against the owners of a second tow company for illegal practices;
- Concluded a civil case involving the illegal disposal of household hazardous wastes by a business and investigated other businesses that engaged in similar disposals;

- Prosecuted cases involving false advertising and charging more for items at checkout than the currently advertised price;
- Prosecuted more cases involving the sale of adulterated food;
- Obtained convictions in four cases involving loan modification fraud and obtained restitution for victims totaling \$24,950;
- Worked with the Bureau of Automotive Repair to prosecute unregistered auto repair businesses;
- Worked with agencies across the state and the California Dept. of Consumer Affairs to make recommendations to the Legislature for new laws to address fraud by debt collectors;
- Continued to fund operations of the CEPU from an account dedicated solely to consumer protection prosecution; and
- Published monthly newsletters on topics of interest to consumers.

Enforcement of Towing Laws

One of the most experiences for a member his/her car towed without are strict laws governing can authorize the removal parking lot at a Except in very limited operators must not tow a it being parked; must not the property owner has must maintain paperwork the owner of the vehicle; vehicle if it has not been and the owner returns and The owner of Gamma tow truck drivers violated these laws. They were prosecuted by DCA Mike Hudson and pleaded guilty. They paid restitution totaling \$6862 and were ordered to do public work service.



disconcerting of the public is to have his/her consent. There when a property owner of a vehicle from a commercial location. circumstance, tow car within one hour of tow a car except when authorized the tow; and provide copies to and must release a removed from the lot requests its release. Towing and two of its

The CEPU has several other tow companies under investigation for similar violations and continues to take complaints from members of the public about these types of violations.

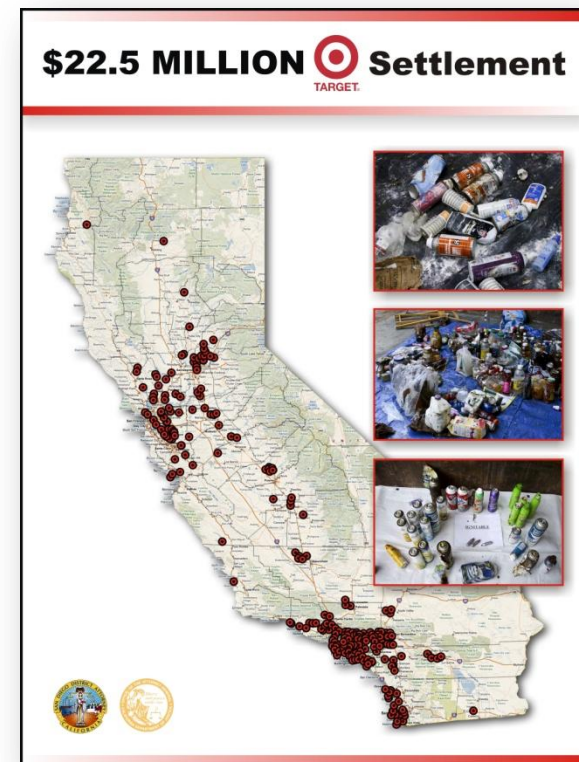
Disposal of Household Hazardous Wastes

The CEPU, along with other district attorneys in the state and with the California Attorney General's Office, successfully concluded a civil law enforcement action against Target Stores for statewide violations of the hazardous waste disposal laws. Some household products sold by Target and other stores are very hazardous and should not be discarded in landfills. A statewide investigation revealed Target improperly handled these wastes for several years. Target paid \$22.5 million in penalties and costs for the violations and was ordered by the court to implement a hazardous waste disposal procedure to ensure future violations would not occur.

The amount of this penalty was the largest the CEPU has ever obtained in a civil consumer protection case.

The CEPU is working on other cases against businesses that dispose of hazardous wastes improperly. Businesses that sell household products and those that sell medicines need to have procedures in place to ensure the proper disposal of any returned items, broken containers, or expired products.

False Advertising Cases



The main focus of the CEPU is to maintain a level playing field on which businesses may compete. When businesses make false advertising claims, they gain an unfair competitive advantage over truthful businesses. CEPU prosecuted several false advertising cases in 2011.

The owner of City Boxing, a small health club in downtown San Diego, paid restitution totaling \$2,089 and penalties and costs totaling \$7,911 in a false advertising case brought by the CEPU. Club employees told prospective military members that they would not have to pay monthly dues while on deployment but then failed to honor this representation. The contract form of the club also failed to properly inform purchasers of their right to rescind the contract.



The owners of 47 parking lots in the City of San Diego doing business as 5 Star Parking, represented on signs (below) and on “tickets” issued to people who parked on their lots that if the consumer failed to pay for parking, his/her vehicle could be towed at any time and sold to satisfy the parking fee. The obvious reason for making these false statements was to encourage people to pay for parking. The company had the right to sue anyone parking and not paying, but it did not have the right to tow the vehicle and sell it. The company paid \$74,848 in penalties and costs.

Another form of false advertising is listing a price for an item and selling the item at a higher price. The Fastenal Company, owner of Fastenal stores in California, paid \$258,558 as part of a civil judgment imposed for charging more at the time

of checkout than the currently posted

The CEPU has several other cases of false advertising. There has been slackfill. When a manufacturer uses a the item in the package, this may

Adulterated Food Cases

Cases involving the sale of adulterated because of the potential transmission Dept. of Environmental Health (Health health permits on a regular basis. cases referred for criminal prosecution Brooklyn Pizza, a restaurant, pleaded costs and a \$500 fine, after bringing compliance with health codes. The convicted and was ordered to pay perform public work service for the which catered to individuals seeking food the complied with Hallal codes. The market was vermin infested and was closed by order of the Health Dept. The owner corrected the health code violations at the market when charges were filed.

County of San Diego
Department of Environmental Health
Food and Housing Division
(619) 338-2222

CLOSED

By Order of the Department of
Environmental Health

This Facility is found to be an Imminent Health Hazard
(California Health & Safety Code)

This Facility is Operating Without a Valid Health Permit
(California Health & Safety Code)

Facility Name & Permit #: NEW YORK PIZZA

Location of Facility: 2358 UNIVERSITY AVE

The Department of Environmental Health conducted an inspection on 11/22/11
and found the following conditions:

<input type="checkbox"/> Improper Food Temperatures	<input type="checkbox"/> Food From Unsafe Source
<input type="checkbox"/> Poor Personal Hygiene	<input type="checkbox"/> Contaminated Food or Equipment
<input type="checkbox"/> Lack of Hot Water/Water	<input type="checkbox"/> Vermin Infestation
<input checked="" type="checkbox"/> Sewage in Food Facility	<input type="checkbox"/> Other: _____

Penalty for Unauthorized Removal of this Notice
San Diego County Code of Regulatory Ordinances Section 61.128

00004

or advertised price.

under investigation for other forms an increase in complaints about container that is much larger than violate our slackfill law.

food are a top priority for the CEPU of foodborne illnesses. The County Dept.) inspects facilities issued CEPU obtained convictions in two by the Health Dept. The owner of guilty and paid \$2570 investigation his vermin-infested restaurant into owner of International Market was \$5605 investigation costs and unsanitary conditions at the market

The CEPU also prosecuted individuals peddling food from unknown sources in public places and secured convictions and probation orders requiring the individuals to obtain a health permit or cease selling food.

Loan Modification Fraud

Recent economic factors have led many homeowners who were in distress to seek to modify the terms of their mortgage loans. Individuals who offer these services are prohibited from accepting any payment for loan modification services until all services have been performed. The CEPU has received many complaints of individuals taking large downpayments to perform modification services and failing to obtain the modification. The CEPU prosecuted the owners of four loan modification companies who engaged in this practice:

- *People v. Hamzavibedi and Arjona dba Fair Lender Audits* resulted in a conviction of both defendants. Each was ordered to pay restitution totaling \$7750 and Arjona received fines and community work. (Their website is below.)
- *People v. Khatib dba Best Mortgage Solutions* resulted in a conviction, \$1500 fine and \$6950 restitution.
- *People v. Dixon dba Nations Mortgage Solutions and Coastal Mortgage* resulted in a conviction, \$900 fine and \$6500 restitution.
- *People v. Rosas dba 4R Real Estate Investments* resulted in a conviction, \$478 fine and \$3750 restitution.



4R
Fair Lender Audits

BEGINNING THE LOAN MODIFICATION PROCESS

In order to determine whether you are eligible for a loan modification or other loss mitigation services, you must first start with a financial analysis form called the Financial Status Report or FSR.

IMPORTANT POINTERS ON FILLING OUT THE FSR:

1. You must provide at least the last four number of your social security number.
2. When calculating income, the "monthly take home" is always the NET amount.
3. If you can't get exact figures on the Living Expenses, get approximations. All questions must be answered.
4. On the "Creditors List", it's important that you get exact figures on the mortgage, date opened, interest, etc. On any other accounts, try to be as accurate as you can. If nothing is owed on a charge account, don't forget to place "o" on "Number of Payments Behind".
5. The CLIENT PROFILE SHEET (comes with the FSR) must also be filled out as accurately as you can.
6. **NO SIGNATURE IS REQUIRED ON ANY OF THESE FORMS.**

[Click here to access the FSR](#)

In all cases the defendants ceased doing business illegally and are on probation to the court to avoid future violations.

Unregistered Automotive Repair

Anyone who offers to repair vehicles for a fee must register with the California Bureau of Automotive Repair (BAR) and must comply with regulations that ensure fair dealing with consumers. There has been a proliferation of individuals offering to do automotive repair in classified ads posted on the internet. The BAR conducted an undercover sting operation in which they contacted unregistered individuals offering services and obtained quotes from them for auto repairs. The BAR referred the cases to the CEPU for prosecution. The CEPU obtained convictions in 4 of the cases. The defendants were ordered by the court not to perform auto repair without a registration in the future and fined. The CEPU has filed other cases from this sting operation that are pending in the courts.

Debt Collectors

The Federal Trade Commission received more complaints about debt collection practices than about any other consumer issue. Debt collectors are regulated by federal and state law. In California, our debt collection practices law is enforceable as a civil case by the debtor who is harmed. The California Dept. of Consumer Affairs (DCA) sought input from local and federal agencies to determine whether it would be advisable to seek additional legislation to address debt collection practices and, if so, what that legislation should be. The CEPU provided input to this process. The DCA issued a report incorporating many of the suggestions received from agencies, including the CEPU. The primary conclusion of the group was that there is a need to regulate the debt collection industry and there should be criminal penalties for violations of the new law. This may lead to the introduction of legislation in the coming year.

Funding of the CEPU

The CEPU continues to be completely funded from a fund created after the passage of Proposition 64. That proposition established a source of funding for the prosecution of unfair business practices cases. By using these funds to pay for the operations of the CEPU, the City Attorney saved the City's general fund hundreds of thousands of dollars. In addition, the CEPU obtained money in the form of grants from the Consumer Protection Prosecution Trust Fund to fund the costs of expensive investigations and litigation. These grants helped reduce the financial costs to the City of San Diego.

Monthly Newsletters

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

- [December](#) "Veterinary Care"
 - [November](#) "Food Safety"
- [October](#) "Beware of Loan Sharks"
- [September](#) "Dietary Supplements"
- [August](#) "Consumer Financial Protection Bureau"
 - [July](#) "Party Buses"
- [June](#) "Jewelry Sales & Precious Metals"
 - [May](#) "Affiliate Marketing"
- [April](#) "Japan Relief Charity Scams"
 - [March](#) "Job Scams"
- [February](#) "Legal Practitioners"
 - [January](#) "Health Clubs"

Code Enforcement Unit

This year was an exceptionally busy year for the Code Enforcement Unit. The Unit continued to aggressively prosecute zoning, building, substandard housing, fire, public nuisance, and drug abatement cases, while working with the community, police, and code inspectors to address problem properties. In the last quarter of the year, however, the Unit shifted its focus to concentrate efforts on halting the proliferation of illegal marijuana dispensary businesses throughout San Diego. Below are some of the Unit's major accomplishments in 2011:

Marijuana Dispensary Litigation

Marijuana dispensaries, collectives, and are not permitted uses under San Diego's zoning laws. effects of these dispensaries include drug sales and well as an increase in robberies, burglaries, loitering, Numerous citizen complaints have brought attention number of dispensaries in San Diego. In response, September through December 2011, with the the Neighborhood Code Compliance Division (NCCD) Department, CEU filed 81 civil cases against operators and property owners who leased to The first group of cases sought Temporary Restraining 14 dispensaries which were not only violating the Code, but also state law which prohibits dispensaries located within 600 feet of a school. Each of these dispensaries was ordered by the Court to immediately stop operating at their respective locations. Some voluntarily entered into stipulated court orders. In those cases where the court issued an order, it held that: our local laws were not preempted by state law and the Compassionate Use Act; the City had established it had a reasonable probability of prevailing on the merits of the case; and that the City had submitted evidence demonstrating that the safety of the surrounding communities was at risk in the absence of an injunction.



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drug use as
and traffic.
to the growing
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and the Police
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dispensaries.
Orders against
Municipal
from being

The Unit continued to file 67 more complaints until the end of December all seeking injunctive relief requesting that the dispensary be immediately shut down; not be allowed to operate anywhere in the City, and correct all building and electrical violations. The Unit's efforts were bolstered by action taken by the US Attorney who sent letters to property owners advising them that the sale and distribution of marijuana violates federal law and that failure to discontinue the use of the property for those purposes could result in prosecution and an asset forfeiture action. Of these 67 complaints filed by CEU, 34 have shut down and are enjoined from operating anywhere in the City pursuant to a court ordered stipulation, or court order. The remaining cases are in litigation or pending settlement.

In addition to the dispensary litigation, CEU also focused on these other important areas of enforcement:

Drug Abatement Response Team (Dart)

The Code Enforcement Unit is an important team member of the City's Drug Abatement Response Team (DART). Other team members are San Diego Police DART detectives, narcotics teams, and code inspectors. The team focuses on problem properties with ongoing narcotic activity; develop an appropriate long term strategy to abate the nuisance activity; and ensure that all code violations are corrected. Examples of successful cases handled by DART this past year are:

5519 Bolivar Street - this property had a long history of intolerable narcotic activity which kept the neighbors unable to enjoy their neighborhood out of fear. The owner had lived at the property since the early 1970's with 4 of her adult children who were drug addicts. After her death, the property continued out of control with significant drug activity. The DART team coordinated efforts with a probate attorney and the owner's daughter who was not an addict, to have the property probated. After a lengthy probate, an unlawful detainer was filed to evict the occupants. The property was cleaned and is being rehabilitated by a reputable investment company who plans to put the house on the market. The change in the neighborhood has been dramatic.

City v. Teitler- 5583 Del Cerro Blvd - this property was brought to our attention by the neighboring community because of the constant narcotic trafficking and criminal activity caused by the tenants. The property owner was the recipient of a large trust and freely allowed his property to be utilized as a drug flop house. The bank had attempted numerous times to foreclose on the property, but the owner would file bankruptcy each time to stop the foreclosure. A civil injunction was filed to abate the nuisance under the drug abatement provisions of the California Health and Safety Code. The owner agreed to a court ordered settlement which required that all occupants, including him, move out of the house and properly maintain and secure the property. He was also ordered to pay \$2,078 in investigative costs and \$5,000 in civil

penalties with \$20,000 additional penalties stayed on the condition that he complies with all terms of the settlement. The bank eventually foreclosed on the property which is now in escrow.

Substandard Housing and Public Nuisance Cases

An important function of CEU is to ensure that citizens are living in safe decent housing and that landlords are held accountable to provide rental conditions that meet the requirements of the Health and Safety Code.

4346 49th Street - CEU assisted housing serious substandard property which had electrical, and housing violations. A storage single family dwelling had been converted bedrooms. The rooms lacked adequate meet the proper egress requirements. A non heater was located in one of the rooms next presenting a serious hazard to the renters. insect and mold and mildew infestation. Both smoke detectors and there were other violations and illegal construction throughout the City's enforcement action, two adults and from the substandard dwelling. The owner total of \$2,812 in relocation costs to the California Health and Safety Code. The tenants were able to move to safe decent housing elsewhere.



inspectors with this very numerous building, room at the rear of a into two non permitted foundation and did not permitted gas water to a child's crib, There was also an rooms lacked required flagrant building the property. Through one child were relocated was required to pay a tenants pursuant to the

People v. Fink/ 2950-2964 B Street – CEU criminally prosecuted the owner of ten residential units for maintaining a public nuisance, substandard housing, a fire hazard, and illegal vacant structures at his property in Golden Hills. Tenants had been allowed to live in substandard conditions including deteriorated walls, roofs, foundations and floors; inadequate heating; insufficient fire resistive construction and fire extinguishing systems; inadequate plumbing; improper electrical wiring; and lack of smoke alarms. The longstanding vacant structures had led to gang graffiti, trespassing by vagrants, and drug activity. There were also significant lead hazards on the property. The owner pleaded guilty to five misdemeanor counts, and as part of a plea bargain was ordered to pay \$5,000 in fines and reimburse the City \$1,673 in investigative costs. The owner was also ordered to rehabilitate the units under a specified time line and with all required permits.

People v. Gougoulas/2767 Island Avenue - The property owner in this case failed to comply with notices and orders from the City to correct code violations at his rental property where tenants had previously been relocated due to substandard housing conditions. Not only did he not correct them, but the dwelling subsequently had a leaky roof and storage violations! CEU filed a criminal complaint alleging building, plumbing, and storage violations. The owner pleaded guilty to one count of violating the Municipal Code with \$1,100 in fines stayed. Ten days of custody were also stayed to ensure compliance and he was ordered to perform 30 days of Public Work Service. Conditions of probation also required that the owner apply for and submit complete plans for all required permits and correct all violations in a timely manner.

CEU took on two substandard housing/nuisance cases this past year involving problematic hoarders:

City v. Woolsey/ 3060 Island Avenue - This elderly property owner is a longtime hoarder well known to city inspectors. He had been ordered to abate the nuisance conditions on his property pursuant to a previous judicial order in 2010. CEU worked with the owner's attorney and son to comply with the order under timeframes approved by the court. In September 2011, a stipulated final settlement was signed between the City and the owner, providing for a complete abatement of the remaining conditions and the payment of costs. The condition at the property has dramatically improved, including the demolition of a major illegal shed and patio enclosures, and the removal of fourteen 40-yard bins

of waste, scrap, and debris. The house has been rehabilitated so the owner can once again live inside and social workers continue to be involved in the owner's welfare.

City v. Lynch/ 5362-5370

owner of a large property on has a long history with the City comply with past judicial orders. the past resulted in criminal to serve 185 days in custody! In abatement occurred of the conditions at his property. vehicles, junk, debris, and the property were again pleadings resulting in a modified deleting previous equitable the City full, ongoing authority to abate the nuisance conditions now and in the future.



Churchward Street - The Churchward Street also and has refused to His failure to comply in proceedings ordering him 2008, a major City public nuisance Renewed violations of miscellaneous items at reported. CEU again filed permanent injunction, provisions and granting

City v. Johnson/12 South 35th Street and 21 South Francis Street – These two properties and the adjoining vacant parcels have long been a problem to the community and police due to chronic drug and nuisance activity. Over the years, they have become a haven and residence for transients, drug users, and parolees. Numerous felony drug arrests were made by the police on and around the properties. In addition, the existing vacant structures had become structurally unsafe and there was a tremendous accumulation of storage, junk, and inoperable vehicles on the property. CEU had previously obtained a civil injunction to abate the nuisance and in February 2011, due to the compelling evidence and case history presented by CEU, the Court denied a motion by the property owner for an order preventing the City from

carrying out the abatement. The City then conducted a four day abatement which included the demolition of unsafe structures; the removal of a significant accumulation of waste, storage, and debris; and the removal of inoperable vehicles. The abatement order also included a provision prohibiting the owner from “allowing narcotic users/sellers, parolees, or documented gang members to live, enter, or access the property at any time.”

City v. Booth/3611-3631 Euclid Avenue – zoning, building and nuisance violations abounded on this large residential and commercial property in the Mid-City area. The surrounding community had been negatively impacted for years by the blight on the property and the lack of parking in the surrounding streets due to an illegal auto repair business. CEU worked closely with code inspectors to address the numerous violations which included the unpermitted remodel and alteration of dwelling units, unpermitted electrical and plumbing work; unpermitted commercial tenant improvements; illegal outdoor business activity; and the operation of unpermitted businesses. The owner was civilly prosecuted and enjoined from violating any building, zoning or other code regulations, as well as nuisance laws at the property and from allowing the operation of any business in the City without first obtaining all necessary permits. The owner is required to correct all violations and reimburse the City \$4,639 in investigative costs. She was also assessed \$15,000 in civil penalties with an additional \$35,000 in penalties stayed on the condition she complies with the terms of the settlement.

CEU prosecutors work closely with code inspectors, the Police, and quickly address crime and at vacant properties throughout San Diego. These properties present fire hazards to the community and are often frequented by transients. Police must often respond to incidents of prostitution, drug activity, and alcohol use on the premises. It is imperative that these structures



with code residents to nuisance activity San Diego. hazards to the frequented by respond to activity, and not enough to but it is be

rehabilitated and put to productive use as quickly as possible. The recent foreclosure crisis has caused an increase in the number of vacant properties and resulting blight. Each CEU Deputy has an active number of vacant properties on their caseload similar to the case below.

People v. Nelson /4562 32nd Street – Transients were continually accessing four units located on 32nd Street in the Mid City area. City staff attempted to work with the trustee of the property but the longstanding vacancy, continued nuisance activity, and lack of meaningful progress by the owner resulted in CEU filing a criminal complaint against so as to protect the safety of the surrounding neighborhood. The trustee for the trust on title pleaded guilty to one count of maintaining a public nuisance and was required to either actively sell the property or immediately rehabilitate the units and put them to productive use. The trustee was also required to reimburse the City \$2,275 in investigative costs; pay \$900 in fines with an additional \$4,000 suspended pending compliance with the terms of probation. The property has since been sold and the new owners are actively rehabilitating the structures.

The prosecution of code violations and nuisance activity in San Diego's neighborhoods not only results in the reduction of crime in neighborhoods but greatly improves the quality of life for San Diego residents. In addition to improving the safety and appearance of properties, prosecutorial actions result in the imposition of fines and penalties; the recovery of investigative costs; and other appropriate sentencing terms. In 2011, through aggressive prosecution, CEU obtained court orders requiring code violators to pay the following monies:⁷

- **\$240,000 in judicial civil penalties**
- **\$2,825 in criminal fines**
- **\$7,697 in investigative and costs reimbursed to City Departments**
- **\$2,812 in relocation costs paid by landlords to tenants living in substandard conditions**

⁷ In addition, suspended penalties and fines were also ordered in each case to be imposed upon noncompliance with the court order.

Trainings and Presentations

CEU is often called upon to attend community meetings or provide training on specific topics to law enforcement or community groups. Some presentations or trainings provided by CEU in 2011 include:

- Trainings at the San Diego Police Mid City and Southeastern Divisions aimed at educating landlords and property managers on how to prevent narcotic and nuisance activity at their property and about the specifics of the Drug Abatement Act. (Health & Safety Code 11570). Case examples were provided where the City's Drug Abatement Response Team investigated narcotic activity, prosecuted noncompliant owners or tenants, and obtained favorable results.
- Presentation at the 13th Annual Conference of the International Crime Free Association by CEU's DART Deputy and Investigator highlighting the City's Drug Abatement Response Team, and the Drug Abatement Act. Successful legal strategies, accomplishments and case examples were provided.
- Presentation at the 13th Annual Conference of the International Crime Free Association on "Independent Living Facilities and Group Homes".
- Presentation to County Animal Control Supervisors and Officers on code enforcement, substandard housing, and how to effectively handle hoarding cases.
- Meetings with community groups on specific topics or issues or attendance at community fairs and events such as National Night Out.

- Presentation to San Diego's Elder Abuse Council on code enforcement, substandard housing, and how to effectively handle hoarding cases.



- Trainings for various Fire Engine Companies (fire stations) in San Diego. Provided information on the code enforcement process and how the stations can report problems they observe as first responders.

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



Civil Prosecution Unit

The Civil Prosecution Unit (CPU) is primarily tasked with collecting money owed to the City. The CPU supervises cases initiated by outside contingency counsel and initiates civil actions against those who caused the City harm or have failed to meet their contractual obligation. Chief Deputy City Attorney Dan Bamberg supervises the CPU's six attorneys.

In 2011 the CPU successfully recovered more than \$5,000,000.

Deputy Clay Welsh had an exceptional year, bringing in \$858,048.77 in Transient Occupancy Taxes from 5th Avenue Partners, dba Se San Diego Hotel; \$642,217.43 in back rent from Wave House Belmont Park, LLC; and \$241,330 on a judgment for costs from Ace Properties, Inc.

Deputy Molly Hoot, who spent part of the year in the City's Criminal Division assisting the Code Compliance litigators in closing marijuana dispensaries, brought in \$775,000 for the City from a case brought against RCP Block and

Brick, Inc. for failing to properly install a road. Working with Deputy Jon Taylor, Molly recovered \$85,000 from Erraca's Inc. in a case involving restoration of property that was damaged by a sewer back-up.

Deputy Paul Prather successfully recovered \$773,636.53 in partial settlement of an action being litigated by the City of San Diego and nine other California cities and counties against ARCO and other oil companies to abate the nuisance of lead paint in homes. Paul also recovered \$748,225 in sales taxes that had been wrongfully collected by other local governments in California.

Deputy Jon Taylor took on the responsibility, previously handled by outside counsel, of collecting delinquent special taxes and assessments (Mello-Roos). In addition to saving what could have been as much as \$90,000 in outside counsel fees, Jon collected \$410,915.76 in delinquent taxes and assessments. Jon also recovered \$155,823.54 in unpaid Transient Occupancy Taxes from the Estancia Hotel.

Deputy Bruce Bailey recovered over \$500,000 in a case brought by the City alleging that the companies retained by the City over-charged the City to remove the debris from the property of those whose homes were damaged or destroyed by the 2007 wildfires.

In addition to collecting money owed to the City, the CPU is also tasked with other responsibilities. Jon Taylor and Molly Hoot litigate construction disputes on behalf of the City. Dan Bamberg represents the City in matters involving the City's homeless population. Jon Taylor and Bruce Bailey litigate cases involving environmental issues (Jon, the Kinder Morgan litigation related to contamination at Qualcomm; and Bruce, the case against SDG&E to recover for the damage caused by the 2007 wildfires.

Workers' Compensation Unit

The Workers' Compensation Unit has four attorneys, Diana Adams, 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 adjusters on a multitude of workers' compensation issues.

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

The Unit's worth is immeasurable, since its contributions to cost savings occur on a daily basis while guiding the handling of Workers' Compensation claims. Due to continual reformation in the workers' compensation system, the attorneys are charged with providing advice to the Risk Management Department on a wide range of issues, from interpretation of wholesale legislative changes such as those of 2004, 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 2011 the unit had over 1,103 open, active cases, resulting in 266 hearings, 71 depositions, 2 appeals, and 23 trials at the Workers' Compensation Appeals Board. These actions resulted in cost savings of more than \$3,201,278 for the City of San Diego.

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 cases arising from numerous bodies of law including the Religious Land Use and Institutionalized Persons Act (RLUIPA), the Telecommunications Act of 1996 (TCA), Clean Water Act
- Defends complex actions involving regulatory and regular inverse condemnation
- 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. Plaintiff is seeking permit approval and several million dollars in damages. This case could have a significant impact on the City's right to regulate and permit per appropriate zoning and in compliance with environmental laws.

CERF v. City of San Diego

The Coastal Environmental Rights Foundation has filed four lawsuits against the City to challenge the way in which the City performs environmental review for park use and special event permits. Those lawsuits are in various stages. The first suit, which specifically challenges the La Jolla Cove 4th of July firework show, is on appeal. The second suit, which challenges the City's pattern and practice of performing environmental review for special event permits, is stayed pending the appeal of the first suit. The third suit, which challenges the City's May 24, 2011 municipal code amendments related to park use and special event permitting, is set for trial in April. The last suit, which challenges the City's November 11, 2011 municipal code amendments related to park use permitting, was filed in December.

Grande North Homeowners Association v. City of San Diego

Inverse condemnation case wherein Homeowners Association claims hydrogen sulfide gas from the trunk sewer located in Pacific Highway is infiltrating their building and causing corrosion damage. Plaintiff seeks \$29 million dollars in damages.

Grande South Homeowners Association v. City of San Diego

Inverse condemnation case wherein Homeowners Association claims hydrogen sulfide gas from the trunk sewer located in Pacific Highway is infiltrating their building and causing corrosion damage. Plaintiff seeks \$1.6 million dollars in damages.

Park Place Homeowners Association v. City of San Diego

Inverse condemnation case wherein Homeowners Association claims hydrogen sulfide gas from the trunk sewer located in Pacific Highway is infiltrating their building and causing corrosion damage. Plaintiff seeks \$7.4 million dollars in damages.

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.

San Diegans for Open Government v. City of San Diego

San Diegans for Open Government filed two lawsuits in November 2011 challenging the City's application of the California Environmental Quality Act (CEQA) to a project to dredge portions of the Tijuana River Valley known as Smuggler's Gulch and to the City's Master Storm Water System Program to permit city-wide maintenance of storm drainage systems. In the Tijuana River Valley case, SDOG has alleged that the Mitigated Negative Declaration prepared by the City does not address certain cumulative impacts. This lawsuit has a significant effect on the City's ability to maintain the Tijuana River Valley.

Major Cases/Projects * Completed In FY2011

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

COSD v. California Board of Trustees of State of California

Successfully overturned a trial court ruling denying City's request for a writ of mandate decertifying the Environmental Impact Report (EIR) supporting San Diego State University's (SDSU) Campus Master Expansion Plan. The case began in 2005 when SDSU and the California Board of Trustees (CSU) first approved the Campus Master Plan and certified the EIR. In comments to the EIR, the City identified between \$15-20 million dollars in traffic and roadway impacts resulting from the Campus Expansion Plan. SDSU and CSU took the position that they were not legally responsible to pay for off-campus mitigation and refused to pay any monies for these environmental impacts. The Appellate Court issued a ruling requiring SDSU to redo the EIR to provide information about how SDSU will pay for the traffic impacts.

COSD v. Sweetwater Authority

In this case, the City claimed that Sweetwater Authority did not comply with CEQA when it certified an EIR in relation to a desalination project. The court agreed with the City and issued a writ compelling Sweetwater Authority to de-certify the EIR and void the project approvals. The City is seeking attorney fees in excess of \$130,000.

FreePB.org v. City of San Diego

FreePB.org brought this case to challenge the City's summer moratorium against certain "Special Events" in Mission Bay Park and to force the City to issue a permit that would allow FreePB.org to have an alcohol event in the park. The City argued that it has a constitutional right to regulate the use of the park in this manner, and that the regulation did not

violate the equal protection clause. FreePB.org dismissed its case when it became clear that the Court agreed with the City's position.

In re Wireless Litigation

In 2007, 2008 and 2009, American Tower Corporation filed lawsuits against the City to challenge the denial of permits for several large cell towers in San Diego. American Tower claimed the City's wireless regulations were burdensome and oppressive and that the City's decision-making process was arbitrary and capricious. The City's decision was challenged under various state and federal laws, including the Telecommunications Act. American Tower sought damages and attorneys' fees. In October 2009, the Court upheld City's decision-making process thereby denying any damages and awarding no fees. The case is currently on appeal in the Ninth Circuit.

Playa Grande LLC v. La Jolla Community Planning Association et al.

This case was the first case to trigger the City's ordinance indemnifying planning groups. Plaintiffs alleged several violations of the Brown Act after the planning group recommended denial of their development application, as well as a cause of action against the City for failure to follow its own procedures regarding the California Environmental Quality Act. The City filed an Anti Strategic Litigation Against Public Participation (Anti-SLAPP) motion, but before that motion could be heard, the Court denied Plaintiff's motion for expedited discovery and Plaintiffs elected to dismiss their lawsuit with prejudice.

Zoura v. City of San Diego

The Zouras brought a constitutional challenge to a civil penalties award levied against the Zouras. If successful, City would not be able to collect the fees and could have been subject to an attorney's fee award. The City argued that the challenge was untimely. The court agreed and dismissed the case.

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. This case was ultimately dismissed without payment of any damages or costs by the City.

Citizens For Responsible 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. In a published opinion, the Fourth Appellate District 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 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.

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, Michael Giorgino, Bonny Hsu, Keith Phillips, Jennifer Gilman, Catherine Turner, John Riley, Stacy Plotkin-Wolff, Kathy Steinman 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 124 new cases, in addition to the carry-over of cases from 2010. Ninety-Five (95) cases were disposed of through trials, motion practice, tender letters, and settlement negotiations. In addition to resolving cases which monetarily benefit the City, the General Litigation Unit obtained legally significant rulings. Several examples include:

Ronald Coburn v. City of San Diego

Plaintiff brought a suit for dangerous condition as a result a sport motorcycle v. truck accident occurring on February 22, 2009. Plaintiff claimed the intersection was dangerous because of the placement of the stop limit line, alteration to a red curb, and the lack of an all-way stop. Plaintiff, 20 years old, was driving his motorcycle west on National Avenue, when a truck pulled out from a stop sign on 31st Street. Plaintiff was traveling between 45-65 mph in a 30 mph zone. The motorcycle struck the truck with such force as to move the truck laterally seven feet. Plaintiff suffered extensive injuries, including permanent traumatic brain injury, as well as knee, back, shoulder and facial injuries. Plaintiff, who has been medically retired from the military, claimed damages of \$2.5 million in medical expenses and lost wages. Plaintiff also argued for another \$3.5 million in pain and suffering. A two-week trial commenced resulting in a full defense verdict.

Ross v. City of San Diego, et al.

John Ross, known as "the *Waterman*" and other plaintiffs sued the City for civil rights violations including excessive use of force and false arrest. After trial, the jury ruled that there was no excessive use of force in violation of the Constitution or false arrest, thereby negating seventeen of eighteen claims against the police officer. The jury ruled against the officer on only one cause of action for one of the three plaintiffs. The jury awarded less than a four thousand dollars and that amount was more than offset by the City's claim for trial costs which exceeded forty-one thousand dollars.

Boughton v. City of San Diego, et al.

This matter involved a trip and fall in Old Town by a tourist from North Carolina. While walking on Conde Street from Congress toward San Diego Avenue, Mrs. Boughton tripped when the elevation in the sidewalk changed. The height deviation at its highest was 1 1/8 inches. Plaintiff fell face first breaking some teeth and suffering a facial laceration as well as broken fingers in her left hand. She underwent emergency surgery to remove the tooth that was imbedded in her gum line and to set her fingers. She has permanent loss of use of her left hand as well as nerve damage in her upper lip and a facial scar. She sought \$5,000,000.00. The City's motion for summary judgment was granted on the issue of notice.

Millard v. City of San Diego, Market Street Square, G&K Management Co., Inc.

Plaintiff alleged premises liability based on actual and constructive notice. Plaintiff was walking on a sidewalk in front of Market Street Square apartments, managed by G&K Management Co., Inc. Plaintiff tripped over a portion of the sidewalk where the City had previously placed a temporary asphalt repair. The City had mailed Notices of Liability to Market Street Square and G&K Management Co. Inc. The case proceeded to trial, where the City defended against Plaintiff's allegations. The jury ultimately found for the Plaintiff; however, they awarded her only \$4,250.00 and determined that the City was 40% liable to her. Thus, after trial, the City's exposure was \$1,750.00 plus costs (which are still being argued). It should be noted that this case took place in federal court, where Plaintiff is required to make a good faith allegation of more than \$75,000.00 in damages.

Leticia Diaz and Nestor Espinosa vs. City of San Diego

On March 1, 2009, Plaintiffs were injured while lying under a large eucalyptus tree in Balboa Park when a very large tree limb fell on top of them. Nestor Espinosa was hospitalized overnight with a significant head injury which affected his ability to concentrate while attending UC Berkeley. The City filed a motion for summary judgment claiming the City did not have actual or constructive notice of the dangerous condition. Judge Meyer agreed and summarily adjudicated the action in favor of the City.

Estate of Leonard Cunningham vs. City of San Diego

Leonard Cunningham was jay-walking across Balboa Avenue at night when a car hit him and fled the scene. A second car did not see Mr. Cunningham trying to get out of the street and skidded into Mr. Cunningham killing him. The estate sued the City for creating a dangerous condition by installing a street lamp that flickered on and off near the scene making it difficult for drivers to see clearly. The City filed a motion for summary judgment arguing the City did not have a duty to light the intersection. Judge Judith Hayes agreed and summarily adjudicated the matter in favor of the City of San Diego.

Sully vs. City of San Diego

Mr. Sully was killed riding his motorcycle through the intersection of Pacific Highway and Cedar Street. Plaintiff had \$2 million in lost earnings alone as a founding member of Mailboxes Etc. and an expert franchising entrepreneur. His wife of 19 years and his 17 year old daughter both suffered significant emotional trauma from losing their husband and father. The City's design of the intersection failed to comply with the suggested Caltrans and Department of Transportation Manual on Uniform Traffic Control Devices. As a result, there were 10 prior accidents identical to Sully's fatal accident in 2 ½ years prior to this accident. Despite clear liability and tremendous damages, the City was able to settle for \$1.8 million dollars.

Barbara Drennen v. City of San Diego

Plaintiff claimed she tripped and fell over a pothole located in front of her residence in November 2009. The pothole was actually a patch of deteriorated asphalt at the junction between the roadway surface and the concrete gutter. Plaintiff claimed extensive injuries to her neck, which required a fusion surgery, and medical bills of over \$100,000. We filed an MSJ on the grounds that the alleged deterioration was trivial, and that the City had no notice. Plaintiff argued, through her experts, that the City improperly resurfaced the roadway in 1985 because it failed to grind the edges of the roadway, and when new standards requiring the edges of the roadway to be milled in 2006 were established, that put the City on notice of the condition. We argued that the 2006 standards did not apply retroactively and that it did not put the City on

notice. The Court granted our motion and Plaintiff eventually agreed to waive her appeal in exchange for a waiver of costs.

Kenneth Kaplan v. City of San Diego

Plaintiff, who was 62 years old at the time of the incident, climbed a temporary chain link fence at Sefton Park Little League fields in an attempt to access porta potties. Presidio Little League (PLL) had a Non-Exclusive Use Permit which required them to maintain the property and obtain permission before installing any structures. PLL rented two porta potties for use during the Little League season and due to past vandalism, decided to also have temporary chain link fence installed around the porta potties. The gate in the fence was locked in with a combination lock provided by the vendor, Diamond Environmental Services. At the time of the incident, Plaintiff was attending his son's T-ball practice. He took his son to use the facilities, but was unable to open the lock, although he had been given the combination. He decided to climb the fence and somehow fell. He suffered a fractured C2-C3, which required a fusion surgery after an unsuccessful halo fixation. He also suffered massive internal bleeding, injuries to his right arm and a finger, as well as vision impairment. Plaintiff's medical bills were over \$300,000. He also made a wage loss claim of over \$500,000, however, he had been laid off five months prior to this incident. Plaintiff claimed that the gate and fence violated the ADA, was improperly installed, that PLL failed to provide accessible restroom facilities, and that the City failed to inspect the property which would have put it on notice of structures in violation of the terms of the Permit.

Pursuant to the Permit, the case was tendered to PLL's insured, which accepted with a reservation of rights. Because of that, and the large amount of discovery involving the City that was anticipated, we kept the case in our office, and billed our time to the carrier. After an unsuccessful MSJ and with expert discovery and trial looming, PLL and the City made a joint offer of \$175,000, to be paid by PLL's carrier. Plaintiff accepted the joint offer of \$175,000. The City did not contribute any of its own money to the settlement.

We billed PLL's carrier \$68,061.00 for our attorneys' fees related to defending this case, for which we received payment in full. We also recovered \$3,769.42 in costs on behalf of the City's Risk Management Dept.

Clark v. Kamps Propane, et al.

This matter involved a collision between a San Diego Trolley and a propane truck. The plaintiffs were three passengers in the trolley at the time of the accident. Both vehicles were traveling eastbound on Commercial Street, which is comprised of one lane in each direction with a set of trolley tracks in the middle of the street. The lanes for motor vehicle travel are separated from the trolley tracks by a set of two double yellow lines. The driver of the propane truck executed a left turn onto 27th in front of the trolley and a collision occurred. All parties brought the City into the lawsuit on a theory of dangerous condition of public property. All three plaintiffs underwent neurosurgery as a result of their injuries from this collision and sought in excess of \$1,000,000.00 each for an aggregate demand in excess of \$3,000,000.00. After receiving the City's motion for summary judgment, the parties dismissed the claims against the City.

San Diego Police Tow Operators, Inc.; Allied Gardens Towing, Inc.; Nancar, Inc.; C & D Towing Specialists, Inc.; and Starrue, Inc. v. The City of San Diego [Tow1]; San Diego Police Tow Operators, Inc.; Allied Gardens Towing, Inc.; Nancar, Inc.; C & D Towing Specialists, Inc.; and Starrue, Inc. v. The City of San Diego [Tow2]

These two matters relate to Plaintiffs' challenge to the right of the City to charge a "franchise" fee relative to the costs of its tow program. Plaintiffs alleged the character of the fee and the calculation of the fee are improper, thus the City violated Vehicle Code section 12110.

The City prevailed, in part, on its Motion for Summary Judgment. As a result of the favorable ruling on the City's Motion for Summary Judgment the issues for trial were limited and important legal arguments of the City were endorsed by the Court.

Snowten v. City of San Diego, et al.

Harold Snowten sued the City and a police officer for civil rights violations including excessive use of force and false arrest. The Federal District Court ruled favorably on the City's Motion for Summary Judgment relative to the use of force claim and remanded the lawsuit to State Court for the remaining claims. The State Court ruled favorably on the City's Motion for Summary Judgment on the remaining claims and dismissed the lawsuit against the City.

Hornyak, Shirley v. City of San Diego, et al.

Slip and fall relating to a “pothole” near the back gate of the Plaintiff’s apartment. After City successfully obtained sanctions for discovery abuse by Plaintiff’s counsel, the City obtained a dismissal for a waiver of costs.

Victoria Christopher v. Nicholas Dedonato

Plaintiff was arrested on 12/16/10 for felony parole violations. During her arrest, she was subject to a pat down, during which she struggled and her wigged and her shirt came up such that Plaintiff’s bra was exposed momentarily. She sued the officers for sexual harassment pursuant to Penal Code section 4030, as well as a violation of Penal Code section 149 relating to searches of persons arrested for misdemeanors. We filed a demurrer on behalf of Officer Dedonato, which the Court sustained without leave to amend on 12/9/11.

Millicent Clayton v. City of San Diego

This case involved a trip and fall on a sidewalk on Pt Loma Blvd. Plaintiff was walking her dog and tripped over a 1-2 inch height differential at the seam of the sidewalk. She suffered injuries to her right knee and wrist, and scraped her upper lip, which resulted in a facial scar. We learned early on in the case that the adjoining property owner has had a history of tree roots from trees on their property causing damage to the sidewalks in the area. The property owner had taken it upon itself to fix the sidewalks, without ever notifying the City. There was also some indication that the alleged condition at issue in our case was caused by tree roots. Based on that information, we cross-complained against the property owner. We reached a settlement for \$5,000, with the City and the property owner splitting the amount 50/50.

Ehrlick v. COSD

Plaintiff tripped and fell at a library in Pacific Beach in 2009. She broke her elbow in three places. She tripped over a raised portion of sidewalk caused by a City tree on City property. The City had actual notice because the dangerous condition because it was reported to the City prior to accident and City witnesses stated they were aware of the

condition. Plaintiff's deposition was taken in September 2011. I asked her if she had any "other medical" ailments. She said "no." At the end of November, we received a random batch of medical records which indicated that Plaintiff had Stage 4 Ovarian Cancer. She was diagnosed with condition in August 2011 and given 1 to 4 months to live. I contacted Plaintiff's counsel and advised him of what I learned. He knew she had cancer but did not know that she was only given a few months to live. He immediately scheduled an emergency CMC and Judge Nevitt moved the trial to December 22, 2011. This allowed the City to avoid a jury trial and gain an advantage in Stipulation. The bottom-line is that Plaintiff received \$130,000 judgment after a short trial and the City preserved its Government Code section 985 set off. It is likely that the City saved at least \$120,000.

Macias-Ramirez, Lydia v. City

Ms. Ramirez sustained serious injury when her two axle scooter encountered a pot hole in a sidewalk. Ramirez uses this scooter on a daily basis to travel because she suffers from serious medical conditions, including obesity back problems and diabetes, which impede her ability to walk. She suffered, among other things, three fractured vertebrae and severe abrasions and bruising. She was also hospitalized. She sued for dangerous condition of public property and made ADA claims. The dangerous condition was rare. The sidewalk was missing a 2 foot by 2 foot chunk likely the result of heat expansion or a problem with cold joint. However, we determined the City likely had constructive notice. Plaintiff was very credible and would likely receive \$250,000 at trial less an offset for comparative liability.

The City filed a Motion for Summary Judgment and disposed of two of her claims which eliminated her chance at recovering attorney's fees. Plaintiff demanded between \$120,000 and \$140,000. We settled the case for \$48,000. I estimate that the City saved between \$72,000 and \$120,000 by resolving this matter.

Aguirre v. City of San Diego.

Plaintiff alleged premises liability based on constructive notice. Plaintiff was walking to the bus stop at approximately 5:00 a.m. when he tripped over the protruding stump of a street sign near the bus stop. After discovery began, Plaintiff's counsel informed the City that she would be substituting out of the case. However, Plaintiff did not retain new counsel. The City sent several letters to Plaintiff, but Plaintiff did not respond to them. He failed to appear at the August 22, 2011

Case Management Conference on October 18, 2011 and November 28, 2011 OSC hearings as to why the case should not be dismissed. On November 28, 2011, the court dismissed the case.

Guernon v. City of San Diego.

Plaintiff alleged premises liability based on dangerous condition of public property. Plaintiff admitted to using methamphetamine and drinking alcohol around midday on the day before the incident, when he walked along the Ocean Beach Pier. He alleged that he was walking along the Pier when the railing gave way and he fell to the wet, hard-packed sand below, injuring his back, neck, legs, coccyx, and arms. He also claimed psychological injury as a result of his fall. The medical bills that had been requested at the beginning of discovery (but which were not exhaustive) totaled \$413,179.28. However, Paul Kenis, a percipient witness to the event, testified in his deposition that Plaintiff was shaking the railing back and forth violently until it finally broke. Mr. Kenis also testified that the Plaintiff was screaming and yelling, and appeared, from his behavior, to be under the influence of narcotics. Plaintiff admitted, in his deposition, that he did not remember his own actions leading up to the incident. The City filed a Motion for Summary Judgment, which Judge Lisa Foster granted. Judge Foster ruled that the Plaintiff could not establish that the railing was in a dangerous condition at the time of his fall; that his injury was caused by the alleged dangerous condition; that the negligent act or omission of a City employee caused the alleged dangerous condition; or that the City had actual or constructive notice of the alleged dangerous condition. Judge Foster also ruled that Plaintiff's actions neither demonstrated the use of due care nor were a reasonably foreseeable use of the railing.

Heskel v. City of San Diego.

Plaintiff alleged premises liability based on constructive notice. Plaintiff was walking his dog at 9:00 p.m. when he tripped over the protruding stump of a street sign on the sidewalk near his son's house. The City filed a Motion for Summary Judgment [MSJ], arguing it had no notice of the alleged dangerous condition. The Motion was strenuously opposed. After two continued hearings, Judge Timothy Taylor ruled that the City did not have constructive notice of the condition and granted the City's MSJ.

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.
- 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 Cal OSHA.
- 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.

Case Examples:

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 many cases, our deputies satisfied either state or federal trial judges that the cases were so lacking in merit that a trial was unnecessary resulting in many frivolous lawsuits being dismissed by the Court without the need for trial.

Acosta-Mathis v. City of San Diego

Employment discrimination and harassment suit.

After City’s Demurrers and Motion for Summary Adjudication were granted, eliminating all but one of the claims, the plaintiff dismissed the remainder of the case.

Gonzales v. City of San Diego

Employment discrimination and retaliation lawsuit. The City's Motion for Summary Judgment was granted thereby ending the case. Judgment for City affirmed on appeal. The City awarded costs in trial court and on appeal.

Harvey v. City of San Diego:

Racial discrimination lawsuit filed against the City. There was a defense verdict at trial.

Jones, Sr. v. City of San Diego

Employment discrimination, retaliation, and medical leave lawsuit. City's Motion for Summary Judgment was granted thereby ending the case. City awarded costs.

Sviridov v. City of San Diego

Employment discrimination and retaliation lawsuit. City's Motion for Summary Judgment was granted thereby ending all claims of discrimination or retaliation. Judgment for City affirmed on appeal.

Zapata v. City of San Diego

Employment discrimination and retaliation lawsuit. Following five-week trial, defense verdict on 12 employment discrimination/retaliation claims.

Civil Service Commission cases:***Appeal of Brown:***

Termination upheld.

Appeal of Carter:

Termination upheld.

Appeal of Douglas:

Termination upheld.

Appeal of Williams:

Suspension upheld.

Other High Profile Employment Related Cases:***Abbe, et al., v. City of San Diego:***

Appeal of City defense verdict in Fair Labor Standards Act denied by Ninth Circuit and certiorari petition denied by U.S. Supreme Court.

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. Plaintiffs appealed. The City prevailed on appeal.

Italiano v. City of San Diego

Former President of the San Diego Municipal Employees Association to have her City pension benefit based on a combination of her City and union salary. City prevailed on summary judgment.

Levitt v. City of San Diego

Current and retired City employee sued claiming that retiree health benefit is a vested benefit. City prevailed on summary judgment. The decision in this case led to the City's labor unions agreeing to changes in the retiree health benefit that could save the City \$714,000,000 over the next 25 years.

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

C&D and Star Towing v. City:

City prevailed against two separate attempts to implement temporary restraining orders and injunctions seeking to prevent the City from implementing new towing contracts.

Davidovich v. City of San Diego

"Occupy San Diego" protestors sought a temporary restraining order (TRO) to enjoin the enforcement of the City's encroachment ordinance, SDMC section 54.0110, arguing that the ordinance is facially unconstitutional. The Court denied the TRO request.

Johnson, et al. v. People of State of California, et al. A Writ case against the City over costs abatement assessment. The Case was dismissed.

La Jolla Friends of the Seals, et al. v. NOAA, et al. A Writ case against the City involving La Jolla Children's Pool. The Plaintiff's appeal was dismissed as moot and post-appeal fees motion was denied.

Mesa Village Homeowners' Association v. City of San Diego

The City discontinued free refuse collection for 102 private homeowners' association. Homeowners' associations filed a class action lawsuit alleging that the owners in the 102 homeowners' associations were entitled to free refuse collection under the City's "People's Ordinance." The City prevailed when homeowners' associations voluntarily dismissed their case after losing on a request for a temporary restraining order and a motion for preliminary injunction.

Montgomery Field Associates L.P. v. City of San Diego An Inverse condemnation lawsuit for the flooding of a garage dismissed without prejudice.

Shapiro v. City: The City prevailed in protecting the confidentiality of the hotline complaint documents the Plaintiff sought from the City Auditor under the guise of the Public Records Act.

Southwest Center for Biological Diversity v. Bartel, et al. An Endangered Species Act case regarding vernal pools. The District Court's injunction against the City was vacated by the District Court due to appeal ruling.

Wawrzynski v. City of San Diego: A Constitutional challenge to the City's pedicab regulations. The City's Motion for Summary Judgment was granted, thereby ending the case.

Wawrzynski v. Hibshman, et al. A Federal lawsuit alleging retaliation and civil rights violations in the pedicab industry. The Court granted the motion to dismiss, thereby ending the case.

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 five sections: Government Affairs and Finance, Real Property and Economic Development, Public Works, Public Safety and 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 lawyer in areas of practice including the California Environmental Quality Act (CEQA), planning and zoning, conflict of interest, the Brown Act, real estate, and public works.

Government Affairs and Finance Section

The section consists of four 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, Council Committee on Rules, Open Government and Intergovernmental Relations, Council Committee on Economic Development and Strategies, 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, corporate partnerships, contracts, and elections.

Highlights of 2011

Redistricting Commission: In 2011, the section continued to advise the Charter-established Redistricting Commission, which meets every 10 years to consider public testimony, legal requirements and Census data, and then adopt a plan specifying the boundaries of City Council districts. This year, the Commission had the unique challenge of adding a new Ninth Council District and to do so under shortened deadlines. The Government Affairs Section guided the Commission through the process, providing legal counsel at 45 public hearings attended by thousands of San Diegans. A deputy city attorney in this section gave legal presentations regarding redistricting law to the Commission and the public at numerous hearings throughout the process. Attorneys in this section ensured Brown Act compliance and provided legal advice regarding the Federal Voting Rights Act, City Charter, redistricting case law and related constitutional law. The section

assisted in drafting Filing Statements, responding to public records requests, and drafting contracts and other legal documents. In October 2011, the Commission adopted a redistricting plan that met all legal requirements, was completed on time, and was not challenged by referendum or in court. The new district boundaries will be effective after the 2012 Municipal General Election.

Elections: One of the section's primary functions is to provide legal advice to the City Clerk and the City Council on candidate-related issues and ballot measures. During 2011, the section provided legal advice related to three citizen initiative measures (school district elections, City pensions, and public contracting) and a referendum of a medical marijuana ordinance adopted by the City Council. The section advises the City Council regarding ballot measures it considers for placement on the ballot, prepares legal documents related to elections, advises the Clerk on election procedures, and prepares information published for voters in the sample ballot, such as titles and summaries, ballot questions, and impartial analyses of initiative measures and Charter amendments. The unit also assists with election-related litigation.

Balboa Park: The section provided legal advice on issues of importance to the future of Balboa Park. We provided advice on the agreement between the City and the 2015 Committee for the Balboa Park 2015 Centennial Celebration and took actions to protect the City's intellectual property rights related to Balboa Park and the celebration. The section also provided advice on the preliminary agreement for proposed improvements to the Plaza de Panama. The section provided advice and assistance on a proposed agreement with the Balboa Park Conservancy and on the parameters of a new relationship between the City and the Conservancy for the benefit of Balboa Park.

Corporate Partnership: The section worked closely with the corporate partnership program to bring agreements for several corporate partnerships forward to Council for its consideration. Those include an agreement with Toyota to provide San Diego's lifeguards with 34 new vehicles for the next two years, saving an estimated \$245,000 a year that would have been spent to upgrade the lifeguards' aging fleet of trucks and SUVs; an agreement with Rainbow Vending for cold drink vending machines which is projected to receive revenue of \$870,000 over the 5-year term of the agreement; and a marketing partnership with Sprint that is projected to generate \$100,000 per year in new revenue. The section also provided advice on the application of the City's Sign Ordinance to beach sponsorships, naming rights, and other marketing proposals.

Electric Vehicle Car Share Pilot Program:

The all-electric vehicle car share pilot program supports the City's efforts to encourage the use of electric vehicles and its existing electric vehicle infrastructure, provides affordable transportation options, and reduces tailpipe emission within city limits. The section provided advice and legal

support related to this program including amendments to the San Diego Municipal Code and a two-year agreement with car2go to assess whether electric car-sharing is beneficial to local residents, visitors and employees.

Revenues, Taxes and Audits: During 2011, this section advised on issues relating to audits, revenues, taxes, and collections. Topics included the impact of Proposition 26 relating to fees and taxes, the revenue recovery program, sales and use tax rebates, and the proposed transfer of revenue audit functions.

Public Records: The section continued to provide advice and guidance on the public's access to City records. Last year, we coordinated and facilitated eleven in-house roundtables on the California Public Records Act. The roundtables resulted in more consistent responses to requests for City records, a better understanding of City policies and procedures, and improved communication within the office and with City departments. The section also assisted the Clerk's Office in the citywide review of record retention schedules. That project is ongoing and will involve revisions to the San Diego Municipal Code and City policies.



Public Finance, Securities and Disclosure Section

The section currently is composed of three 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. It also provides advice to the Council Committee on Budget and Finance and the Budget Review Committee.

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 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 two deputy city attorneys, is coordinated by the section. 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 2011

Disclosure issues: The City had no public securities offerings in 2011 due principally to delays in the preparation of the City's audited financial statements for fiscal year 2010. This raised a number of disclosure issues, particularly related to the failure to timely file the audited financial statements with the Municipal Securities Rulemaking Board, as is required. Also at issue was when and under what authority the City's audit financial statements would be released to the public. After extensive discussion between and among DPWG and the Audit Committee, new procedures were developed and adopted and these procedures have been incorporated into the City's financial statement review process. The section and DPWG also spent a significant amount of time working through disclosure issues related to the dissolution of all California redevelopment agencies. This is an ongoing issue as uncertainty persists over the rights and liabilities of

various entities involved in winding down redevelopment activities and one of the major ratings agencies has downgraded all California redevelopment debt.

The most significant financial project the section worked in on 2011 is the formation of the Convention Center Facilities District. The District, once formed, will be used to finance the proposed expansion of the San Diego Convention Center. The one-of-a-kind District required amendments to the San Diego Municipal Code to create a procedure for its formation. An election is pending that will complete the formation process. Once the District is fully established, it is expected to generate more than \$30 million annually which will be used to pay debt service on bonds, the proceeds of which will fund most of the \$520 million needed for the expansion.

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, Parking, Planning Division of Development Services, Real Estate Assets, Redevelopment, Special Events, and Stadium Departments. They also 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.

This Section advises 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). The attorneys 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. They draft memoranda of law, opinions, reports, resolutions, and ordinances for the City departments. In addition, 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, Business Improvement Districts, and Tourism Marketing Districts. They assist City staff with issues and agreements involving Community Development Block Grant (CDBG) and Transient Occupancy Tax (TOT) funds. The lawyers advise staff regarding the San Diego Workforce Partnership, the City's Storefront Improvement Program, the Small Business Enhancement Program, and the San Diego Regional Enterprise Zone. The attorneys also provide the City departments with advice on conflict of interest, Brown Act, and Public Record Act issues.

Highlights for 2011

- Revisions to the Tourism Marketing District (TMD) Procedural Ordinance to meet the requirements of newly-enacted Proposition 26, to allow for a 40-year term of the TMD, to more clearly articulate certain procedures contained in the ordinance, and to address the special and specific benefits conferred to those assessed.
- Renewal of the TMD in order to retain and expand the tourism industry which is one of the largest revenue generators for the San Diego economy and a key employment sector.
- Annual renewal of fifty-seven Maintenance Assessment Districts (MADs) and twenty Business Improvement Districts (BIDs), including the Downtown Property Based Improvement District (PBID), and advised on the levy of assessments.
- Revisions to the BID Council Policy and the BID contract boilerplates to allow for advancing district funds to the non-profits that administer the districts in order to allow for better cash flow and more efficient operation of those non-profits.



Additionally, this section assisted Airports Division staff with its efforts to expeditiously reopen Montgomery Field Airport after the Federal Aviation Administration (FAA) closed it on January 4, 2011, due to flooding caused by the historic rains of December 2010 and January 2011 which damaged the Airport's radar system (the localizer). Due to the importance of Montgomery Field Airport to the national air transportation system, these attorneys,

along with City staff, FAA, Army Corps of Engineers, U.S. Fish & Wildlife Service, and Regional Water Quality Control Board staff, worked to repair the localizer and also worked on a project to permanently protect the localizer from being damaged in a similar way in the future. On January 26, 2011, the FAA restored the City's localizer to service and reopened the Montgomery Field Airport. In addition, we assisted Airport Division staff in securing millions of dollars in grants for the rehabilitation of runways and taxiways at Brown Field and Montgomery Field Airports.

This section advised City staff on permitting and environmental compliance issues associated with private development projects, including the Otay Tijuana Cross Border Facility Project, the St. Paul's Cathedral & Residences Project, and the Alta La Jolla Drive Drainage Repair Project appeal. These attorneys advised City staff on other significant development projects including the World Trade Center/Connections Homeless Shelter (which is described in more detail below), Plaza de Panama, and a proposed de-annexation to Santee. In addition, we continue to assist City staff with negotiations for a reimbursement agreement to design and construct public facilities associated with the Quarry Falls development project.

Our attorneys worked closely with the City's Community Development Block Grant (CDBG) Program Unit staff to conduct a comprehensive review of older CDBG projects with outstanding fund balances and to assist with the reprogramming of over \$12 million in CDBG funds, which was used to pay off existing United States Department of Housing & Urban Development (HUD) Section 108 loans. We helped to ensure that a City lessee's CDBG-funded access project fully complied with the applicable Americans with Disabilities Act (ADA) regulations. We assisted in drafting and negotiating two Programmatic Agreements for the City's implementation of Section 106 of the National Historic Preservation Act.

We assisted with the preparation of various transactional documents to enable the use of redevelopment funds for the construction of public improvements and affordable housing throughout the City. We assisted with the preparation of a disposition and development agreement for the rehabilitation of the World Trade Center building on Sixth Avenue into a one-stop service center and housing for the local homeless population, which includes 150 transitional housing beds, seventy-three permanent supportive housing units, two manager's units, a medical clinic and administrative offices. We also assisted with the preparation of an amended and restated disposition and development agreement among the Redevelopment Agency, the City and Connections Housing Downtown, L.P. that will enable the relocation of the Monarch School (a school for disadvantaged children) from its present location on Cedar Street to a larger facility on Newton Avenue. The attorneys assisted with the preparation of an owner participation agreement among the Redevelopment Agency, the City, and an affiliate of Bridge Housing Corporation to facilitate the development of COMM 22, a mixed-use

commercial and affordable housing project with 197 affordable housing rental units to be constructed in the Logan Heights neighborhood. We also advised staff on the Mission Apartments Project, an eighty-five unit affordable housing development located in North Bay. We assisted with the preparation of an amendment to a joint exercise of powers agreement for the North Embarcadero Visionary Plan, and the approval of related documents in compliance with CEQA, memorializing the Redevelopment Agency's contribution of up to \$29.6 million toward the construction of various public improvements near the San Diego Bay waterfront. We helped with the closing of a loan for the affordable housing component of the Mercado del Barrio project, which is a large, mixed-use commercial and affordable housing development presently under construction in the Barrio Logan neighborhood and with the provision of storage units for homeless individuals in coordination with The Isaiah Project.

The section assisted with various City/Redevelopment Agency interagency transactions, such as documents enabling the Redevelopment Agency to make future debt service payments on the City's behalf with respect to the construction of Petco Park and the Phase II expansion of the Convention Center. We prepared documents to memorialize preexisting debt owed by the Redevelopment Agency to the City with respect to the formation of redevelopment project areas, CDBG loans, and HUD loans for City Heights and Naval Training Center. We also assisted with the preparation of a cooperation agreement under which the Redevelopment Agency transfers funds to the City in scheduled installments so that the City can administer various redevelopment projects and activities on the Agency's behalf.

The Real Property and Economic Development Section provided legal analysis and drafted amendments to the City's Development Impact Fee and Facilities Benefit Assessment ordinances and advised staff with respect to the implementation of the City's Regional Transportation Congestion Improvement Program fee. We also advised City staff on contracting requirements for public works projects constructed by private parties through reimbursement agreements and the applicability of development fees to specific projects.



Our section assisted and advised on the preparation of numerous amendments to the San Diego Municipal Code such as the 7th Land Development Code Update, revisions to the Centre City Planned District Ordinance and Design Guidelines, Phase I of the Community Garden Ordinance amendments, amendments to the Municipal Code relating to the issuance of park permits, and the repeal of the Medical Marijuana land use ordinance. We assisted City staff in drafting an amendment to the Municipal Code to add an exemption to the Special Events Ordinance to allow stand-alone public displays of fireworks to proceed without a Special Event permit. We also assisted City staff in drafting regulations to ensure the safety of dogs and the general public within dog off-leash areas in the City

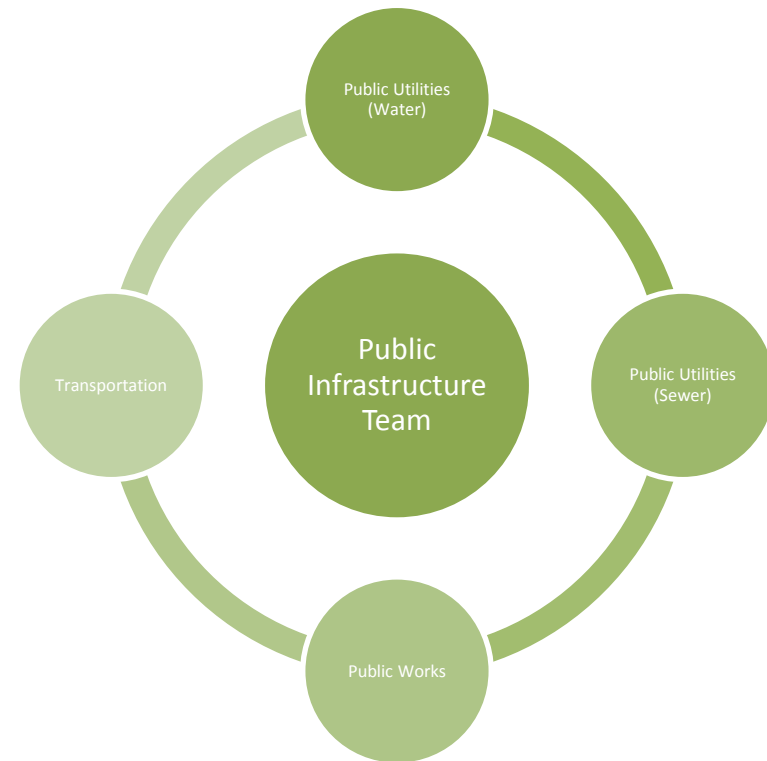
Our attorneys assisted with revisions to the Master Storm Water Maintenance Program and the corresponding Program Environmental Impact Report (PEIR) as well as procedural and substantive issues in preparation for the Coastal Commission appeal hearing on that important project. We reviewed and advised on the San Diego River Park PEIR, the Barrio Logan PEIR, the Nakano Project EIR, and numerous other environmental documents and determinations.

Our attorneys provided legal analysis and assisted staff in the drafting of numerous items that support the City Council's efforts to provide affordable housing in the City. We assisted City staff with amendments to the Inclusionary Affordable Housing Regulations, and provided legal support for several of the Land Use and Housing Committee's efforts to more efficiently provide affordable housing, including evaluation of the 2011 Affordable Housing Task Force Recommendations for potential revenue sources to fund affordable housing initiatives, and a proposal to evaluate and potentially revise parking requirements for certain affordable housing projects. Additionally, we continue to work with the San Diego Housing Commission to implement suggestions by the City Auditor in his Performance Audit of the Housing Commission.

We also advised City staff in its management of City-owned properties generating \$71 million in annual lease revenue to the City's General Fund and advised staff in its negotiation and drafting of contracts for the sale of excess City-owned real property, generating \$9 million to the City's Capital Outlay Fund.

Public Works Unit

The Public Works Unit consists of thirteen 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. 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.

Much of the work we do is behind-the-scenes and protected by attorney-client privilege. On occasion, though, our attorneys take the lead on projects that are of public interest and knowledge. Here are a few highlights of some of these projects.

Highlights of 2011

Digester Gas to Fuel Cells: San Diego now has the first system in the State that cleans digester gas at our Point Loma Water Treatment Plant and injects it into SDG&E's natural gas distribution system. The digester gas will be used to supply fuel cells that will produce electricity at the South Bay Water Reclamation Plant and the University of California at San Diego. With the Public Utilities Department, we successfully worked out the last piece of the puzzle, for the City to assume scheduling of the gas deliveries through the State Department of General Services gas supply program, which is only available to public agencies. This project will both reduce energy costs and generate additional revenue for the City.

Convention Center Phase III Expansion Project: The City has assumed responsibility for this development project from the San Diego Convention Center Corporation, which required the assignment of many existing contracts to the City. The transfer involved working with the Port District, the Mayor's office and numerous contractors and consultants to effectively assign the existing Phase III contracts to the City.

Miramar Gas Power Plant: We successfully negotiated over a dozen agreements and amendments to extend the term and expand the generating capacity of the power plant adjacent to the Miramar Landfill. The power plant operates on a combination of landfill gas and digester gas from the Metro Biosolids Center. Marine Corps Air Station Miramar requested 3.2 MW of energy for 15 years to pursue its renewable energy goals. Negotiations with Fortistar, the operator of the

power plant, took over a year. The City anticipates receiving an additional \$220,000 per year in royalties from these new agreements.

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, Personnel Department, Risk Department, and SPSP/401(k) Board. Members advise City-wide management on labor and employment related issues, and are members of the Americans with Disability Act Committee, Labor & Advisory Committee, and Threat Assessment Team. Members advise the Citizen's Review Board on Police Practices, the Human Relations Commission, and the Managed Competition Independent Review Board.

Section attorneys advise on special projects including matters such as the Managed Competition 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 Deputy City Attorney John Hemmerling, Deputy City Attorneys Linda Peter and Paige Folkman work closely with the Police Chief, his Assistants, and commanding officers, both sworn and civilian; Deputy City Attorney Noah Brazier advises 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.
- 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.

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.
- 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 2011

Unit members assisted the San Diego Police Department in establishing a new unit within the Police Department, the Wellness Center, which promotes officer well-being. Members helped the Police Department address the appearance of new and harmful synthetic drugs, known as "spice" and "bath salts" in stores and on the street. Members assisted the Department in updating and revising its record retention schedule as part of a citywide effort, and in updating and revising the Department's discipline manual. Members revised ordinances related to card rooms and entertainment fees. Members trained prosecutors on *Pitchess* motions. Unit members advised the Department in its interaction with the "Occupy San Diego" movement. Members reviewed over 75 San Diego Police Department policies and procedures.

The Unit remains involved in advising on 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 102 *Pitchess* motions, 19 firearms motions, several motions to quash subpoenas, and 4 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 the case is currently pending before the Fourth District Court of Appeal.

Deputy City Attorney Noah Brazier assisted the Fire-Rescue Department, including the Office of Homeland Security. He completed an updated agreement with the Federal Emergency Management Agency (FEMA) and the State of California allowing the Fire-Rescue Department to operate as the lead agency for this area’s Urban Search and Rescue Team. He also assisted the Fire-Rescue Department in drafting a false fire/harmful gas alarm system ordinance which will allow the City to penalize alarm users whose false alarms cause multiple Fire-Rescue Department responses. He is also currently helping the Office of Homeland Security develop a continuity of operations plan to ensure a smooth transition of government power in the event of an emergency. Noah also assists these departments with various other agreements, grants, policies, and contracts.

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, benefits, and retirement. Deputy City Attorneys Lori Thacker, Roxanne Story-Parks, and Bill Gersten, with the assistance of provisional attorney Sharon Marshall, provide legal advice to the Human Resources Department, Risk Department, Personnel Department, the SPSP/401(k) Board, the Managed Competition Independent Review Board, the Human Relations Commission, and the Citizens Review Board on Police Practices. Unit members also advise City-wide management on all labor and employment related issues, and are members of the Americans with Disabilities Act Committee, Labor and Advisory Committee, and Threat Assessment Team.

Unit Scope of Work: Employment Services Unit

- Advising management on the Family and Medical Leave Act, Americans with Disabilities Act, Title VII of the Civil Rights Act, Fair Employment and Housing Act, California Family Rights Act, Fair Labor Standards Act, Pregnancy Disability Leave, Firefighters Procedural Bill of Rights Act, Meyers-Milias-Brown Act, Uniformed Services Employment and Reemployment Rights Act, 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 Domestic Relations Orders, workplace Temporary Restraining Orders and Order to Show Cause hearings.
- Responding to agency complaints and charges regarding employment related matters. The agencies involved include the Department of Labor, Division of Labor Standards Enforcement, Equal Employment Opportunity Commission, Department of Fair Employment and Housing, Occupational Safety and Health Administration.
- 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.
- Defending the City against any alleged unfair labor practices in actions before the Public Employment Relations Board (PERB).
- 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 2011

Unit members assisted Labor Relations in negotiating a new contracting protocol with Local 127 related to work done pursuant to Charter section 94. Members advised the Housing Authority on labor issues. Members provided input to PERB on the implementation of a new state law regarding impasse procedures. In addition, the Unit drafted the salary ordinance as part of the budget process, the retiree health ordinance passed by the City Council in October 2011, and published a memorandum of law on the City's obligations under the Meyers-Milias-Brown Act regarding volunteers.

The Unit obtained 6 TROs and preliminary injunctions to protect the workplace from violence perpetrated against City employees. The Unit also responded to numerous discovery motions, discrimination complaints and charges from various government agencies, PERB complaints, and assisted in employment and labor related litigation cases. In all (non-pending) cases, the complaints were dismissed or favorable judgments or resolutions were obtained for the City.

The Unit assisted with the City's medical and disability process to ensure legal compliance, assisting City management through medical and disability related matters. The Unit also assisted City management through many various and complex personnel issues, including advising on issues such as due process, the accommodations process, and disciplinary actions and plans, including creating and implementing a new administrative appeal process for firefighters.

Unit members drafted and introduced legislation requiring City Council approval when San Diego City Employees' Retirement System (SDCERS) enters into a settlement involving City funds. Additionally members requested that SDCERS change its board rules to cease charging the City interest for mistaken member overpayments, which SDCERS did, and SDCERS credited the City for previous charges.

As the legal advisor to the SPSP/401(k) Boards, the Unit assisted the SPSP Board with successfully opposing demands for charges by the Securities Investor Protection Program bankruptcy trustee in the case of *In re Bankruptcy of Lehman Brothers*, and assisted in recovering funds from a class action settlement involving one of the fund choices within the SPSP/401k plan.

The Unit advised the bid protest panel for the administrative appeal hearing involving the City's contract for security at the stadium. Unit members also ensured compliance with new employment laws and regulations, such as the Americans with Disabilities Act Amendments Act and Genetic Information Nondiscrimination Act, new employment-related legislation, and provided training to City management, boards, and commissions on employment laws, the Brown Act, Public Records Act, and conflict of interest laws.

Special Projects

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

Highlights 2011

In 2011, the Special Projects Unit worked on a variety of high-profile matters involving procurement. 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.

The Special Projects Unit also worked on a number of significant matters affecting public safety. For example, the Special Projects Unit led the contractual reorganization of the City's ambulance service, which will result in a more streamlined program and promote competition among the City's ambulance vendors. In addition, members drafted and brought to Council a unique and beneficial contract with the University of California, San Diego (UCSD). UCSD partnered with the City to provide lifeguard services in beaches frequented by students. Finally, the Special Projects Unit facilitated negotiations of a multi-year contract to ensure continuance of San Diego's nationally recognized Rock and Roll Marathon.

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.

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, personal injury, and contracts. The Civil Division held special training sessions on advisory matters, including legal writing, social media, the Brown Act, ethics, and substance abuse, and litigation matters, including civil rights cases, insurance coverage and economic damages. Various City department heads also provided information and training about their departments.

The Criminal Division continues its monthly "Professional Development Program" training series. Prosecutors,



PROFESSIONAL DEVELOPMENT PROGRAM

course for newer attorneys and volunteer attorneys.

investigators and paralegals have monthly training opportunities in specialized issues, current trends and general advocacy skills. Training highlights from 2011 include: prosecutorial ethics and immunity, social media and prosecution, khat (a plant chewed like tobacco that consists of ingredients considered illegal in California but not illegal in other countries), community prosecution in the 21st century, and jail calls. In July, the Criminal Division conducted a two and one half week intense training